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W.A.No.2257 of 2019

**IN THE HIGH COURT OF JUDICATURE AT MADRAS
RESERVED ON : 24.04.2024**

DELIVERED ON: 14.06.2024

CORAM :

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**W.A.No.2257 of 2019
CMP.Nos.14961 & 14965 of 2019
and CMP.No.9329 of 2024**

- 1.Varadhan (died)
- 2.Edward Collins
- 3.Baby
- 4.Gnanakala
- 5.David Chellappa
- 6.Rashelaraj
- 7.Gnanalatha
- 8.Epsiba
- 9.Deboral

... Appellants

(R2 to R9 substituted vide order dated
19.07.2021 made in CMP.No.10078 of 2021)

Vs.

- 1.The District Collector,
Kancheepuram District,
Kancheepuram
- 2.State Industrial Promotion Corporation
of Tamil Nadu Limited (SIPCOT),
Rep by its Assistant General Manager (Law),
19-A, Rukmani Lakshmi pathy Road,
Chennai-9.

... Respondents



W.A.No.2257 of 2019

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 13.06.2019 made in W.P.No.23097 of 2007.

For Appellants : Mr.R.Sankarasubbu

For Respondents : Mr.Balathandayutham
Special Government Pleader for R1

Mr.Ramesh Venkatachalapathy
Standing Counsel for SIPCOT for R2

JUDGMENT

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This Intra Court appeal has been filed challenging the order of the Writ Court dated 13.06.2019 made in W.P.No.23097 of 2007, in and by which the challenge made by the appellant /writ petitioner to the land acquisition proceedings came to be dismissed.

2. The first petitioner is the owner of the lands situated at No.133, Sennakuppam Village, Survey No.1032-B, admeasuring to an extent of 0.53.5 hectares and he is eking out his livelihood by doing cultivation activities in the said land. While so, he received a show cause notice in Na.Ka.No.9 dated 22.01.2007 under Section 3(2) of the Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1997 [Tamil nadu Act



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No.10/99] notifying the said lands for acquisition for SIPCOT Oragadam Industrial Complex Extension Scheme. Thereafter, the Special Tahsildar also issued a notice under Section 4(2) of the Act to surrender and deliver the possession.

3. The appellant / petitioner challenged the Section 3(2) Notice by filing writ petition on the ground that agricultural lands should not be acquired for the benefit of private industrialists and before issuing Section 3(1) notification, no opportunity was given to the appellant to submit his objections / representation. The first respondent filed a counter affidavit and took a stand that the notice under Section 3(2) of the Act was issued to the petitioner by registered post on 23.01.2007, public notice in the locality was published on 22.01.2007 and as such, the petitioner was required to submit his objection / representation, if any, on or before 21.02.2007 i.e., within 30 days, however, the petitioner submitted his objection belatedly on 08.03.2007, which was received by the first respondent on 12.03.2007 and hence, the objection of the petitioner could not be considered.



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4. The writ petition, after contest, came to be dismissed by the Writ Court on the ground that the appellant/writ petitioner has not challenged Section 3(1) Notification and has only challenged Section 3(2) and 4(2) notice, which is to be issued before Section 3(1) notification. Challenging the order of the Writ Court the present writ appeal has been filed. During the pendency of the writ appeal, the first appellant / original land owner died and the appellants 2 to 9 were subsequently substituted as his legal heirs/representatives.

5. Mr.R.Sankarasubbu, learned counsel appearing for the appellants would submit that the Tahsildar is not the competent authority to issue Section 3(2) notice and further there is no industrial purpose involved in the acquisition and the entire process of acquisition is violative of Article 21 of the Constitution of India, as it affects the livelihood of the agriculturists like the appellants and therefore, prays for interference.

6. Mr.Balathandayutham, learned Special Government Pleader appearing for the first respondent would contend that since the appellant has



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not challenged Section 3(1) Notification, the learned Judge has rightly dismissed the writ petition and therefore, prays for dismissal of this writ appeal.

7. This Court has considered the rival submissions and also perused the materials available on record including the original records.

8. The Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 is a self contained code providing for acquisition of land for industrial purposes in the State. The State legislature enacted Tamil Nadu Act 10 of 1999 for speedy acquisition of land for industrial purposes in the State. The Act contained a summary procedure for conducting enquiry and to take a decision as to whether the particular land is required for the industrial purpose. It is useful to extract Sections 3 and 4 of the said Act:

"3. 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 Gazette* a notice specifying the particular purpose for which such land is required.



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(2) Before publishing a notice under sub-section (1), the Government shall, call upon the owner and any other person, who in the opinion of the Government may be interested in such land, to show cause within such time as may be specified in the notice, why the land should not be acquired. The Government shall also cause a public notice to be given in such manner as may be prescribed.

(3) The Government may pass an order under sub-section (1) after hearing and considering the cause, if any, shown by the owner or person interested.

4. Land acquired to vest in Government free from all encumbrances.- (1) When a notice under sub-section (1) of section 3 is published in the *Tamil Nadu Government Gazette*, the land to which the said notice relates shall, on and from the date of such publication, vest absolutely in Government free from all encumbrances:

Provided that if before actual possession of such land is taken by, or on behalf of, the Government, it appears for Government, that the land is no more required for the purpose of this Act, the Government may, by notice published in the *Tamil Nadu Government Gazette*, withdraw the land from acquisition. On the publication of such notice, the land shall revert with retrospective effect in the person from whom it was divested on the issue of order under sub-section (1) of section 3, subject to such encumbrances, if any, as may be subsisting at that time:

Provided further that the owner and other persons interested shall be entitled to payment of an amount as determined in accordance with the provisions of section 7 for the damage, if any, suffered by them in consequence of the acquisition proceedings.

(2) Where any land is vested in the Government under sub-section (1), the Government may, by order, direct any



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person who may be in possession of the land to surrender or deliver possession thereof to the Collector or any person duly authorised by him in this behalf within thirty days of the service of the order.

(3) If any person refuses or fails to comply with an order made under sub-section (2), the Collector may take possession of the land, and may, for that purpose, use such force as may be necessary. "

9. Sub-Section (2) of Section 3 of the Industrial Purposes Act provides that the Government shall issue notice calling upon the land owners to show cause as to why the land should not be acquired. The objection received from the land owners must be considered before issuing the notification for acquisition under Sub-Section (1) of Section 3 of the Industrial Purposes Act. Section 4 provides that when a notice under Sub-Section (1) of Section 3 is published in the Tamil Nadu Government Gazette, the land to which the said notice relates shall, on and from the date of such publication, vest absolutely with the Government free from all encumbrances.

10. In the case on hand, it is not in dispute that notice under Section 3(2) of the Act was issued to the appellant by registered post on 23.01.2007 and the appellant was required to submit his objection / representation, if



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any, on or before 21.02.2007. The appellant submitted his objection belatedly on 08.03.2007, which was received by the first respondent on 12.03.2007 and hence, the objection of the appellant could not be considered and notice under Section 3(1) of the Act was published in the Gazette on 25.05.2007. The appellants have challenged Section 3(1) notice only after the dismissal of the earlier writ petition by filing W.P.No.35645 of 2023 and the same is pending.

11. This Court has also perused the original records produced before this Court. A perusal of the original records reveals that Section 3(1) notice was published in the Tamil Nadu Government Gazette on 25.05.2007 for the acquisition of dry land in S.F.No.103-2B admeasuring an extent of 0.53.5 hectares, which stood in the name of the appellant. Subsequently, the Industries Department, Government of Tamil Nadu has also issued Notice under Section 4(2) of the Act under Form-E directing the appellant to surrender or deliver possession of the lands in question to the Collector concerned within 30 days of the service of this order. The said order / notice was received by the appellant on 25.06.2007. The original documents also



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reveal that the petitioner's land in S.No.103/2B of Sennakuppam Village, measuring 0.53.5 hectares was taken possession on 14.09.2007 and was handed over to SIPCOT, the requisitioning body on 14.09.2007.

12. According to the second respondent / SIPCOT, in the enquiry conducted on 09.03.2007, the appellant has failed to appear and submit his objection and he has submitted the objection belatedly on 12.03.2007 and as such, the objection of the appellant was not considered and further, after due enquiry, the Collector had forwarded the proposal of the Government recommending for issuance of notice under Section 3(1) of the Act for acquisition and accordingly, the notice under Section 3(1) was published in G.O.Ms.No.149 dated 25.05.2007 and published in the Gazette dated 25.05.2007. Once the notice under Section 3(1) is issued, the lands vest with the Government free from all encumbrances as per Section 4(1) of the Act. The first respondent / District Collector had taken possession of the land in question and delivered the same to the second respondent herein on 14.09.2007. The second respondent / SIPCOT, on receipt of the land in question along with other lands, had developed the same into a industrial



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plot and has made provisional allotment. When the acquisition proceedings were completed and physical possession of the land was taken by the first respondent and handed over to the second respondent / SIPCOT on 14.09.2007, this Court is of the view that the present claim of the appellants challenging Section 3(2) Notice is baseless.

13. The appellants, without challenging the final order passed under Section 3(1) of the Act and vesting of possession under Section 4 of the Act, has made a challenge only to the show cause notice issued under Section 3(2) of the Act. Section 3(1) notice was challenged by the appellants only during the year 2023, by filing W.P.No.35645 of 2023 and the same is pending. The Writ Court has rightly come to the conclusion to reject the claim of the appellants and we concur with the view taken by the learned Single Judge. This Court finds no reason to interfere with the order of the Writ Court and the present appeal is not maintainable and the same is liable to be dismissed.



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14. In the light of the reasons assigned above, the Writ Appeal stands dismissed. It is open to the appellants to workout his remedy in the pending Writ Petition in W.P.No.35645 of 2023 which has been filed challenging Section 3(1) notification. No costs. Consequently, connected miscellaneous petitions are dismissed..

(D.K.K.J.) (K.B. J.)
14.06.2024

Internet: Yes/No
Index : Yes/No
Jvm

To

1.The District Collector,
Kancheepuram District,
Kancheepuram

2.The Assistant General Manager (Law),
State Industrial Promotion Corporation of Tamil Nadu Limited (SIPCOT),
19-A, Rukmani Lakshmipathy Road,
Chennai-9.

D.KRISHNAKUMAR, J.
and



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K.KUMARESH BABU, J.

Jvm

Judgment in
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