



W.P.No.828 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2024

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.P.No.828 of 2024
and
W.M.P.No.854 of 2024

Martin Xavier

... Petitioner

Vs.

- 1 The Government of Tamil Nadu
Rep. by its Secretary,
Industries Department,
Fort St. George,
Chennai 600 009.
- 2 The District Collector
Kancheepuram District,
Kancheepuram.
- 3 The Special Tahsildar (L.A), Unit I SIPCOT,
Oragadam Expansion II Scheme,
SIPCOT Pillaipakkam Project Office Building,
Kundrathur Main Road, Sriperumpubhur 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 Certiorarified Mandamus, calling for records relating to the Award of the 2nd respondent in Na.Ka.No. 06/ 2009 in Award No. 01/ 2020 dated 23.11.2020 to quash the same and further direct the 2nd respondent to reckoning the base date for arriving at the compensation as on 01.01.2014 in so far as to the petitioner property being the house site in Plot No. 935 comprised in Survey Nos. 306/2 and 306/3A measuring to an extent of 2400 sq.ft in 180 Mathur Village, VGP Jayanthi Town situated in No. 180, Mathur Village, Sriperumbudur Taluk, Chengalpattu District.

For Petitioner : Mr.M.Rajasekar

For Respondents : Mr.T.Arunkumar
Additional Government Pleader

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, calling for records relating to the Award of the second



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respondent in Na.Ka.No. 06/ 2009 in Award No. 01/ 2020, dated 23.11.2020 and to quash the same and further direct the second respondent to reckon the base date for arriving at the compensation as on 01.01.2014 in so far as the petitioner's property being the house site in Plot No. 935, comprised in Survey Nos. 306/2 and 306/3A, measuring an extent of 2400 sq.ft in 180 Mathur Village, VGP Jayanthi Town, situated in No. 180, Mathur Village, Sriperumbudur Taluk, Chengalpattu District is concerned.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

3. The learned counsel for the petitioner submitted that the petitioner has not challenged the Notifications issued under Sections 3(2) and 3(1) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act. However, he challenged the determination of the Award passed by the respondents. He further submitted that, before determining



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the compensation, neither opportunity was given to the petitioner, nor he was heard. His further contention is that the compensation has been determined as per the Old Act. As far as determination of the compensation is concerned, it has to be done as per the provisions contemplated under the New Act ie., the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The respondents have not followed the procedures contemplated under Section 30 of the New Act, 2013 for awarding compensation to the lands acquired prior to 01.01.2014. Therefore, the Award passed by the respondents has to be quashed and direct the authorities to determine the compensation as per the New Act. He also referred a decision of this Court in W.P.No.29947 of 2023 dated 11.12.2023 [O.Mohan Krishna Vs. The State of Tamilnadu and others]

4. Learned Additional Government Pleader appearing for the respondents submitted that the petitioner has not challenged the acquisition proceedings. He has challenged the determination of the compensation alone. However, this Court earlier passed the order dated



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01.03.2023 in W.P.No.2963 of 2023 etc., Batch with regard to the subject matter. The respondents have filed counter stating that there is no deviation in determining the compensation as per the Central Act and also with respect to the claim of fixation of market value of the land. Further, the Revival Act enacted by the State Legislature having been upheld by the Hon'ble Supreme Court, all notices, notifications and proceedings initiated under the 1997 Act stand revived, except the provisions relating to the determination of compensation made under Section 7 of the 1997 Act. Hence the contention of the petitioner that the base date to be taken as on 01.01.2014 as per the Central Act, would not arise, until the final order is passed by the Hon'ble Supreme Court.

5. Admittedly, the petitioner's land was acquired under the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. Notification under Section 3(1) of the 1997 Act was issued and acquisition was also confirmed. Subsequently, Award was passed by determining the compensation. Before determining the compensation as per Section 7(5) of the abovesaid Act, the land owner has to be heard.



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The Collector has to issue notice to the land owner and give an opportunity of hearing and after conducting enquiry, the Collector has to determine the compensation, whereas in this case, in the counter filed by the respondents, they have not stated as to whether opportunity was given to the petitioner and whether Section 7(5) notice of the said Act of 1997 was issued and whether the petitioner was heard before determining the compensation. Section 7(5) of the Act is mandatory and not an empty formality. Before determining the compensation, the land owner has to be heard by the District Collector and after recording the objections and considering all the submissions, the District Collector has to determine the compensation. In the counter, the respondents have not stated as to whether notice under Section 7(5) of the Act has been issued. Hence, the impugned Award passed by the second respondent is set aside. The second respondent is directed to issue notice to the petitioner under Section 7(5) of the Act and after giving opportunity of hearing the petitioner and aggrieved persons if any, and thereafter pass Award on merits and in accordance with law.



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6. With the abovesaid direction, the Writ Petition is disposed of.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

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Rep. by its Secretary,
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P.VELMURUGAN, J.

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