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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.09.2024

PRONOUNCED ON : 24.09.2024

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.10740 of 2024
and
W.M.P.No.11818 of 2024

R.C.Joshua

... Petitioner

VS.

1.State of Tamil Nadu,
rep. by its Chief Secretary to Government
Secretariat, Fort St. George
Chennai – 600 009

2.Chennai Metro Rail Limited,
Represented by its Chairman/MD,
Admin Building, CMRL Depot,
Poonamallee High Road, Koyambedu,
Chennai – 600107.

3.The Special District Revenue Officer,
Land Acquisition
Chennai Metro Rail Limited
Nandanam, Chennai-600 035

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of



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India, to issue a Writ of Declaration, declaring the acquisition proceedings initiated by the 2nd and 3rd respondents in respect of the lands in T.S.No.3132/8, Block No.52, Balfour Road of the petitioner by way of the Notification No.VI(1)/330(c-8)/2021 published in the Tamil Nadu Government Gazette (Extraordinary) dated 26.11.2021 as null and void arbitrary and illegal.

For Petitioner : Mr.T.Sai Krishnan

For R1 : Mr.P.Sathish
Additional Government Pleader

For R2 and R3 : Mr.Jayesh B.Dolia
Senior Advocate
for M/s.Rita Chandrasekar
M/s.Adithya Chandramouli

ORDER

The present Writ Petition has been filed by the petitioner challenging the Notification No.VI(1)/330(c-8)/2021 published in the Tamil Nadu Government Gazette (Extraordinary) dated 26.11.2021 for acquisition of his land under Section 3(1) of Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (hereinafter referred to as 'Industrial Purposes Act' for brevity).

2. The petitioner is the owner of land in Re-Survey No.3132/8, Block



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No.52, Balfour Road. He had put up a residential building thereon and he has been living there for more than 50 years. The petitioner received a Show Cause Notice under Section 3(2) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997, for acquisition of portion of his property with an extent of 160 sq.meters. The petitioner objected the same. Thereafter, 3rd respondent issued a Notification in Na.Ka.No.11/Ni.A/Se.Ma.Ra.Thi/2018, dated 04.01.2022 under Section 7(2) of the Industrial Purposes Act. Aggrieved by the same, the petitioner approached this Court by filing writ petition in W.P.No.1374 of 2022. After hearing the parties, this Court by order dated 07.11.2022 directed the petitioner to appear before the respondents for private negotiation. The petitioner appeared before the respondents/private negotiation committee and informed them that the subject property was the only property available to him and requested them to make a change in the design of their project so as to give a permanent solution to the petitioner. Thereafter, possession notice was issued to the petitioner and the same was challenged by the petitioner in writ petition in W.P.No.22520 of 2023. The writ petition was disposed of by this Court on 01.08.2023 by directing the petitioner to handover subject property with liberty to the respondents to pass an award. Alternatively, the petitioner was



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also given a liberty to request for private negotiation regarding determination of compensation. Since the respondents have not agreed for private negotiation, the petitioner has filed the present writ petition challenging the 3(1) notification issued under Industrial Purposes Act.

3. Mr.T.Sai Krishnan, learned counsel appearing for the petitioner raised the following points:-

(i) The acquisition made by the respondents for the purpose of providing transport facility to public will not come under the expression 'Industrial Purpose' as defined under Industrial Purposes Act and therefore, the acquisition proceedings initiated under Industrial Purposes Act is not valid.

(ii) In view of the earlier order passed by this Court in W.P.No.1374 of 2022 directing the parties to go for private negotiation, the acquisition proceedings initiated by the respondents got impliedly quashed and in case of failure of the private negotiation, the respondents have to go for fresh notification and they cannot continue the earlier acquisition proceedings initiated by issuance of 3(2) notice.

(iii) Under the provisions of Section 25 of Right to Fair Compensation



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and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter called as 'Central Act 30 of 2013'), the award shall be passed within twelve months from the date of final notification. However, in the case on hand, the award was passed beyond the statutory period. In support of his contention, the learned counsel relied on following decisions:-

- (i) ***Century Spinning and Manufacturing Company Ltd., and another vs. Ulhasnagar Municipal Council and another*** reported in (1970) 1 SCC 582.
- (ii) ***Kolkata Municipal Corporation and another vs. Bimal Kumar Shah and others*** reported in 2024 SCC Online SC 968.

4. Mr.Jayesh B.Dolia, learned Senior Counsel appearing for the respondents 2 and 3 by relying on decision by this Court in ***J.Parthiban vs. State of Tamil Nadu and others*** reported in 2008-2-L.W. 989, submitted that the acquisition of lands in furtherance of the objects of the Act can also be treated as the one for industrial purpose and therefore, the State was justified in acquiring the lands under Industrial Purposes Act for construction of Metro Railway Line. The learned Senior Counsel by relying on the notice issued under Section 7(2) of Industrial Purposes Act, dated



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04.01.2022 submitted that as per the order passed by this Court in earlier writ petition, notice was issued to the petitioner and he was given sufficient opportunity to participate in private negotiation and since there was no headway in the private negotiation, the respondents 2 and 3 decided to proceed with the acquisition proceedings. The learned Senior Counsel also by relying on the order passed by this Court in W.P.No.22520 of 2023 submitted that the objection raised by the petitioner with regard to the inconvenience caused to the petitioner by acquisition of portion of his property was considered and overruled in the earlier occasion and petitioner was directed to handover the acquired land. Therefore, he submitted that the writ petition is liable to be dismissed.

5. The expression 'Industrial Purpose' is defined under Section 2(e) of Industrial Purposes Act, and same reads as follows:-

*“2. (e) **“industrial purpose”** includes the starting of a new industry, expansion of an existing industry, the development of an industrial area and establishment and management of an industrial estate.”*

6. By relying on the above mentioned definition, the learned counsel



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appearing for the petitioner submitted that acquisition of his lands to facilitate respondents 2 and 3 to lay Metro Rail Line under Phase-II Project of Chennai Metro Rail Limited cannot be treated as an industrial purpose as defined under the Act. Therefore, he submitted that the respondents are not justified in invoking provisions of Industrial Purposes Act for acquiring the lands for laying Metro Railway Line and construction of Metro Railway Stations.

7. Section 3(1) of Industrial Purposes Act, which empower the Government to acquire the land for industrial purpose reads as follows:-

“3(1). Power to acquire land.- (1) If, at any time, in the opinion of the Government, any land is required for any industrial purposes, or for any other purpose in furtherance of the objects of this Act, they may acquire such land by publishing in the Tamil Nadu Government Gazettea notice specifying the particular purpose for which such land is required.”

8. A reading of Section 3(1) of the Industrial Purposes Act would make it clear that the Government is not only empowered to invoke this Act for acquisition of land for any industrial purposes but also for any other purpose in furtherance of objects of this Act.



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9. Industrial Development of a Country depends on the robust in infrastructure facility possessed by it. Industrial Houses need excellent transport facilities like Road Transport, Air Transport, Rail Transport and Water Transport to facilitate free and unhindered movement of raw materials, finished products and man power, both skilled and semi-skilled. That is why, rapid industrialisation takes place in and around big cities, which has got excellent transport facilities. Therefore, availability of infrastructure facilities like Airport, Port, Good Road and Rail connectivity are essential to achieve industrial development. Acquiring lands for providing infrastructure facilities above mentioned is ancillary to the industrial purposes and it is in furtherance of object of industrialisation. Therefore, there is no difficulty in coming to the conclusion that acquiring lands for the purpose of creating excellent transport infrastructure projects like laying of Metro Railway Line is only in furtherance of main objects of the Industrial Purposes Act. Infact, in ***J.Parthiban vs. State of Tamil Nadu and others*** reported in ***2008-2-L.W. 989***, the First Bench of this Court while considering the acquisition of lands for Airport, observed as follows:-



“20. The contention advanced is that the State Government cannot resort to the T.N.Acquisition Act, as airport is not an industry for the purpose of the said Act. This contention also proceeds on the premise that the airport being a Union subject the State lacks competence to acquire the land. We have already seen that the State Act in question is in pith and substance a law for acquisition under Entry 42 of List III of the 7th Schedule. It can hardly be disputed that the State Government is primarily interested in development of the industries and in order to ensure industrial growth, infrastructural facilities like airport, railways, etc, are vitally important. In the broad sense, the purpose of expansion of the airport is also a State purpose or in other words a general public purpose. In this view also the acquisition in this case must be held to have been validly made.

... ..

22. The last contention advanced is that the State has no power to acquire the land for rehabilitation of the project affected persons under the State Act, and for acquisition of the rehabilitation purpose, the State must resort to the Land Acquisition Act. The argument is liable to be rejected as Section 3 of the T.N.Acquisition Act empowers the State Government to acquire the land which is required for industrial purpose or for any other purposes in furtherance of the objects of this Act. The rehabilitation of the persons affected by the



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expansion scheme is in furtherance of the object of the Act, and thus, the State has power to acquire the land needed for the rehabilitation purpose under Section 3 of the T.N.Acquisition Act.”

10. In the light of the law laid down by the First Bench of this Court, it is clear that the State is empowered to acquire lands, which are required for industrial purposes and also for any other purpose in furtherance of the objects of the Act namely Industrial Purpose. As discussed earlier and also held by the First Bench of this Court that creation of infrastructure facilities like Airport, Railway, Road Transport etc., are necessary for development of industries. Therefore, I hold there is nothing wrong in respondents invoking Industrial Purposes Act for acquiring lands required for laying Metro Railway Line.

11. It is also pertinent to note that the very same petitioner challenged 3(2) notification and also Form-E notice earlier in W.P.No.1374 of 2022 and W.P.No.22520 of 2023. In the earlier writ petitions, the petitioner did not raise these points. Likewise, even in this writ petition, at the time of filing, petitioner did not raise the point that Industrial Purposes Act cannot be



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invoked for acquiring lands required for laying Metro Railway Line.

However, by way of after thought, the petitioner filed W.M.P.No.25526 of 2024 seeking leave of the Court to raise new point and the said writ miscellaneous petition is allowed and the petitioner was allowed to argue the point. Therefore, it is clear that the petitioner himself understood the scope of power available to Government under Section 3(1) of Industrial Purposes Act and did not raise this point during the earlier occasions and now, by way of after thought, he has decided to raise it before this Court. In any event, in view of discussions on the merits of the points raised by the petitioner, the first argument of the learned counsel appearing for the petitioner is rejected.

12. Earlier, the writ petitioner challenged 3(2) notice issued under the Industrial Purposes Act. While disposing the said writ petition in W.P.No.1374 of 2022, this Court by order dated 07.11.2022 observed as follows:-

“3. Learned counsel for the petitioner on instruction submitted that the petitioner is ready to enter into private negotiations with the respondents for acquiring the lesser area and for usage of remaining land for temporary measures. Hence, this Court may fix a outer limit time for negotiation



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process and pay adequate compensation in favour of the petitioner.

4. Learned Additional Government Pleader appearing for the respondents would submit that private negotiation will be concluded within a period of two weeks and compensation amount will also be disbursed at the time of execution of sale deed.

5. Heard the learned counsel on either side and perused the materials placed on record.

6. In view of the concerned expressed by the learned counsel on either side, this Court is inclined to dispose the matter with the following terms:

(1) the petitioner is directed to appear before the private negotiation committee along with the title deeds, within a period of two weeks from the date of receipt of a copy of this order.

(2) On such appearance of the petitioner, this Court directs the respondents to entertain the private negotiation and conclude the same within a period of two weeks thereafter and disburse the compensation amount in favour of the petitioner at the time of execution of sale deed.”



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13. A reading of the above order would make it clear that after recording the submission made by the learned counsel appearing for the petitioner and respondents, this Court directed the petitioner to appear for private negotiation. The learned counsel appearing for the petitioner submitted that having agreed to go for private negotiation, the respondents are not entitled to continue the acquisition process. In other words, it is his submission that the consent expressed by the respondents to consider private negotiation would amount to abandonment of the compulsory acquisition proceedings. I am not impressed by the submission made by the learned counsel appearing for the petitioner. In the above mentioned order, nowhere it is stated that compulsory acquisition proceedings are quashed. Likewise, nowhere, it is recorded that the learned counsel appearing for the respondents agreed for acquiring lesser area. Merely because, the respondents agreed to explore the possibility of private negotiation, in the absence of any expressed order passed by this Court, the petitioner cannot assume that the compulsory acquisition process was quashed. Therefore, the submission made by the learned counsel for the petitioner that by their own conduct, the respondents are prevented from proceeding with compulsory acquisition of lands as per the earlier 3(2) notice is not acceptable to this



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Court and the same is rejected.

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14. Infact, the rejection of the petitioner's request to make changes in the alignment and to provide an access to remaining property of the petitioner etc., were considered by this Court in second writ petition filed by the petitioner in W.P.No.22520 of 2023. The said writ petition was filed by the petitioner challenging the Form-E notice seeking the possession of the lands pursuant to final notification under Section 3(1) of the Act. The objection by the petitioner with regard to the area to be acquired and facilities to have access to his remaining areas were raised by the petitioner in the said writ petition and those objections were rejected by this Court on the ground that it could not substitute its own view with that of the Technical Experts. After rejection of the petitioner's objection in the second writ petition, the present writ petition has been filed by the petitioner challenging the 3(1) notification on the ground that having agreed to settle the matter by private negotiation, the respondents are not entitled to continue the compulsory acquisition. As mentioned earlier, exploring settlement through private negotiation will not bar the respondents to continue the acquisition process in the absence of express order by this Court. Therefore, the second



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contention raised by the learned counsel appearing for the petitioner is also not acceptable to this Court.

15. The learned counsel appearing for the petitioner by taking this Court to Section 25 of Central Act 30 of 2013, submitted that under the New Act, award shall be passed within twelve months from the date of final notification and in the case on hand, the award has not been passed within twelve months. In the case on hand, the final 3(1) notification issued on 26.11.2021, the award has been passed on 15.11.2023 fixing the compensation amount at Rs.2,89,98,676/- for acquisition of 160 sq.meters of petitioner's land. Therefore, the learned counsel appearing for the petitioner submitted that award having been passed beyond the statutory period of twelve months, by virtue of operation of Section 25 of Central Act 30 of 2013, acquisition proceedings got lapsed.

16. In the case on hand, the acquisition proceeding was initiated under Industrial Purposes Act. Under the said Act, no time limit is prescribed for passing award from the date of final notification as in the case of Old Land Acquisition Act or in the case of Central Act 30 of 2013.



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17. It is pertinent to mention that after coming into force of Central Act 30 of 2013, the Division Bench of this Court held that by operation of Article 254(1) of the Constitution of India, all State Acquisition Acts, including Industrial Purposes Act, became inoperative from the date of coming into force of Central Act 30 of 2013. Thereafter, the Tamil Nadu Legislature passed TN Act 38 of 2019 to revive the operation of various Tamil Nadu Land Acquisition Enactments including Industrial Purposes Act.

18. Section 6(1) of Act 38 of 2019 reads as follows:-

“Section 6(1). All the provisions of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (hereinafter referred to as the 1999 Act), except the provisions relating to the determination of compensation, shall stand revived with effect on and from the 26th day of September 2013.”

19. Therefore, all the provisions of Tamil Nadu Industrial Purposes Act, except provisions relating to determination of compensation were revived by Tamil Nadu Act 38 of 2019. Therefore, for the purpose of determining compensation under the acquisition made under the Industrial



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Purposes Act, we have to follow the provisions of Central Act 30 of 2013.

The determination of compensation under the New Act is dealt with from Sections 26 to 30 of Central Act 30 of 2013. Section 25 of the said Act, which deals with period within which award shall be passed is not the one relating to determination of compensation. Since Industrial Purposes Act is revived in respect of all other provisions, except the determination of compensation, Section 25 of Central Act 30 of 2013, which falls outside the provisions relating to determination of compensation cannot be made applicable to the acquisition proceedings initiated under Industrial Purposes Act. Therefore, the said statement made by the learned counsel appearing for the petitioner is also rejected.

20. The learned counsel appearing for the petitioner by relying on the judgment of the Apex Court in ***Kolkata Municipal Corporation*** case cited supra, submitted that it is the duty of the State to conduct process of acquisition efficiently within the prescribed time line. He further submitted that in the Industrial Purposes Act, no time limit is prescribed for passing award determining compensation and therefore, the same violates the fundamental rights of the petitioner under Article 300A of the Constitution of India. The petitioner has not challenged the constitutional validity of the



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Tamil Nadu Industrial Purposes Act. In the present writ petition, we are only concerned with 3(1) notification issued under Industrial Purposes Act. It is settled law, unless a legislation passed by the Competent Legislature is declared by the Superior Courts/Constitutional Courts as unconstitutional, there is a presumption of constitutionality attached to the enactments. In the absence of any writ petition challenging the constitutionality of the Industrial Purposes Act, the petitioner is not entitled to argue that absence of time limit for passing award in the Industrial Purposes Act, would violate the constitutional rights of the petitioner. The impugned 3(1) notification issued under Industrial Purposes Act has to be tested in the light of the provisions of the Act as it stands today.

21. In view of the discussion made earlier, the Writ Petition stands dismissed. No costs. Consequently, the connected writ miscellaneous petition is closed.

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(2/2)

Index : Yes
Speaking order: Yes
Neutral Citation: Yes
dm

To

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- 1.The Chief Secretary to Government
State of Tamil Nadu,
Secretariat, Fort St. George
Chennai – 600 009
- 2.The Chairman/MD,
Chennai Metro Rail Limited,
Admin Building, CMRL Depot,
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- 3.The Special District Revenue Officer,
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S.SOUNTHAR, J.

dm

Pre-delivery order made in
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(2/2)