



W.P.No.34111 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2022

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.34111 of 2016
and
W.M.P.No.29438 of 2016

1. Saroja
 2. Vanaja
- ...Petitioners

Vs.

1. The State rep. by its
The Secretary (Industries),
Secretariat, Fort St. George,
Chennai-09.
 2. The District Collector,
Kancheepuram District,
Kancheepuram.
 3. The Special Tahsildar (Land Acquisition),
Oragadam Extension Scheme (Phase 3),
SIPCOT, Sriperumpudur,
Kancheepuram District.
 4. The Chairman and Managing Director,
SIPCOT, 19A, Rukmani Lakshmipathy Road,
Egmore, Chennai.
- ...Respondents

(R4 - SUO MOTU impleaded, vide order dated 01.02.2018 made in



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Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records in G.O.MS.182 Industries (SIPCOT-LA), published in TN G.O's (Extraordinary) Part II - Section 2, dated 04.07.2007 on the file of the 1st respondent and to quash the same as illegal so far as the petitioners land concerned and direct the respondents to exempt the land particularly 61 cents in Survey No. 61/4 Chenna Kuppam Village, Sriperumpudur Taluk, Kanchipuram District.

For Petitioners : Mr.R.Sankarasubbu

For Respondents : Mr.G.Krishna Raja, AGP, for R1 to R3
: M/s.Sudharsana Sundar, for R4

ORDER

The petitioners have filed this Writ petition seeking issuance of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in respect of the G.O.Ms.No.182, Industries (SIPCOT-LA), published in TN G.O's (Extraordinary) Part II - Section 2, dated 04.07.2007, quash the same insofar as the petitioners land is concerned and to consequently, direct the respondents to exempt the land particularly 61 cents in Survey No. 61/4 Chenna Kuppam Village, Sriperumpudur Taluk, Kanchipuram District.



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2. The case of the petitioners is that the land comprised in S.No.61/4 situated at Chennakuppam Village, Kanchipuram District is owned by the petitioners' Hindu undivided family and the legal heirs of the kartha of the family Perumal namely Ramachandran, Chinnappan, Arjunan, Arumugam, father of the petitioners and Appavu entered into partition by Koorchit in respect of the above said property and the same was registered in Doc.No.414/1990 dated 27.02.1991 and the petitioners' father was allotted an extent of 61 cents out of 1.21 Acres in the above said land. After the demise of the said Arumugam, the petitioners herein, their mother and 2 other sisters are in absolute possession and enjoyment of the subject property, by constructing a house in it. While so, the 1st respondent issued the present impugned G.O.Ms.No.182, Industries (SIPCOT-LA), dated 04.07.2007 issued under Section 3(1) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997, however, the same was issued in the name of one Chinnappan, who is the paternal uncle of the petitioners and not issued in the name of the petitioners. Challenging the same, the present Writ petition is filed.

3. Heard learned counsel on either side and perused the materials



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available on record.

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4. Though very many grounds have been raised by the learned counsel on either side at the time of arguments, the major grievance canvassed on behalf of the petitioners is that though the petitioners are in absolute possession and enjoyment of the subject property by constructing a house even at the time of issuance of the present impugned Government order, however, the 1st respondent has not issued any notice to the petitioners and the above said Government order has been issued in the name of the said Chinnappan, who passed away as early as 08.01.2000, which is prior to the issuance of the present impugned Government order and the issuance of notice in the name of the dead person is not sustainable.

5. Learned counsel appearing for the respective respondents have also not disputed the same.

6. In view of the admitted position, the notices under Section 3(1) and 3(2) having been issued in the name of the dead person, vis., one



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Chinnappan, who passed away in the year 2000, while the present impugned

Government order has been issued only in the year 2007, it is clear that notice was served in the name of a dead person. It has been held in catena of decisions, by the Hon'ble Apex Court as well as this Court that notice in the name of the dead person is not is not valid service and could only be deemed to be no service in the eye of law. Hence, on the sole ground, the present impugned Government order is liable to be set aside.

7. For the reasons aforesaid, this Writ petition is allowed. No costs.

Consequently, connected Miscellaneous petition is closed.

01.08.2022

skt

Speaking Order : Yes/ No

Index : Yes/ No

To

1. The State rep. by its
The Secretary (Industries),
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2. The District Collector,
Kancheepuram District,

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M.DHANDAPANI, J.

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