IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.03.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.2561 of 2024
and
W.M.P.Nos.2811 and 2812 of 2024
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D.Dasarathan .. Petitioner

Vs.

1. The District Collector,
Kancheepuram District,
Kancheepuram.

2. The District Collector,
Chennai District,
Chennai.

3. The Special District Revenue Officer,
Land Acquisition (Chennai Airport Expansion Scheme),
Office of Tahsildar,
Chennai-600 016.

4. The Special Tahsildar (LA),
Chennai Airport Expansion Scheme,
Sriperumbudur. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to Award No.1 of 2020 in R.C.No.A/189/2013, dated 16.03.2020 issued by the second respondent, followed by arbitrary deduction of Rs.56,02,389.31 towards development charges by the third respondent, quash the same in respect of the petitioner is concerned for compensation amount for lands comprised in Survey Nos.529 and 530 of Manapakkam Village, Alandur Taluk, Chennai District and consequently direct the third respondent to refund the sum of Rs.56,02,389.31/- to the petitioner.

For petitioner : Mr.R.Subramanian and Mr.V.Sukumar for M/s.R.Sethu Pandian

For respondents: Mr.T.Arun Kumar, Addl.G.P.

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to Award No.1 of 2020 in R.C.No.A/189/2013, dated 16.03.2020 issued by the second respondent, followed by arbitrary deduction of Rs.56,02,389.31 towards development charges by the third respondent, quash the same in respect of the petitioner is concerned for compensation amount for lands comprised in Survey Nos.529 and 530 of Manapakkam Village, Alandur Taluk, Chennai District and consequently direct the third respondent to refund the sum of Rs.56,02,389.31/- to the petitioner.

2. Learned counsel for the petitioner submitted that the land in question was acquired and Award was also passed and after acquiring the land and after passing of the Award, while disbursing the amount of compensation, they have

deducted a sum of Rs.56,02,389.31, based on the circular issued in No.M2/7304/2018, dated 16.10.2020, by the Commissioner of Land Administration, Chennai. There is no material to show that 33.33% is required for the development charges and also the circular relied on by the learned Additional Government Pleader is only to give effect only from 16.10.2020 and therefore, there cannot be any retrospective effect, whereas, the land was acquired much prior to the circular, dated 16.10.2020. Further, there is no material to show that the development charges are to be deducted and simply after passing of the Award and while disbursing the amount, they have with-held the amount, which is equivalent to 33.33% and citing the said circular, in which also, it is stated that it is being implemented only based on the order of the Supreme Court. But the said Circular will not be applicable to the present case on hand, and therefore, the impugned order may be quashed.

3. Learned Additional Government Pleader appearing for the respondents submitted that only based on the decision of the Supreme Court, the Government has issued the said Circular through the Commissioner of Land Administration and the learned Additional Government Pleader referred to paragraph 9 of the said circular (dated 16.10.2020), which reads as follows:

> "9. Furnishing of statement in Form No.13:
> In RSO 90 para 19(ii), it is mentioned that "The Divisional Officer will in all cases forward the

> statement to the Registration Department and will then forward to the Tahsildar with a view to the necessary changes being made in the Taluk and Village accounts, the plants mentioned in Para 13(ii)". Accordingly, it is instructed to furnish the statement in Form No.13 to the Sub Registrar's Office within 7 days of payment of compensation without delay."

4. According to the learned Additional Government Pleader, even the Award is passed in this case which is only prior to the said Circular and hence, the petitioner is entitled to deduct the amount which is equivalent to 33.33% for the development charges, and therefore, the Writ Petition may be dismissed.

5. Heard both sides and perused the materials available on record.

6. The Award in Award No.01/2020 (R.C.No.A/189/2013), in Form G (See Rule 11) dated 16.03.2020 says that the Government, in their Order No.108, Transport Department, dated 09.10.2007, had accorded administrative sanction for acquisition of the lands covering an extent of 319.31.0 hectares of wet lands, etc., and notice under Section 3(2) of the Tamil Nadu Acquisition of Lands for Industrial Purposes Act, 1997 was published in dailies, dated 16.12.2007 and it was also acquired subsequently and the Award came to be passed on 16.03.2020 as noted above, fixing the quantum of compensation at

Rs.1,68,08,849/- for the subject land and only later, the Circular came to be issued on 16.10.2020, and they have issued the impugned proceedings dated 16.03.2020 deducting 33.33% from the Award amount towards development charges.

7. On a perusal of the Award and the earlier proceedings, it is seen that there was no opportunity of hearing given to the petitioner and there are also no materials recorded regarding the development charges. After conducting enquiry, the compensation was fixed in a sum of Rs.1,68,08,849/- for the subject land and after passing of the Award and only based on the said Circular, dated 16.10.2020, the deduction is sought to be made, which according to the petitioner violated the principles of natural justice and further, as per the Circular, when once the land was acquired and the possession was also taken, and the Award was also passed, without giving any further opportunity of hearing to the petitioner, all of a sudden, the amount cannot be deducted for whatsoever the reason by issuing any Circular, which cannot be given any retrospective effect, which will go to the root of the matter and it will not reflect the "fair and just compensation". The object of the New Land Acquisition Act itself would be defeated and therefore, under the above circumstances, this Court finds that the impugned proceedings are arbitrarily issued and the same is accordingly quashed.

8. Hence, the respondents are directed to pay the compensation to the petitioner and if at all they wanted to follow the decisions of the Supreme Court on the issue, they have to follow the same only after affording an opportunity of hearing to the parties and only thereafter, they have to decide the matter and they cannot arbitrarily invoke the Circular and give retrospective effect and without giving opportunity of hearing to the parties, the amount cannot be deducted.

9. Hence, the Writ Petition is allowed. The respondents are directed to deposit the entire Award amount before the Land Tribunal, since the reference is already pending in L.A.O.P.No.4 of 2023 on the file of Subordinate Court, Chengalpet and the respondents are at liberty to agitate the same in the manner known to law and not by way of arbitrary proceedings. There shall be no order as to costs. Consequently, W.M.Ps. are closed.

11.03.2024

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To

1. The District Collector,
   Kancheepuram District,
   Kancheepuram.

2. The District Collector,
   Chennai District,
   Chennai.

3. The Special District Revenue Officer,
   Land Acquisition (Chennai Airport Expansion Scheme),
   Office of Tahsildar,
   Chennai-600 016.

4. The Special Tahsildar (LA),
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P.VELMURUGAN, J

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