



W.P.No.29947 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.P.No.29947 of 2023

and

W.M.P.No.29558 of 2023

O.Mohan Krishna

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary,
Department of Industries,
Fort St.George, Chennai – 600 009.
 2. The District Collector,
Kancheepuram District,
Kancheepuram – 631 502.
 3. The Special Tahsildar,
Land Acquisition,
Unit-II, SIPCOT,
Oragadam Expansion Scheme-II,
Sriperumbudur,
Kancheepuram District – 602 105.
- Respondents

...



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PRAYER:

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Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring the G.O.M.S.No.113, Industries (SIPCOT-LA) of the first respondent issued under sub-section (1) of Section 3 of the Tamil Nadu Acquisition of Land for Industrial Purposes Act 1997, published in the Tamil Nadu Government Gazette Extraordinary No.149-Part-II-Section 2 dated 04.06.2012 in so far as the petitioners property, being the housing site in Plot No.963 Comprised in Survey No.305, measuring to an extent of 2700 square feet in No.180, Mathur Village, Sriperumbudur Taluk, Kancheepuram District as Lapsed in view of the failure to pass Award as per section 7 of the Tamil Nadu Acquisition of Land for Industrial Purpose Act 1997 R/w section 25 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (30 of 2013).

For Petitioner : Mr.Raja Sekhar

For Respondents : Mr.S.Silambanan
AAG Assisted by
Mr.Yogesh Kannadasan
Special Government Pleader



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ORDER

This Writ Petition has been filed to issue a Writ of Declaration, declaring G.O.M.S.No.113, Industries (SIPCOT-LA) of the first respondent issued under sub-section (1) of Section 3 of the Tamil Nadu Acquisition of Land for Industrial Purposes Act 1997, published in the Tamil Nadu Government Gazette Extraordinary No.149-Part-II-Section 2 dated 04.06.2012 in so far as the petitioners property, being the housing site in Plot No.963 Comprised in Survey No.305, measuring an extent of 2700 square feet in No.180, Mathur Village, Sriperumbudur Taluk, Kancheepuram District as Lapsed in view of the failure to pass Award as per section 7 of the Tamil Nadu Acquisition of Land for Industrial Purpose Act 1997 R/w section 25 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (30 of 2013).

2. Heard the learned counsel appearing for the petitioner and the learned Additional Advocate General assisted by the learned Special Government Pleader appearing for the respondents.



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3. The main contention of the learned counsel for the petitioner is that, Award has not been passed within the stipulated period of one year. Though the respondents have stated that, earlier writ petition filed by the writ petitioner came to be dismissed on 13.08.2021, whereas, the Award was passed on 01.10.2023 not within one year from the date of dismissal of the earlier writ petition.

4. However, it is submitted by the learned Additional Advocate General that before passing Award, notice under section 7(5) of the said Act was not issued. Before passing the Award, it is mandatory to issue notice to the land-holder and in this case, after passing the Award they have communicated the same. However, the said notice issued, returned as left, whereas the respondents have not produced any document to show that, before passing the Award, notice under section 7(5) of Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1997 was issued. Therefore, the Award passed by the respondents is not contemplated under the procedures established by law.



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5. Therefore, the impugned Award passed by the respondents is quashed. It is left open to the respondents to follow the procedure and issue new proceedings, after completing the process and pass fresh Award in accordance with law. This Court, in several cases, held that statutory provisions have to be followed/complied by the acquisition officer and despite that officers deliberately not followed the same. The officers colluded with land owners and even they have gone to the extent of suppressing the earlier proceedings, in order to enable them to get higher compensation. The officials colluded with the land owners, especially after new Act came into force and sometimes they are purposefully evading to adhere the statutory provisions or in some cases, there are not adhering the statutory provisions and they have not produced the records and tampering the records. They are causing loss to the Government and helping the land owners for the reasons best known to them.



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6. The respondents have not produced any documents to show that prior to passing the Award, they issued notice under Section 7(5) of the Act.

7. Under the above facts and circumstances, the impugned Award is quashed with liberty to the respondents to initiate fresh proceedings , if they want to acquire the land in question. The Government is directed to take departmental action against the erred officers who have not followed the procedures/statutory provisions.

8. The Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

11.12.2023
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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No



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To

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P.VELMURUGAN, J.

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