



W.A.No.1373 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:11.07.2023

Delivered on: 25.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.A.No.1373 of 2019

Integrated Finance Company Limited
Rep by its authorized signatory
No.10, R Block, II Floor
Prem Nagar Colony
South Boag Road
T.Nagar, Chennai-600 017

.. Appellant

Vs.

1. The Government Of Pondicherry
Rep by its Special Secretary to Government
Department of Revenue and Disaster Management
Puducherry
- 2 Addl Secretary to Government
Department of Revenue and Disaster
Management Government of Puducherry
Puducherry
- 3 The Deputy Collector Revenue
South cum Land Acquisition Officer
Government of Pondicherry, Villianur
Puducherry



W.A.No.1373 of 2019

4 Tax Recovery Officer-2
c/o The Tax Recovery Officer
Deivanayagam Pillai Thottam
Opp M.G. Road, Puducherry-605 003

5 Tax Recovery Officer-II
Asst. Commissioner Of Income Tax
Company Circle-II(3)
121 Nungambakkam High Road
Chennai-600 034

.. Respondents

Prayer:- Appeal filed under Clause 15 of Letters Patent praying to set aside the order passed by this Court in W.P.No.10991 of 2011 dated 21.12.2018.

For Appellant : Mr.M.S.Seshadri

For Respondents : Mr.A.Tamilvanan, AGP(P) for R1 to 3

Mr.B.Ramana Kumar,
Senior Standing counsel
&

Mr.D.Prabhu Mukunth Arun Kumar
Junior Standing counsel for R4 and 5

JUDGMENT

(Judgment of the Court was made by P.B.BALAJI,J.)

The Writ Appeal has been preferred at the instance of the Writ Petitioner who approached this Court for issuance of a Writ of Certiorari to quash G.O.Ms.No.34 dated 17.11.2009 and G.O.Ms.No.42 dated



W.A.No.1373 of 2019

04.12.2009.

WEB COPY

2. The brief facts that are necessary for effective adjudication of the Writ Appeal are as follows:

The Writ Petitioner is a company registered under the Companies Act, owning lands in Kirumambakkam Village, Bahour Commune, Puducherry, having purchased the same for valuable sale consideration. Subsequent to the purchase, the petitioner applied for transfer of patta in its name which came to be rejected by the Tahsildar, Bahour. An appeal was preferred before the District Collector who remanded the matter back to the Tahsildar for reconsideration. One Mr.Kannan filed a suit before the District Court, Puducherry disputing the petitioner's title over the property. However the suit came to be dismissed in the year 2009 and thereafter, the petitioner once again took steps to get patta transferred in its name. In the meantime, the Income Tax department initiated proceedings against the petitioner in respect of alleged dues to them and the property was attached in November 2009. At that point of time, the petitioner company received a communication from the Deputy Collector (Revenue)/Land Acquisition Officer, Puducherry stating that the property has been attached and steps have been taken to recover the income tax dues from the compensation



W.A.No.1373 of 2019

amount payable to the petitioner company in respect of the acquired land.

WEB COPY

According to the petitioner, only at that point of time, the petitioner came to know about the acquisition proceedings. Thereafter, the petitioner obtained copies of Sec.4(1) notification and Sec.6 declaration and came to know that the lands belonging to the petitioner company were acquired for the purpose of constructing a residential school in Kirumambakkam Village, invoking urgency clause under Sec.17 of the Land Acquisition Act thereby dispensing with the enquiry under Sec. 5-A. It is also stated by the Writ Petitioner that the award also came to be passed in June 2010. According to the petitioner, they did not receive any notice of acquisition proceedings, though they were the absolute owners on the relevant date of acquisition and there was also no necessity to invoke urgency clause since the acquisition was only for the purpose of constructing a residential school. These irregularities had seriously prejudiced the petitioner and therefore the petitioner filed a Writ Petition seeking to quash the entire land acquisition proceedings, in so far as it relate to the petitioner.

3. The Deputy Collector cum Land Acquisition Officer filed a counter stating that the lands were acquired at the instance of Adi Dravidar Welfare



W.A.No.1373 of 2019

WEB COPY

Department, Puducherry for the purpose of constructing a residential school. Sec.4(1) notification was duly published in daily newspapers having wide circulation in the locality. Subsequently Sec.6 declaration was also made in G.O.Ms.No.42 dated 14.12.2009, which was also published in daily newspapers having wide circulation in the locality.

4. According to the 3rd respondent possession of the lands were also taken as early as on 25.02.2010 and in turn handed over to the requisitioning department on the same day. A date was fixed for award enquiry and the petitioner did not appear for the same. Subsequently, the award came to be passed on 16.06.2010 and due notice under Sec.12(2) was also served on the petitioner on 12.10.2010. As a notice of attachment had been received from the Income Tax department, the Land Acquisition Officer paid 80% of the compensation amount to the Income Tax department towards income tax dues of the petitioner. It is also stated that all notices were duly served as per the revenue records and since the erstwhile owner's name alone was reflected, notices were issued to the concerned person. Therefore, the 3rd respondent sought for dismissal of the Writ Petition.



W.A.No.1373 of 2019

WEB COPY

5. The learned single Judge, after carefully considering the rival submissions made by the counsel for the petitioner as well as the State dismissed the Writ Petition, finding that the claims of the petitioner that no notices were served were incorrect and the invocation of the urgency clause being justifiable. The learned single Judge also noted the fact that possession of the land was taken on 25.02.2010 itself and there is no pre-notification delay as contended by petitioner.

6. Aggrieved by the dismissal of the Writ Petition, the petitioner company has preferred the above Writ Appeal, challenging the order of the learned single Judge on the grounds that despite the award being passed, no further steps have been taken to utilize the land and that the learned single Judge has not properly appreciated the dictum of the Hon'ble Supreme Court in ***Darshan lal Nagpal Vs. Govt (NCT Delhi)*** reported in ***(2012) 2 SCC 327***.

7. Heard Mr.M.S.Seshadri, learned counsel appearing for the appellant and Mr.S.Tamilvanan, AGP (P) for the respondents 1 to 3,



W.A.No.1373 of 2019

Mr.B.Ramana Kumar, Senior Standing Counsel and Mr.D.Prabhu

Mukunth Arun Kumar, junior Standing counsel for the respondents 4 and 5.

8. During the course of hearing of the Writ Appeal, the respondents were directed to file a report with regard to the present status. Accordingly today counsel for the respondents has filed a typedset of papers along with a topo sketch.

9. It is seen from the said records that on 16.02.2018, the Government of Puducherry has passed G.O.Ms.No.2/2018 in and by which a mutual transfer of land has been effected. It is also seen from the report filed along with the typedset of papers that the Director of Survey and Land Records, Puducherry had already allotted free house sites to the fishermen community, especially those who are affected by the Tsunami. The 3rd respondent has filed a counter before us which is dated 10.10.2022, where in also it is reiterated that the proceedings viz., notification under 4(1) as well as Sec.6 declaration were all in order and there are absolutely no violations whatsoever. It is also stated that even for dispensing with the



W.A.No.1373 of 2019

WEB COPY

enquiry under Sec.5-A, necessary steps have been followed and an award also came to be passed on 16.06.2010. No delay can be attributed since the award was passed within the statutory time of two years from the date of publication of Sec.6 declaration.

10. Once lands are acquired, there is no second opinion with regard to vesting of the same with the State, free of all encumbrances. The original land owner cannot impose his views or dictate terms to the State, as to how the lands should be utilised. It is the discretion of the State to use the lands for any other purpose also. The only entitlement of the land owner is to get compensation and there is no inherent right for the land owner to seek to quash the land acquisition proceedings and consequently reclaim his property. In the present case, we notice that Sec.4(1) notification was dated 17.11.2009 subsequently Sec.6 declaration was also made on 14.12.2009 and the award also came to be passed within one year viz., on 16.06.2010. It is also the specific case of respondents that possession was also taken on 25.02.2010. The Writ Petition came to be filed only in April 2011, contending that petitioner company had no notice of the acquisition proceedings. It is also contended by the counsel for the appellant that the



W.A.No.1373 of 2019

WEB COPY

name of the petitioner company is reflected in the encumbrance certificate and they are the rightful owners of the subject lands even before the acquisition proceedings commenced and therefore they are entitled to notice as a matter of right.

11. Though this argument may sound attractive, unfortunately in the light of the fact that the revenue records were only in the name of erstwhile owner on the date of acquisition proceedings, such a contention that the petitioner's company name is reflected in the encumbrance certificate cannot be countenanced. It is the duty of the petitioner company to have the revenue records transferred/mutated in its name subsequent to purchase of the property in question. The respondents cannot be blamed for the lethargy and inaction of the appellant and equally it is not for the Court or the land acquisition authorities to make roving enquiries to find out as to who is the present owner on the relevant date for consideration. It is well settled law that the authorities are entitled to go with the revenue records for the purpose of issuing notices in land acquisition proceedings.

12. It is also seen that 80% of the total compensation has been paid to



W.A.No.1373 of 2019

WEB COPY

the income tax department towards tax arrears of the petitioner company, pursuant to the notice issued by the income tax department. In so far as the allegation of post notification delay, it would not be a ground to quash the acquisition proceedings per se. Once the award has been passed pursuant to Sec.6 declaration, the property vests with the State and the State has discretion to put the said lands to use for any public purpose that it may deem fit and proper. Therefore, the contentions raised in the Writ Appeal do not merit any consideration. The learned single Judge has addressed all issues that arose in the Writ Petition including the invocation of the urgency clause as well as the issue regarding non issuance of notice to the petitioner company by the land acquisition authority.

13. Therefore, we do not deem it fit to interfere with the well reasoned order of the learned single Judge. However, considering the fact that there have been subsequent developments with regard to the income tax proceedings and this Court allowing tax appeals filed by the petitioner company and remitting the matter to the Assessing Officer for re-computation, the liability towards the income tax arrears may undergo modification, subject to final orders being passed by the Assessing Officer.



W.A.No.1373 of 2019

WEB COPY

We also noticed that pending the Writ Petition, the Income Tax authorities have been impleaded as respondents and they are also parties before us. In the event of the assessment proceedings concluding in favour of the appellant, wholly or partly, then the compensation amount or whichever sum is in excess shall be refunded by the respondents 4 and 5, together with interest at 9% per annum. In so far as the balance compensation payable to the appellant, the same shall also be subject to the final outcome of the income tax assessment proceedings and any amounts that may be due and payable to the appellant shall be paid by the respondents 1 to 3, together with applicable interest and other benefits, in accordance with law.

14. In fine, Writ Appeal is dismissed. No costs.

(D.K.K.J) & (P.B.B.J)
25.07.2023

Internet : Yes
Index: Yes
Neutral Citation: Yes/No



W.A.No.1373 of 2019

To
WEB COPY

1. The Special Secretary to Government
Government Of Pondicherry
Department of Revenue and Disaster Management
Puducherry
- 2 The Additional Secretary to Government
Department of Revenue and Disaster
Management Government of Puducherry
Puducherry
- 3 The Deputy Collector Revenue
South cum Land Acquisition Officer
Government of Pondicherry, Villianur
Puducherry
- 4 The Tax Recovery Officer-2
c/o The Tax Recovery Officer
Deivanayagam Pillai Thottam
Opp M.G. Road, Puducherry-605 003
- 5 The Tax Recovery Officer-II
Asst. Commissioner Of Income Tax
Company Circle-II(3)
121 Nungambakkam High Road
Chennai-600 034



WEB COPY



W.A.No.1373 of 2019

D.KRISHNAKUMAR, J.,
and
P.B.BALAJI, J

(kpr)

Pre-delivery judgment in
W.A.No.1373 of 2019

25.07.2023