



W.P(MD)No.20234 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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ORDERS RESERVED ON : 14.12.2023

ORDERS PRONOUNCED ON : 19.12.2023

CORAM

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.(MD)No.20234 of 2021
and
W.M.P.(MD)No.16905 of 2021

Transworld Garnet India Pvt. Ltd,
Registered Office at New No.14, 3rd Floor,
Pantheon Road,
Egmore,
Chennai - 600 008,
Through its Director, J.Chenthil Rajan,
S/o.Jegadeesan.

...Petitioner

Vs.

1.The Government of Tamilnadu
Through its Principal Secretary,
Industries (GIM) Department,
Fort St. George,
Chennai.



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2.The Special District Revenue Officer

(Land Acquisition),

ISRO - SSLV Project,

Tiruchendur,

Thoothukudi District.

3.The Special Tahsildar (Land Acquisition),

(Unit - I) ISRO-SSLV Project,

Tiruchendur,

Thoothukudi District.

...Respondents

PRAYER :- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for records of the original G.O.Ms.No.70, Industries (GIM) Department dated 10.02.2021 on the file of the first respondent and the consequential notice in Na.Ka.Ni.Ye.A1/32/2020 dated 26.07.2021 on the file of third respondent and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.Veera Kathiravan,

Additional Advocate General

assisted by Mr.K.S.Selvaganesan

Additional Government Pleader



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ORDER

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This Writ Petition has been filed challenging G.O.(Ms)No.70 Industries (GIM) Department, dated 10.02.2021 passed by the first respondent and the consequential notice in Na.Ka.No.Ni.Ye.A1/32/2020, dated 26.07.2021 issued by the third respondent.

2. The case of the petitioner is that a notice was issued by the third respondent, dated 26.07.2021 calling upon the petitioner to attend for an enquiry. This enquiry was made for fixing the compensation and for passing the award for acquisition of the land belonging to the petitioner. In the said notice, there was a reference to G.O.(Ms)No.70 Industries (GIM) Department, dated 10.02.2021, issued under Section 19(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (herein after referred to as “the Act”). On further verification, the petitioner also came to know that the said notification was published in Dinamalar, dated 27.02.2021.



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3. The petitioner being aggrieved by the steps initiated by the respondents to acquire the property belonging to the petitioner by invoking the urgency clause under Section 40 of the Act, has filed the present Writ Petition before this Court.

4. The second respondent has filed a counter affidavit. The second respondent has stated in the counter affidavit that ISRO has undertaken a project to develop Small Satellite Launch Vehicle (SSLV). This vehicle will provide India an indigenous low cost capacity to carry out advanced space based technology testing. An expert Committee reviewed several locations and concluded that the location at Thoothukudi District, is the most ideal location and that it will meet the criteria. In view of the fact that the project is of national importance, steps were taken to acquire the properties at the earliest in order to ensure that the realization of the launch pad is completed.



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5. It is further stated in the counter that the first respondent issued G.O.(Ms)No.175, dated 09.10.2019 by according administration sanction for acquisition of lands under Section 40 of the Act and for alienation of those lands in favour of ISRO to establish the new launch station for SSLV. A notification was also issued under Section 11(1) and Section 40(1) of the Act and it was published in the gazette on 30.07.2020. The same was approved by the Government through a declaration under Section 19(1) and Section 40(1) of the Act by issuing impugned G.O.(Ms)No.70, dated 10.02.2021. Pursuant to the same, the award enquiry notice was also issued under Section 23 of the Act by the third respondent.

6. It is further stated in the counter affidavit that the land is required for establishing ISRO complex which also involved national security interest of India. That is the reason why the urgency clause was invoked under Section 40(1) of the Act. The second respondent has taken a further stand that already 80% of the compensation amount has been deposited and the petitioner is also entitled for an additional



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compensation of 75% as determined under Section 27 of the Act.

Accordingly, the second respondent has sought for dismissal of this Writ Petition.

7. Heard Mr.G.Prabhu Rajadurai, learned counsel for the petitioner and Mr.Veera Kathiravan, learned Additional Advocate General appearing on behalf of the respondents.

8. This Court has carefully considered the submissions made on either side and perused the materials available on record.

9. The main ground that was urged by the learned counsel for the petitioner is that the purpose for which the urgency clause has been invoked does not fulfill the criteria prescribed under Section 40(2) of the Act. It was submitted that ISRO is an organization dealing with Scientific Research and Development and they have nothing to do with the defence and the security of the nation. Even in the Government Order issued in G.O(Ms)No.175, dated 09.10.2019, it is only stated that



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ISRO had requested the Government to carry out the land acquisition and there is no indication that it is done towards any national security or defence of India. There is also no clarity in the Government Order issued in G.O.(Ms)No.167, dated 30.07.2020.

10. The learned Additional Advocate General contended that the project involves national security and the same has been stated in the Government Order and it will not be possible to give the exact details of national security involved, considering the sensitivity and the over all interest of the nation. The learned Additional Advocate General submitted that all the procedures were fulfilled and the compensation amount has also been deposited before the District Court, Thoothukudi. In so far as the petitioner is concerned, a total amount of Rs.7,31,95,088/- (Rupees Seven Crore Thirty One Lakh Ninety Five Thousand and Eighty Eight only) has been deposited. This amount was not directly paid to the petitioner since a claim was made by the Income Tax Department and therefore, it was thought fit to deposit the amount in the Court.



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11. Section 40(2) of the Act reads as follows :

“40. Special powers in case of urgency to acquire land in certain cases.— (2) The powers of the appropriate Government under sub-section (1) shall be restricted to the minimum area required for the defence of India or national security or for any emergencies arising out of natural calamities or any other emergency with the approval of Parliament.”

12. On a plain reading of the above provision, it is seen that the urgency clause can be invoked only under certain contingencies. The same must pertain to the defence of India or national security or any emergencies arising out of natural calamities or any other emergency with the approval of Parliament. The approval of Parliament is not contemplated for any other contingencies except where it falls under the category of other emergency which is not defined under Section 40(2) of the Act.

13. In the instant case, the lands are acquired for a project to be undertaken by ISRO to establish a new launch station for



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SSLV. The notification that was issued under Section 11(1) and Section 40(1) of the Act in G.O.(Ms)No.167, dated 30.07.2020 shows that the establishment of new launch station is also required for national security. When the Government is satisfied that the project that is going to be undertaken by ISRO also involves national security, it will not be appropriate to specify in detail as to what is going to be done by ISRO towards national security. If such finer details are explicitly revealed, it will go against the interest of the nation. Therefore, it will suffice if a mention is made in the notification that the project also involves national security.

14. ISRO's endeavours often have implications for national security, including satellite based communication, navigation, and surveillance systems. Securing these systems against cyber threats is critical for ISRO's operational success and safeguarding the nation's security interests.

15. In the considered view of this Court, there is absolutely



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no procedural irregularity committed by the respondents. The purpose for which the urgency clause was invoked is fully justified and there is no reason to interfere with the same.

16. It is also seen that the compensation amount has already been deposited before the District Court, Thoothukudi, to the tune of Rs.7,31,95,088/- (Rupees Seven Crore Thirty One Lakh Ninety Five Thousand and Eighty Eight only) with respect to the lands acquired from the petitioner. The respondents were not able to pay this amount directly to the petitioner since a claim was made by the Income Tax Department and therefore, it was thought fit to deposit the amount.

17. In the result, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.12.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
RM



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To

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N.ANAND VENKATESH, J.

RM

Pre-delivery Order made in

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19.12.2023