



WEB COPY



W.P(MD).No.120 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 16.11.2022

ORDER PRONOUNCED ON : 23.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.120 of 2015

and

M.P(MD).No.1 of 2015

R.Dhanalakshmi

....Petitioner

Vs

1.The Secretary to Government
Industries Department
Government of Tamil Nadu
Fort. St.George
Chennai 9

2.The District Collector
Thoothukudi District
Thoothukudi

3.The Authorised Officer (Land Acquisition)
Cum District Revenue Officer
Thoothukudi District
Thoothukudi

4.The Special Tahsildhar (Land Acquisition)
SPICOT Unit-1
Thoothukudi

....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to



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the impugned award No.13/2014 (E5/31179/1999) dated 25.09.2014 passed by the third respondent and quash the same as one without jurisdiction and consequently forbear the respondents from interfering with the petitioner's right in respect of her land comprised in Survey No.315/3, South Veerapandiapuram, Ottapidaram Taluk, Thoothukudi District measuring an extent of 2 acres and 9 cents.

For Petitioner	: Mr.AR.L.Sundaresan, Senior Counsel For Mr.T.Antony Arulraj
For Respondents	: Mr.Veera Kathiravan Additional Advocate General Assisted by Mr.A.Sivanupandian Government Advocate

ORDER

The present writ petition has been filed challenging an award passed under Section 10(3) of the Tamil Land Acquisition of Land for Industrial Purposes Act, 1997.

2.According to the learned Senior Counsel appearing for the petitioner, the petitioner is the owner of Survey No.315/3 having an extent of 2 acres and 9 cents by way of a sale deed dated 08.06.1994. The authorities had initiated acquisition proceedings under Tamil Land Acquisition of Land for Industrial Purposes Act, 1997 (hereinafter referred as Act 10 of 1999). While acquisition proceedings were pending, the Central Act namely Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and



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Resettlement Act, 2013 came into force with effect from 01.01.2014. Hence, according to the learned Senior Counsel, the award has not been passed under Tamil Nadu Act 10 of 1999 when the Central Act 30 of 2013 came into force on 01.01.2014.

3.The learned Senior Counsel for the petitioner had further contended that it is also not in dispute that as far as payment of compensation for acquisition of land under Tamil Nadu Act 10 of 1999 is concerned, the same criteria under the Land Acquisition Act 1894 and the present Central Act 30 of 2013 have to be followed. He had further contended that in view of Section 24(2) of the Central Act 30 of 2013, where the compensation amount has not been paid, the beneficiaries shall be entitled to compensation under the provisions of the Central Act 30 of 2013. In the present case, the impugned award has been passed on 25.09.2014. Though an objection was raised that the compensation has to be determined as per Central Act 30 of 2013, the same has been brushed aside citing erroneous reasons.

4.The learned Senior Counsel had further contended that the date of coming into force of the Central Act 30 of 2013 namely 01.01.2014 should be considered to be a base date for determination of the compensation. The learned Senior Counsel had relied upon a Division Bench Judgment of our High Court in a batch of writ appeals in W.ANos.1063 and 1223 of 2012 and others, dated 17.10.2022. In Paragraph No.32 of the said Division Bench



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judgment, the Hon'ble Division Bench after considering the said issue, has directed the authorities to pass fresh award fixing compensation for the land acquired by taking 01.01.2014 as a base date for determination of compensation. The learned Senior Counsel further pointed out that the said Division Bench judgment arises out of Tamil Nadu Act 10 of 1999. Hence, according to the learned Senior Counsel, the award impugned in the writ petition has to be set aside and the matter has to be remitted back to the third respondent herein for passing fresh award in the light of the above said Division Bench judgment.

5.Per contra, the learned Additional Advocate General appearing for the respondents had pointed out that the lands have been acquired from the petitioner in the year 2007 and hence, the new Act is not applicable to the acquisition made from the writ petitioner. He had further contended that an award has been passed on 25.09.2014. Since acquisition proceedings have been initiated on 14.05.2007, the compensation being paid under the old Act is legally sustainable. He had further contended that the Central Act 30 of 2013 has not been given any retrospective effect to cover the acquisition proceedings that have taken place prior to 01.01.2014. Hence, he prayed for dismissal of the writ petition.

6.I have considered the submissions made on either side and perused the materials available on record.



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7. Admittedly, the petitioner's land were acquired by the third respondent herein by way of Notification under Section 3(1) of Tamil Nadu Act 10 of 1999 by an order dated 14.05.2007. Thereafter, the impugned award has been passed only on 25.09.2014. There is no dispute that for the lands acquired under Tamil Nadu Act 10 of 1999, the provisions of Land Acquisition Act, 1894 have to be followed for determination of compensation. When the Land Acquisition Act 1894 has been repealed and replaced by the Central Act 30 of 2013, the provisions of the new Act have to be followed in determination of the compensation.

8. As far as the provisions of Section 24(2) of the Central Act 30 of 2013 is concerned, if the award amount has not been disbursed to the beneficiaries on or before coming into force of the Act, the award amount has to be reworked under the new Act. In the present case, the award itself has been passed only on 25.09.2014 namely 9 months after the Central Act 30 of 2013 had come into force. Hence, it is clear that the compensation to the writ petitioner has to be reworked under the Central Act 30 of 2013. The finding of the third respondent in the impugned order is not legally sustainable. As rightly pointed out by the learned Senior Counsel appearing for the writ petitioner, the Hon'ble Division Bench in the judgement cited supra, has pointed out that while reworking the compensation, 01.01.2014 has to be taken as a base date. Hence, the contention of the learned Additional



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Advocate General appearing for the respondents that the Central Act 30 of 2013 has not retrospective effect is not legally sustainable.

9.The learned Additional Advocate General has further pointed out that the possession has already been taken before 01.01.2014 and hence, the question of lapse of acquisition proceedings as contemplated under Section 24(2) of the Central Act 30 of 2013 does not arise. He had further contended that the order passed in the writ petition should be restricted to the petitioner alone and it cannot be taken advantage of by the other land owners who had suffered acquisition proceedings.

10.In view of the above said findings, this Court passes the following orders:

(i).The award impugned in the writ petition is set aside and the matter is remitted back to the file of the third respondent.

(ii).The third respondent is directed to pass fresh award after giving due opportunity to the writ petitioner by taking 01.01.2014 as a base date for determination of compensation under Central Act 30 of 2013.

(iii).The said exercise shall be completed within a period of four months from the date of receipt of a copy of this order.



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11.The writ petition is allowed to the extent as stated above. No costs.

Consequently, connected miscellaneous petition is closed.

23 .11.2022

Internet : Yes/No

Index : Yes/No

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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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