



W.P.Nos.27252 & 31185 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2022

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.Nos.27252 & 31185 of 2017

and

W.M.P.Nos.29102, 29103, 34222 & 34223 of 2017, 18275 & 23133 of 2019

1. M/s.Shri Mahalakshmi Steels
Rep by its Partner
Mrs.Sunitha Ojha
403/D, T.H.Road,
Thiruvottiyur, Chennai-60 019

2. Mrs.Sunita Ojha . . . Petitioners in both WPs

Vs.

1. State of Tamil Nadu
Principal Secretary to Government
Government Planning Development and
Special Initiatives Department,
Fort St.George
Chennai-600 009.

2. The Land Acquisition Officer,
Chennai Metro Rail Scheme
& Revenue Divisional Officer,
Ambattur, Chennai-600 053.



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3. Chennai Metro Rail Limited,
Admin Building, CMRL Depot,
Poonamallee High Road,
Koyambedu, Chennai – 600 107

(R3 impleaded vide order dated 27.10.2017
in W.M.P.No.29449 of 2017 in W.P.No.27252 of 2017)

. . . Respondents in both WPs

PRAYER in W.P.No.27252 of 2017:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari or any other appropriate writ, order or direction in the nature of a Writ calling for the records pertaining to the impugned notification, G.O.Ms.38 dated 04.03.2016 issued by the 1st Respondent Tamil Nadu Gazette No.125 (Part II Section 2) (Published on 24.05.2016) and the connected order dated 06.09.2017 issued by the 2nd Respondent under Section 4(2) of the Act insofar as it pertains to property situated in Ward H, Block 1, T.S.No.30/5 (to be read as 30/2), Tiruvottiyur Village, Tiruvottiyur Taluk, Tiruvallur District and quash the same.

PRAYER in W.P.No.31185 of 2017:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari or any other appropriate writ, order or direction in the nature of a Writ, calling for the records pertaining to the impugned Award No.1/2017 dated 06.11.2017 passed by the 2nd Respondent and the connected Notice of Award No. RC 4/LA/CMRL/2016 [Award No.1/(TCR)] dated 09.11.2017 illegally determining the compensation amount and directing that it to be paid to the 2nd Petitioner and quash the same.



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In both WPs :

For Petitioner : M/s.Menon Karthik
For Respondent : Mr.B.Vijay,
Additional Government Pleader for R1 & R2.
: Mr. Jayesh B.Dolia for R3

ORDER

Since the issue arises in both Writ Petitions are one and the same, both petitions are taken up for final disposal by way of a common order.

2. The petition in W.P.No.27252 of 2017 has been filed seeking to quash the impugned notification, G.O.Ms.38 dated 04.03.2016 which came to be issued by the 1st Respondent on 24.05.2016 and the connected order dated 06.09.2017 which was issued by the 2nd Respondent under Section 4(2) of the Act pertaining to the property situated in Ward H, Block 1, T.S.No.30/5 (to be read as 30/2), Tiruvottiyur Village, Tiruvottiyur Taluk, Tiruvallur District and quash the same.

3. The petition in W.P.No.31185 of 2017 has filed seeking to quash the impugned Award No.1/2017 dated 06.11.2017 which was passed by the



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2nd Respondent and the connected Notice of Award No. RC 4/LA/CMRL/2016 [Award No.1/(TCR)] dated 09.11.2017 which was issued for determining the compensation amount payable to the 2nd respondent.

4. It is the case of the petitioners that they are the owners of the lands comprised in Ward H, Block-1, T.S.No.30/2 measuring to an extent of about 50,460 Sq.ft situated at Tiruvottiyur Village, Tiruvottiyur Taluk, Tiruvallur District. The 1st petitioner had put up a construction in a particular extent of the land comprised in the above survey number which was leased out for running a hotel and weighbridge. While so, the 2nd respondent herein had issued two separate notices under Section 3(2) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 proposing to acquire the lands in T.S.Nos.30/1 & 30/2 for the purpose of formation of Tiruvottiyur Metro Rail Station to one Anil Kumar Ojha, Mohanlal Ojha and M/s.Shri Mahalakshmi Steels, however no notice was issued on the 1st petitioner. In the said notice, no extent has been mentioned with regard to the land that is proposed to be acquired.



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5. Subsequently, the notice under Section 3(1) of the Act came to be issued by the 1st respondent vide G.O.Ms.No.26 dated 04.03.2016 proposing to acquire the entire frontage of the lands in T.S.No.30(2) in the other lands nearby. Thereafter, notice under Section 7(5) of the Act was issued for determination of compensation towards the proposed acquisition and the petitioners were called upon to attend the enquiry on 25.07.2017. Though, the petitioners have participated in the said enquiry and made written objections against the said acquisition, however, notice under Section 4(2) of the Act was issued by the 2nd respondent on 06.09.2017 calling upon the 2nd petitioner to surrender the possession of the lands in T.S.No.30(2), however, no notice was issued to the 1st petitioner who is the owner of the lands under proposed acquisition. Challenging the above said G.O.Ms.No.26 and the notice under Section 4(2) of the Act, the petition in W.P.No.27252 of 2017 has been filed.

6. Thereafter, in respect of the above acquisition, as per Section 7(5) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act Award came to be passed in Award No.1 of 2017 on 06.11.2017, 1997 and



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the notice of Award was issued to the 2nd petitioner without issuing any notice to the 1st petitioner who is the owner of the acquired lands.

Subsequently, the revenue records were also mutated in respect of the acquired lands in favour of the 3rd respondent. After passing of the Award, on 09.11.2017, notice of Award came to be issued directing the 2nd petitioner to receive the compensation amount of Rs.1,44,13,612/-. Challenging the said impugned Award dated 06.11.2017, the petition in W.P.No.31185 of 2017 has been filed.

7. Learned counsel for the petitioners submitted that though the petitioners have submitted their objections as against the above acquisition, however, without considering the same, the said lands were acquired by the respondents which is not sustainable and the quantum of the compensation arrived by the respondents in respect of the above acquisition is also very meagre. Further, after passing of the award in respect of the above said acquisition, notice of award was served only on the 2nd respondent, however, no notice was issued on the 1st respondent, who is the owner of the acquired lands, which clearly shows the non-application of minds of the



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respondents in passing the orders impugned in these Writ Petitions and the same are liable to be set aside.

8. Learned Additional Government Pleader appearing for the respondents 1 & 2 submits that though the petitioner was issued with notice under Section 3(2) of the Act , however, the petition was received by the respondents only after 3(1) notification. Subsequent to the above acquisition, though the award was passed in Award No.1 of 2017 dated 06.11.2017, the petitioner had not come forward to receive the compensation amount, hence the said amount was deposited in Form B on 17.11.2017. Therefore, this Court may grant liberty to the petitioner to make appropriate application before the Sub Court where the said amount lies.

9. This Court heard the learned counsel appearing on the either side and perused the materials available on record.



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10. It is not in dispute that the above said lands were sought to be acquired for the public purpose after following necessary procedures contemplated under the Act. However, for such acquisition, the petitioner made an objection. However, it is the claim of the respondents that the objection was made only after issuance of notice under Section 3(1) of the Act. Further, the acquisition, though was proposed to be made for a larger extent of land, however, only 177 sq.mtrs. of the land comprised in T.S.No.30/2 (part) was acquired, for which, award was also passed. It is the case of the respondents that the petitioners did not come forward to receive the compensation amount, which prompted the respondents to deposit the same before the competent court. The said submission has not been controverted by the petitioners in any manner by placing any material to show that the petitioners were all along willing and ready to receive the compensation, but the respondents did not pay and instead deposited the same before the court.

11. In the aforesaid scenario, the lands having been acquired after following the necessary procedures contemplated under the Act and the



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award having been passed and compensation amount having been deposited in the competent civil court, in view of the petitioners not coming forward to receive the compensation, the acquisition proceedings cannot be said to have lapsed. Therefore, this Court cannot find any fault with the orders impugned in both the Writ Petitions. Hence, the prayer sought for in these Writ Petitions cannot be acceded to and the same deserves to be dismissed. However, liberty is granted to the petitioners to withdraw the compensation amount deposited before the court and if the petitioners have any grievance with the quantum of compensation awarded, they are at liberty to work out their remedy in the manner known to law.

12. Accordingly, these Writ Petitions are dismissed with above observation. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

25.11.2022

NHS

Index : Yes / No

Internet : Yes / No

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M.DHANDAPANI, J.

NHS

To

1. Principal Secretary to Government
State of Tamil Nadu
Government Planning Development and
Special Initiatives Department,
Fort St.George
Chennai-600 009.
2. The Land Acquisition Officer,
Chennai Metro Rail Scheme
& Revenue Divisional Officer,
Ambattur, Chennai-600 053.
3. Chennai Metro Rail Limited,
Admin Building, CMRL Depot,
Poonamallee High Road,
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