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WP.No.11408 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.11408 of 2024
and W.M.P.Nos.12515, 12521 & 12524 of 2024

- 1.N.Santhanam
- 2.N.Babu
- 3.S.Gnanammal
- 4.S.Ganesan
- 5.K.Umarani

.. Petitioners

Versus

- 1.The Union of India
Rep by its General Manager
Southern Railway, Chennai
2. The Deputy Chief Engineer (Construction)
Southern Railway, Tambaram
Chennai – 600 045
3. The State of Tamil Nadu
Rep by its Additional Chief Secretary
Transport Department
Fort St.George Chennai – 600 009
- 4.The District Collector
Ranipet District, Ranipet
5. The District Revenue Officer/
Land Acquisition Officer
O/o. The District Collector
Ranipet District

.. Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for records relating to G.O.Ms.No. 203, Transport (I.1) Department dated 04.07.2018 as published in the Government Gazette No.240 dated 04.07.2018 of the 3rd respondent and that of the consequential order of the 5th respondent made in Na.Ka.E1/ 3594/ 2019 dated 12.03.2024 to quash the same.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.R.Rajesh Vivekanandan for R1 & R2
Deputy Solicitor General
Mr.P.Sathish for R3 to R5
Additional Government Pleader

ORDER

This writ petition is filed challenging the G.O.Ms.No. 203, Transport (I.1) Department dated 04.07.2018 as published in the Government Gazette No.240 dated 04.07.2018 of the 3rd respondent and that of the consequential order of the 5th respondent made in Na.Ka.E1/ 3594/ 2019 dated 12.03.2024 and quash the same.

2. It is the contention the petitioner that in respect of the acquisition proceedings relating to the very same survey number which runs between Tindivanam-Nagari Broad Gauge Railway Track project was sought to be acquired invoking the emergency provisions under Section 2(c) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. On the above basis, G.O.Ms.No.92, Transport Department dated 08.05.2012 was passed and



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published in the public Gazette. The said notification was challenged in

WP.No.17165 of 2012 on the ground that the agricultural activities are on; invocation of emergency provision was uncalled for and there had occurred deviation from the original plan. This Court, by Order dated 12.12.2012 quashed the above notification and the same has been confirmed in W.A.No.563 of 2013. Now, once again the notification is issued under the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997, the basic ingredients, according to the writ petitioner for acquisition under the said Act, there is no industrial purpose for the said acquisition. It is the contention that the land in question is a wet land and further deviation was a writ large contrary to the recommendations made by the District Collector. According to the petitioner, the deviation is made only to accommodate the owner of the theme park and the recommendation of the District Collector is ignored. The impugned Gazette notification is now concerned, the same has included various survey numbers which was already quashed by this Court.

3. The counter has been filed by the respondents 4 and 5 stating that the earlier notification was quashed by this Court holding that as there is no emergency clause. As there was no restriction restricting the authorities to acquire the lands under ordinary clause of Land Acquisition Act, 1894. In the



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meanwhile, in view of the enactment of Right to Fair Compensation and

Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013

(Central Act 30 of 2013) which came into force from 01.01.2014, there was no

possibility to acquire the lands under ordinary clause of Land Acquisition Act,

1894. The Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1997

provides acquisition of lands for any industrial purposes in furtherance of the

object of the Act, accordingly, Government in G.O.(R).No.45, Industrial

(SIPOCT LA) Department dated 14.05.2014 had accorded administrative

sanction to acquire lands for Tindivanam-Nagari New Broad Gauge Railway

Track under the said Act, 1997 in respect of 25 revenue village including

Veppur Village in which the railway track passing as per the requisition of the

railway authorities as shown in the Railway Track alignment with land details

without changing the original alignment. Certain lands were purchased under

private negotiation, in respect of remaining major portion of lands, final award

is passed under Section 7(3) in Final Award No.RC/E1/3564/2019 dated

30.11.2023. The petitioners presented a petition fore the fifth respondent on

20.02.2024 requesting to drop their lands from acquisition proceedings on the

ground that the Railway Track makes a bend so as to avoid the acquisition of

Theme Thunder Amusement Park, that their lands are cultivatable wet and

further acquisition is already quashed. According to the them, there is no



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changes in the track alignment and the original plan has been furnished by the Railway Department.

4. The learned counsel for the petitioner would submit that the earlier same land was sought to be acquired. The said acquisition proceedings was challenged before this Court in W.P.No.17165 of 2012, the entire land acquisition proceedings has been quashed which has been upheld by the Division Bench in W.A.No.563 of 2013. Hence, it is the contention that there is no industrial purposes involved in invoking the provisions of the Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1997. Further, the agricultural lands are wet land and there was a bend in the alignment in order to accommodate the theme park, hence, the notification cannot be sustained. He reiterated that already acquisition proceedings is quashed, once again, on the same ground, the impugned notification is passed. Hence, it is the contention that the impugned order cannot be sustained in the eye of law.

5. Mr.R.Rajesh Vivekanandhan, the learned Deputy Solicitor General for the respondents 1 and 2 would submit that the railway project also includes industrial purposes which has been held by the Division Bench of this Court and there is no bend in the Railway track alignment, based on the expert



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opinion and no change in the alignment has been made and the original sketch itself clearly indicate that there was no bend. Therefore, except the petitioners, all other land owners have received the compensation.

6. Heard both sides and perused the materials placed on record. By consent of both parties, this writ petition is taken up for final disposal.

7. As far as the submissions of the learned counsel for the petitioner that the notification issued under the Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1997 is not maintainable, since, there is no industrial purposes involved, Section 2(e) of the Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1997 reads as follows:

"(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"

8. In this regard, it is useful to refer the judgment of this Court in the case of J.Parthiban vs. State of Tamil Nadu and others reported in 2008-2-L.W.989, wherein, in paragraph 20, it is held 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



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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."

9. The above judgment makes it very clear that industrial purpose includes industrial growth, infrastructural facilities like airport, railways, etc., The said judgment has been challenged before the Hon'ble Supreme Court in S.L.P.No.13623 of 2008 which has been dismissed by order dated 08.07.2008. Therefore, the contention of the learned counsel for the petitioner that the notification issued is not valid has no legs to stand. As far as the bend in the railway line, this Court has also verified the plan submitted by the technical persons, which clearly indicate that in order to avoid existing school and all congested buildings in the area, the land has been taken separately. Therefore, it cannot be said that the track alignment is made only to accommodate some theme park owned by some private persons. The very plan submitted before this Court indicate that without any damage to the temple and the colony, track has been aligned. This Court in W.P.No.17165 of 2012, by order dated

12.12.2012 held as follows:

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"17. I have also perused the map of railway track. It takes a bend. They are not able to satisfactorily explain as to why there is a bend at the village. Hence, the submission of the learned Senior Counsel that the railway track makes a bend so as to accommodate 7th respondent cannot be simply brushed aside in the facts and circumstances of the case.

18. The impugned order was also passed without application of mind and I came to the said conclusion based on the counter affidavit filed by the respondents 3 to 5 itself. There is an apparent contradiction between paragraph 9(d) and 9(g) of the counter affidavit. While it is stated in paragraph 9(d) that the proposed lands for acquisition are not under cultivation for years together, it is stated in paragraph 9(g) that the track passes through the wet lands. Paragraph 9(d) and 9(g) of the counter affidavit of the respondents 3 to 5 are extracted hereunder:

"9(d). The lands proposed for acquisition are not under cultivation for years together. Hence proposed to acquire the lands invoking Section 17 of the Land Acquisition Act.

9(g). In this case the Collector has inspected all the wet lands through which the track has been planned to form and came to the conclusion that the proposed wet lands are inevitable from acquisition."

19. The impugned notification itself makes it clear that all the lands that are sought to be acquired are wet lands. It is described in the impugned notification that the lands are ryotwari wet. The impugned G.O. refers to various lands and all those lands are described as ryotwari wet lands. Therefore, the learned Senior Counsel is perfectly correct in his argument that the impugned order was passed without application of mind which does not warrant invocation of the emergency clause."

10. When the technical person has assessed, merely, on the basis of earlier view that there was a bend in the railway track, now, it has been set right, it cannot be said that entire acquisition proceedings has to be quashed.

The acquisition for new railway line between Dindivanam-Nagari, which is, in



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fact, for industrial growth. Hence, the technical aspects have been taken into consideration and acquisition has been made, this Court is of the view that this Court cannot go into the technical aspect.

11. Hence, I do not find any flagrant violations in the impugned order and this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

10.07.2024

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Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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O/o. The District Collector
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