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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 17.02.2022

Judgment Pronounced on : 23.02.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.2660 of 2021

M/s.Lakshmi Sastry Construction Co.,
Rep. by V.K.Subbramanian

.. Appellant/Petitioner

Versus

1. The State of Tamil Nadu
Represented by its Secretary
Industries Department,
Fort St.George,
Chennai - 600 009.
2. M/s.SIPCOT,
Represented by its Managing Director,
No.19-A, Rukmani Lakshmipathy Street,
Egmore, Chennai - 600 008.
3. The District Collector,
Kancheepuram District,
Kancheepuram.
4. The Special Tahsildhar (LA),
SIPCOT Oragadam Expansion Scheme,
Sriperumbudur Taluk,
Kancheepuram District.

.. Respondents/Respondents

Prayer : Writ Appeal is filed under Clause 15 of the Letters Patent to set aside the order dated 26.08.2021 passed by this Court in W.P.No.16843 of 2017.

Prayer in WP.No.16843 of 2017:

This Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus, calling for the records of the fourth respondent 09.08.2016 vide Ref.No.05/2016/Unit-1/B-5 and quash the same and insofar land comprised in old survey Nos.49/1A4 and 49/1B and new survey Nos.190/5, 190/6 bearing DTCP plot Nos.32 to 36 in Navin Nagar



Layout of Oragadam Village, measuring an extent of 10800 sq.ft. thereby enabling the respondent to confer the benefit of provisions of Act 30/2013 as may be applicable to the petitioner, resulting in release of lands referred to herein to the petitioner.

For Appellant : Mr.V.K.Subramanian
Party-in-person

For R1, R3 and R4 : Mr.C.Kathiravan
Spl. Government Pleader (L.A)

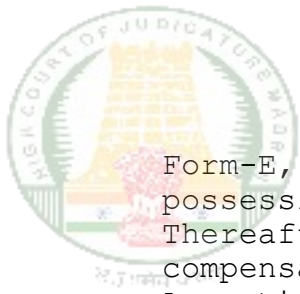
For R2 : Mrs.Sudharshana Sundar

JUDGMENT

D.BHARATHA CHAKRAVARTHY, J.

This Writ Appeal No.2660 of 2021 is filed by the appellant/writ petitioner, aggrieved by the order of the learned Judge, dated 26.08.2021, thereby dismissing his Writ Petition No.16843 of 2017. By the said Writ Petition, the appellant had prayed to quash the order of the fourth respondent, namely the Special Tahsildhar (LA), SIPCOT Oragadam Expansion Scheme, dated 09.08.2016, whereby, the request of the appellant to enhance the compensation in respect of the acquired property comprised in old Survey Nos.49/1A4 and 49/1B and new Survey Nos.190/5, 190/6 bearing D.T.C.P plot Nos.32 to 36 in Navin Nagar layout of Oragadam village measuring an extent of 10,800 Sq.ft, or to exclude the property from acquisition, was rejected.

2. The undisputed facts leading to the filing of the present Writ Appeal are as follows. By a registered sale deed, dated 29.02.1988, the appellant had purchased the above property. While so, for the industrial purpose of expansion of SIPCOT-Oragadam industrial complex, the said lands were sought to be acquired under the provisions of Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (Tamil Nadu Act, 10 of 1999) (herein after refer to as 'the Act 10 of 1999'). Along with the lands of 29 others, by G.O.Ms.No.191, Industries, (SIPCOT-LA) Department, dated 04.07.2007 published in the Tamil Nadu Government Gazette No.187, Page No.49, dated 04.07.2007, a notification under Section 3(1) of the Act, 10 of 1999 was issued, after issuing a show cause notice under Section 3(2) of the Act, after hearing the land owners, including the appellant. Thus, the lands stood vested in the Government free of all encumbrances as per Section 4 of the said Act. By due notice in



Form-E, the appellant was required to surrender possession and possession was taken and the land was handed over to SIPCOT. Thereafter, the proceedings for determination of the compensation amount, as per Section 7 of the Act was initiated. A notice, bearing R.C.No.5 of 2008, dated 20.03.2009 under Section 7(5) and 7(7) of the Act was issued. An Award was passed in Award No. 19/07 on 26/11/2011. Thereafter, the award amount has been deposited in Revenue Account with the Government.

3. The SIPCOT had in-turn, subsequently, leased out portion of the land acquired from the appellant along with the other larger extent of the lands to one Renault Nissan Automotive India Private Limited by a lease agreement, dated 04.09.2012 and the said lessee is in possession of the land without having already built a compound wall for the entire extent of the land leased out to them.

4. In the meanwhile, the appellant filed W.P. No. 32290 of 2007, challenging the acquisition proceedings in R.C.No.3/97. The said Writ Petition along with the other batch of Writ Petitions were taken up together and by a common order, dated 03.06.2008, a learned Judge of this Court dismissed the Writ Petitions upholding the land acquisition. However, in paragraph No.94 of the said order, after noting that some portions of the acquired lands were either used for religious purposes or for small scale industries purposes, it reserved liberty for such of those petitioners to approach the Government for the purpose of withdrawal of the land acquisition in respect of such pieces of land. Further, the learned Judge also observed that some of the petitioners already carried on some industrial activities which might itself can be referred as industrial purposes under the Act 10 of 1999, it would be open for them to submit a representation to SIPCOT after the completion of the acquisition proceedings and their cases can be considered by the SIPCOT on merits in accordance with law for allotment of industrial plots to them.

5. After the said order was passed, several other writ petitioners whose writ petitions were also dismissed by the aforesaid common order, filed Writ Appeals under Clause 15 of the Letters Patent, while the appellant herein accepted the judgment of the learned Judge. Thereafter, on 12.06.2008, he made a detailed representation to the respondents stating that he purchased the plot with an intention to start industrial catering services/export oriented unit and therefore, he prayed that the Government shall exclude his plots from acquisition.

6. Thereafter, by Judgment, dated 29.04.2011, the appeals preferred by some of the other land owners were allowed by a Division Bench of this Court in W.A. No.781 of 2008 etc. After



the Judgment of the Division Bench, the appellant made one more representation on 25.02.2013 quoting the Division Bench judgment and requested that his prayer, to exclude his land, may be considered by the Government.

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7. The first respondent, namely the Principal Secretary to Government, Industries (SIPCOT - LA) Department, by an order, dated 04.09.2013, considered the prayer of the appellant and found that since the plot was kept only as a vacant land without any industrial activity and not even any proposed activity was registered with the small industrial service institute, rejected the prayer of the appellant.

8. Thereafter, once again, by a representation dated 13.02.2015, the appellant prayed for the release of his land from acquisition. In his representation, the appellant had submitted that in view of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter mentioned as Central Act 30 of 2013) prayed that the compensation has to be paid as per the said Act. The said representation dated 13.02.2015, was forwarded to the fourth respondent by the District Collector, Kancheepuram, the third respondent herein, by his proceedings dated 09.03.2015, to consider representation and send an appropriate reply to the appellant.

9. However, since no further action was taken, the appellant approached this Court by way of W.P.No.9121 of 2016 and by an order, dated 11.03.2016, a learned Judge of this Court directed the fourth respondent to comply with the direction of the District Collector. In compliance of the said order, an order was passed by the fourth respondent on 09.08.2016, thereby, intimating him that an award, in respect of the land, has been finalized under Section 7(2) & 7(3) of the Act 10 of 1999 and the amount is remaining as a deposit in the Government account. As far as the prayer in the representation, to adopt the provisions of Central Act, 30 of 2013, the appellant was informed that such prayers can be granted if only there is a decision to that effect and rejected the representation of the appellant.

10. Thereafter, on 12.06.2017, the appellant filed the present Writ Petition No.16843 of 2017, initially with the following prayer :

“Writ of Declaration declaring that the Land Acquisition proceedings under Section 4 (1) followed by Section 4(6) of the Old Act of 1894 pursuant to G.O.Ms.No,139, Industries (MIG.II) Department, dated



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03.11.2006 and the TamilNadu Acquisition of Land for Industrial Purposes Act, 1997 as null and void in respect of the land measuring an extent of 12 cents comprised in Survey No.49/1A4 and 49/1B (part) in Zone 1 measuring an extent of 10,800 Sq.ft marked as Plot Nos.32, 33, 34, 35 and 36 sanctioned layout DTCP No.87-222/LP 166 in No.34 Oragadam Village, Sriperumbudur Taluk, Kancheepuram District, and deemed to have lapsed in view of Section 24(2) of 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, (Central Act 30 of 2013) and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice".

11. A counter was filed by the respondents in the said Writ Petition stating that Section 24 of the Central Act 30 of 2013 will be applicable only in respect of the awards passed under the erstwhile Land Acquisition Act, 1894 and this acquisition being under a different enactment, namely, Tamil Nadu Act, 10 of 1999, the provisions have no application. Upon such counter affidavit, the appellant filed W.M.P.No.9014 of 2021 to amend the prayer from the above extracted one to:

"Writ of Certiorarified Mandamus or any other order or direction in the nature of Writ calling for the records of the fourth respondent 09th August 2016 vide Ref.No.05/2016/Unit-I/B-5 and quash the same and insofar as land comprised in Old Survey Nos.49/1A4 and 49/1B and New Survey Nos.190/5, 190/6 bearing D.T.C.P. Plot Nos.32 to 36 in Navin Nagar Layout of Oragadam village, measuring an extent of 10800 Sq.ft. thereby enabling the respondent to confer the benefit of Provisions of Act 30/2013 as may be applicable to the Petitioner, resulting in release of lands referred to herein to the Petitioner and thus render Justice".

The above miscellaneous petition was allowed and the amendment was permitted.

12. Thereafter, the matter came up for hearing and by a Judgment dated 26.08.2021, the learned Judge dismissed the Writ



Petition, finding no merits in the prayer, by holding that the provisions of the Central Act, 30 of 2013 are not applicable to the instant acquisition and the challenge to all the acquisition proceedings having been concluded by earlier judgment in W.P.No.32290 of 2007 and the award, having been duly passed and compensation deposited and dismissed the Writ Petition as devoid of merits. Aggrieved by the same, the present Appeal is filed by the appellant.

13. The appellant, appearing party-in-person, taking us through the material records of the case, firstly, submitted that the claim of the respondents that an award, which has already been passed, is totally unsustainable and even in a grievance petition submitted by him in the Government of Tamil Nadu Petition Processing Portal, a remark was made by the respondents that there is a case pending in W.P.No.16843 of 2017 and only after the order is issued, the award will be passed. Therefore, he would submit that the findings of the learned Judge that already an award is passed is totally incorrect. He would further submit that while the Writ appeals filed by the similarly situated land owners having been allowed, he should have also been granted similar benefit. Further he also prayed for allotment of an alternate site, stating an intention to immediately start an industrial activity, which was also turned down by the respondents without application of mind. In support of his contentions, he also relied upon a Division Bench judgment of this Court in The Principal Commissioner of Land Reforms, Chennai and Others Vs. M.Venkataraman and Another¹ and the judgment of a learned Single Judge in V.Geetha Lakshmi Vs. The State of Tamilnadu rep. by its Secretary and Others².

14. The appellant also filed written arguments, firstly, reiterating the facts about issue Section 3(2) notice; Section 4 (2) order of delivery of possession; the earlier order in W.P.No.32290 of 2007; the details of the four representations made by the petitioner on 12.06.2008, 16.03.2009, 27.01.2010 and 25.02.2013; extracting the relevant portion in the Writ Appeal Nos.781 of 2008 etc., filed by the other land owners where under the Court found fault with the order of the Collector in not individually disposing off the objections of the land owners and allowing the Writ Appeal; dismissal of the Special Leave Petitions against the Writ Appeal order; order of the Principal Secretary dated 04.09.2013 refusing to exclude the land of the appellant; the filing of the earlier W.P.No.9121 of 2016 and the order, dated 09.08.2016 passed in compliance of the same.

1 W.A.No.239 of 2014, dated 22.07.2014

2 W.P.No.24528 of 2001, dated 26.08.2014



15. The petitioner has also referred in detail about the counter affidavit filed by the respondents and about the fact that even after expiry of more than 12 years, the land being not put into any use and lying idle and barren and about the reply given to him for the queries under RTI application, by which only the copy of the award, passed in Award No.19 of 2007, dated 27.04.2011 was sent to him while denying that the award was earlier furnished to him.

16. Further, the appellant has reiterated his grounds regarding improper taking of possession; neither serving of the award nor payment of the award amount, especially when the compensation is not deposited into Court and therefore, would urge this Court to arrive at the conclusions as contained in his written submissions that the learned Judge has failed to appreciate the Division bench order in W.A.No.781 of 2008 and the dismissal of the S.L.P filed by the respondents; the fact that in the impugned order dated 09.08.2016, the respondents informed that they will take a decision about payment of compensation as per Central Act, 30 of 2013. The appellant further urged that the learned Judge erred in not taking into account the Advocate Commissioner's reports, regarding the utilisation of the acquired land. The appellant agrees with the learned Counsel appearing for the Government that Section 24 of the Central Act is not applicable and therefore contends that the learned Judge ought not to have dismissed the Writ Petitions by taking into consideration the judgment in Indore Development Authority Vs. Manoharlal and other³ and therefore, would submit that this Court should consider the provisions of the Tamil Nadu Act, 10 of 1999 and grant him the reliefs prayed for.

17. Mr. C. Kathiravan, the Learned Special Government Pleader, appearing for Respondents 1,3 &4 and Mrs. Sudharshan Sundar, the Learned Standing Counsel appearing for Respondent No. 2, reiterated their contentions before the Learned Judge and supported the findings and conclusions in the Judgment under appeal.

18. We have considered the oral and written submissions made by appellant -in-person and the contentions for the learned counsel for the respondents and have perused the material records of this case. In essence, there are four grievances which are agitated by the appellant before this Court. First, the appellant wants the Government to withdraw from the acquisition of his land. He has challenged the land acquisition by a Writ Petition No.32290 of 2007 and his rights qua the respondents stand crystallized by the judgment, dated 03.06.2008 rendered in the said Writ petition. By the said judgment, the validity of the land acquisition proceedings are upheld and by a



direction in paragraph No.94 of the judgment, the learned Judge had directed the Government to consider for withdrawal from acquisition in respect of two contingencies : (i) if the land in question is used for religious purpose, which is not the case of the appellant, and (ii) if the land has already been used for an industrial purpose or small scale industry. In this regard, the prayer of the appellant was considered by the Government in terms of the Judgment and a speaking order has been passed on 04.09.2013, whereby, finding that the land was only vacant and there was no industrial activity and there was not even any evidence of proposed activity, rejected the prayer of withdrawal from acquisition. The said order has also become final and is not challenged by the appellant. Therefore, the appellant's claim that the Government should withdraw from acquisition of his land is without any merits and is rejected.

19. The second grievance of the appellant is that he proposed to start an industrial catering services/export unit and therefore, on preferential basis the respondents should have allotted him an alternate site of the same extent. Even the said grievance is also covered by the said Order dated 04.09.2013, directing the appellant to approach the SIPCOT and subject to availability of land in any one of its industrial complexes, for the purpose of industrial activity, if he satisfied the conditions of allotment of the land. However, thereafter, by his further representation, dated 13.02.2015, without making any specific proposal about any industrial activity and praying for land allotment, the appellant once again prayed higher compensation under the Central Act, 30 of 2013 in view of Section 24(2), and also once again prayed for release of his land. Therefore, in the absence of taking any effective steps for making a proposal to the respondents, for any industrial activity and praying for any specific available alternate site, this grievance of the appellant cannot also be countenanced. Further, the liberty given by the Learned Judge in the Writ Petition will apply only if he already using the land for industrial purposes or small scale industry, which is not the case.

20. The third grievance agitated by the appellant is that by virtue of the Central Act, 30 of 2013, more specifically Section 24(2) of the Act, the earlier proceedings regarding acquisition/fixation of compensation stood lapsed and once again he should be given present market value as mandated under the provisions of the Central Act. This claim of the appellant is without any merits since Section 24 applies only in respect of the proceedings of Land Acquisition Act, 1894, which is superseded by the Central Act, 30 of 2013 and the acquisition in respect of the appellant's land being under Tamil Nadu Act, 10 of 1999, the prayer of the appellant is totally unsustainable.



This apart, the learned Judge has also further considered that even for arguments sake, it is viewed from the perspective of Section 24, in the appellant's case, already possession has been taken and the amount of compensation is also deposited and therefore, the contention of the appellant placing reliance under Section 24 of the Central Act, 30 of 2013 is wholly misconceived. Further, after making a consequential prayer in the writ petition that he should be granted the benefits under Central Act 30 of 2013, now in the Written Submissions, the appellant himself has now agreed that the said provisions will not be applicable to his case and accordingly, the said claims and contentions of the appellant with reference to Central Act 30 of 2013 stand rejected.

21. The final grievance of the appellant is that appropriate compensation has not been paid. The contention of the appellant that no award is yet passed basing on a reply given in the online grievance redressal portal cannot be accepted because the appellant himself had made query under the Right to Information Act and information has been given to him by the fourth respondent on 31.07.2020 clearly mentioning that Award No.19 of 2007 has been passed by the Collector in R.C.No.21 of 2007, dated 27.04.2011 and a copy has also been supplied to him. Therefore, if he is aggrieved by the compensation amount, he should have sought for a reference under Section 8 of the Act and as per law, the matter would have been referred to the Civil Court, which alone is competent to enhance the compensation amount. The appellant, without following mandate of law, has been making periodical representations and filing Writ Petitions before this Court. The remedy of the appellant would be to seek a reference within the period of limitation from the date on which the copy of the award is supplied to him and he cannot pray for enhanced compensation by way of the present writ petition.

22. The Judgments relied upon by the appellant are in totally different factual and legal scenario. The judgment in W.A.No.239 of 2014 is relating to the benefits of Repeal Act, when the Tamil Nadu Urban Land Ceiling and Regulation Act was repealed. Similarly, the judgment in W.P.No.24528 of 2001 relates to the proceedings under the same act and both Judgments are of avail to the appellant. We find that land acquisition proceedings, having concluded, the appellant, again, in the guise of different prayers, is trying to reopen the concluded proceedings. There are absolutely no merits in the Writ Appeal and hence dismissed. However, the appellant would be free to approach the respondents for payment out of the compensation amount lying in deposit.



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23. The Writ Appeal stands dismissed with the above observation. No costs. Consequently, C.M.P.No.17313 of 2021 is closed.

Sd/-
Deputy Registrar (CS)

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Sub Assistant Registrar

grs

To

1. The State of Tamil Nadu
Represented by its Secretary
Industries Department,
Fort St.George,
Chennai - 600 009.
2. M/s.SIPCOT,
Represented by its Managing Director,
No.19-A, Rukmani Lakshmipathy Street,
Egmore, Chennai - 600 008.
3. The District Collector,
Kancheepuram District,
Kancheepuram.
4. The Special Tahsildhar (LA),
SIPCOT Oragadam Expansion Scheme,
Sriperumbudur Taluk,
Kancheepuram District.

+2ccs to Mr.V.K.Subramanian, Advocate, S.R.No.12087

+1cc to the Government Pleader, S.R.No.12796

Pre-Delivery Judgment in
W.A.No.2660 of 2021

SRA (CO)
SU (03/03/2022)