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W.A.Nos.2099 of 2010 and batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.A.Nos.2099, 2100 & 2101 of 2010, 1330, 1331 & 1560 of 2018
and
C.M.P.Nos.10667, 10668 & 12594 of 2018, 28505 & 28508 of 2023
and
M.P.Nos.1, 1 & 1 of 2010

[W.A.No.2099 of 2010]

The Tamil Nadu Small Industries
Development Corporation Ltd.,
Rep. by its General Manager,
Industrial Estates,
Near Electronics Complex,
Guindy, Chennai-600 032

... Appellant

Vs.

1. R.Venkittammal (Died)
2. The Govt. of Tamil Nadu,
Rep. by its Secretary,
Industries Department,
Fort St. George, Chennai-600 009.
3. The Revenue Divisional Officer,
Erode, Erode District.



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4. S.Chandra Gandhi

5.S.Lavanya

6.S.Suganya

7.S.Manikandan

8.V.Sree Kumar

9.V.Jayanthi

[R1 died, is substituted by the respondents, 4 to 9 as LRS of deceased R1, vide order of court dated 29/11/2023 made in CMP.Nos.27151, 27153, 27155 and 27150/2023 in WA.Nos.1330 and 1560/2018 and WA.Nos.2099 and 2100/2010 (by RSKJ and GAMJ)]

... Respondents

Prayer :- Writ Appeal filed under Clause 15 of the Letters Patent Act, to set aside the order passed in Review Application No.58 of 2000 dated 29.07.2010.

For Appellants in
W.A.Nos.2099, 2100
& 2101/2010

: Mr.V.P.Sengottuvel, Senior Counsel
for M/s.V.Dhamodharan

For Appellants in
W.A.Nos.1330, 1331
& 1560/2018

: M/s.V.P.Sengottuvel, Senior Counsel
for M/s.K.Indupriya

For Respondents in

W.A.No.2099/2010 : Mr.T.R.Rajagopalan, Senior Counsel
for Mr.D.Raja (for R4 to R9);



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: Mr.A.Selvendran, Spl. Govt. Pleader,
(for R2 & R3);

: R1- Died, Steps taken.

For Respondents in

W.A.No.2100/2010

: Mr.A.Selvendrdan,
Special Govt. Pleader (for R4 & R5);

: R1, R3, R8 & R9 – Not ready in Notice

: R2- Died, steps taken.

For Respondents in

W.A.No.2101/2010

: Mr.S.Kaithamalai Kumaran
(for R8 & R9);

: R1, R3 & R7 – Died;

: Mr.A.Selvendran,
Special Govt. Pleader (for R5 & R6);

: No Appearance (for R4);

: R2 – Died, steps taken.

For Respondents in

W.A.No.1330/2018

: R1-Died;

: Mr.A.Selvendran,
Special Govt. Pleader (for R2 & R3);

: Mr.T.R.Rajagopalan, Senior Counsel
for Mr.D.Raja (for R4 to R9).

For Respondents in

W.A.No.1331/2018

: R1-Died;



W.A.Nos.2099 of 2010 and batch

: Mr.A.Selvendran
Special Govt. Pleader (for R5 & R6);

For Respondents in

W.A.No.1560/2018

: R1 – Died,

: Mr.A.Selvendran,
Special Govt. Pleader (for R4 & R5);

: No Appearance (for R3, R6 & R7);

: R8 & R9 – Not ready in Notice.

COMMON JUDGEMENT

(Judgement of the Court was delivered by S.M.Subramaniam J.)

The writ appeals have been instituted in the matter of land acquisition proceedings. The state of Tamil Nadu initiated actions to acquire lands for the purpose of allotting to The Tamil Nadu Small Industries Development Corporation Ltd., (requisitioning body).

2. The proposed acquisition was initiated to acquire 20.25 Hectors of land in Vadamugam Kangeyampalayam village, Perundurai Taluk, Priyar district for the formation of an Industrial Estate by the appellant corporation.

The details of the lands are as under:



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S.No.	Total Extent	Area covered under Acquisition
	H.A.	H.A.
98/1A	1.80.5	1.78.5
129/1	1.80.5	0.90.5
129/1	1.90.5	0.29.5
129/2	0.29.0	0.29.0
132	0.24.5	2.45.0
136	5.66.0	5.66.0
137/1	1.88.5	1.88.5
137/2	1.89.5	1.89.5
138/1	0.03.0	1.57.5
138/2	1.57.5	1.57.5
138/3	0.28.5	0.28.5
138/4	0.33.0	0.33.0
138/5	0.31.0	0.31.0
138/6	0.36.0	0.26.0
138/7	0.09.0	0.09.5
138/8	0.07.5	0.07.5
138/9	0.19.5	0.19.5

3. Section 4(1) Notification under the Land Acquisition Act was approved in G.O.Ms.No.514, Industrial Department dated 02.08.1989. It was published in Tamil Nadu Government Gazette on 15.8.1989 (No.32 C Part II Section 2 Supplement) and in the local dailies Dinamalar and Theekathir dated 18.08.1989. The substance of the notification was also published in the locality on 07.09.1989 by beat of “tom tom” .



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4. On 11.10.1989, notice for inquiry under Section 5(a) was served on the land owners asking them to send their respective objections within 15 days from the date of receipt of notice. The learned Special Government Pleader, Mr.A.Selvendran for the State and the learned Senior Counsel Mr.V.P.Sengottuvel for the appellant would submit that none of the petitioners submitted their objections within the time limit granted. On the date of inquiry i.e., on 30.10.1989, land owners appeared and presented objections to acquire their lands. The land owners made a request to exclude their land from the acquisition proceedings mainly on the ground that they are small farmers. The remarks of the requisitioning body have been called for and the objections raised by the land owners were taken into consideration.

5. The requisitioning body had sent their remarks on 22.05.1990. The remarks of the requisitioning body was communicated to the land owners on 08.06.1990 with the notice calling for objections on the remarks of the requisitioning body. The inquiry was posted on 29.06.1990 for hearing. Finally, proceedings under Section 5(a)(z) in Ref.7673/88 A8 dated 09.07.1990 was issued overruling the objections and the said order was served on the land owners through Village Administrative Officer concerned.



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6. The draft declaration under Section 6 of the Land Acquisition Act was sent to the Government through District Revenue Officer and Special Commissioner and Commissioner of Land Administration, Chennai. The declaration was approved by the Government in G.O.Ms.No. 950, Industrial Department dated 06.09.1990. It was published in Tamil Nadu Government Gazette dated 06.09.1990 (No.408/Part II Sec.2). The substance of the declaration was published in the locality on 06.09.1990, by beat of tom tom. A certificate to that effect was obtained from the Village Administrative Officer concerned. The draft declaration under Section 7 of the Land Acquisition Act was approved by the Government and the same was published in the Tamil Nadu Government Gazette on 12.12.1990. The Inquiry under Section 11 of the Land Acquisition Act had been conducted on 03.05.1991 and an award was passed on 16.09.1991.

7. In the context of the above proceedings adopted by the Government and the appellant requisitioning body under the Land Acquisition Act, the learned Senior Counsel Mr.V.P.Sengottuvel for the appellants would submit that the learned Single Judge quashed the acquisition proceedings mainly on the ground that the procedures as contemplated under Rule 3(B) of the Land Acquisition, Rules were not followed. The learned Single Judge, though



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recorded that the records are perused, not considered the procedures adopted as stated in detail, in the counter affidavit.

8. In support of the said ground, the learned Senior Counsel Mr.V.P.Sengottuvel for the appellants would solicit the attention of this Court with reference to the orders passed in other writ petitions which was confirmed in writ appeals. It is brought to the notice of this Court that in respect of the same land acquisition proceedings, another set of land owners challenged these proceedings. The learned Single Judge in W.P.No.5499 and 14697 of 1991 dismissed the writ petition on 24.06.1999. The land owners preferred Writ Appeal No.2163 and 2164 of 1999 and the division bench of this Court confirmed the writ order and dismissed the writ appeal on 02.02.2000. When the Writ Court and the Division Bench of this Court confirmed a land acquisition proceedings in respect of the same acquisition proceedings, challenged by other land owners of adjacent lands, the findings of the learned Single Judge which is impugned, is running counter to the facts. It is further contended that the Writ Court has not elaborated the details regarding the procedures followed with reference to the original files which is stated to be perused.



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9. Mr.T.R.Rajagopalan, learned Senior Counsel appearing on behalf of the respondent land owners would submit that the learned Single Judge in the writ order has stated that the learned Government Advocate produced the records and such records were perused by the Writ Court. The Court found that the procedures contemplated under the Rule 3(B) of the Land Acquisition Rules have not been followed and therefore, there is no reason to overturn the findings made by the Writ Court in this regard.

10. Let us have the close reading of the findings made by the Writ Court in order ***dated 04.08.1999 in W.P.No.15612 of 1991, 15885 and 15886 of 1991***. Paragraph no.2 of the order reads as under:

“2. On a direction from this Court, learned Government Advocate produced the records. A perusal of the records revealed that the remarks as required under Rule 3(B) of the Rules have not been furnished to the owners.”

The learned single judge has stated that *"a perusal of the records reveal that the remarks as required under Rule 3(B) of the Rules have not been furnished to the owners"*. The said findings would be insufficient to form an opinion that the procedures in entirety, contemplated under Rule 3(B) has been violated by the Government. The learned Single Judge recorded that the



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remarks as required under Rule 3(B) have not been furnished. It is never said that it has not been followed. The appellants, Small Industries Corporation Ltd. is the respondent in the writ proceedings. They have filed a detailed counter affidavit in the writ proceedings, categorically stating that the requisitioning body had sent their remarks on 22.05.1990. It was communicated to the land owners on 08.06.1990 with a notice calling for objections on the remarks of the requisitioning body. The inquiry was thereafter posted on 29.06.1990 for hearing. The land owners have appeared and raised an objection for land acquisition on the ground that they are small farmers. However, the objections were overlooked and thereafter, the authorities proceeded with the acquisition proceedings and sent draft declaration to the Government under Section 6 of the Act.

11. Mr.T.R.Rajagopalan, learned Senior Counsel for the respondent land owners would state that the respondents filed an affidavit that Rule 3(B) of Tamil Nadu Land Acquisition Rules have been violated. Since objections raised against the acquisition were not communicated to the acquisition department. However, it is very hard to the accept such a statement made by the land owners in the affidavit since in respect of the very same acquisition proceedings, the adjacent land owners filed writ petitions and the said writ



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petitions were dismissed by the learned Single Judge which was confirmed by the Division Bench of this Court in Writ Appeal Nos.2163 and 2164 of 1999 dated 02.02.2000.

12. Adjacent land owners in the same acquisition proceedings, filed writ petitions and writ appeals and the acquisition proceedings are confirmed. Thus, there is no further reason to consider the grounds raised by the respondent land owners in the present writ appeal.

13. The Writ Court has not considered various dates and the procedures followed under the land acquisition Act and Rules. Mere statement that the remarks as required under Rule 3(B) Tamil Nadu Land Acquisition Rules have not been furnished to the owners, would be insufficient to quash the entire land acquisition proceedings since the same land acquisition proceedings are already confirmed by the Division Bench of this Court. The writ order is bereft of details regarding the procedures followed and therefore, we are not inclined to approve the said findings made by the Writ Court for the purpose of quashing the land acquisition proceedings.



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14. The order passed in the review application would have restricted implications since the scope of review application is limited, i.e., only to interfere if there is any error apparent on record. Therefore, a review order would not be a ground to reject relief to the appellant in the present writ appeal.

15. In view of the facts and circumstances, the common order impugned in Review Application Nos.58, 59 & 60 of 2000 dated 29.07.2010 is set aside. Consequently the writ petitions filed by the respondents in W.P.Nos.15612, 15885, 15886, 15612, 15886 & 15885 of 1991, dated 04.08.1999 are dismissed. Accordingly, the present W.A.Nos.2099, 2100 & 2101 of 2010, 1330, 1331 & 1560 of 2018 are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S.J.,) (C.K.J.,)
04.07.2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
(sha)



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To

1. The Tamil Nadu Small Industries,
Development Corporation Ltd.,
Rep. by its General Manager,
Industrial Estates,
Near Electronics Complex,
Guindy, Chennai-600 032

2. The Govt. of Tamil Nadu,
Rep. by its Secretary,
Industries Department,
Fort St. George, Chennai-600 009.

3. The Revenue Divisional Officer,
Erode, Erode District.



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S.M.SUBRAMANIAM, J.

and

C.KUMARAPPAN, J.

(sha)

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