



W.P.No.35645 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.02.2024

PRONOUNCED ON : 10.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE **P.VELMURUGAN**

W.P.No.35645 of 2023 and
W.M.P.Nos.35599 and 35597 of 2023

1. M.Baby
2. Gnanakala
3. David Chellappa
4. Rashelraj
5. Edward Collins
6. Gnana Latha
7. Epsiba
8. Deboral

...Petitioners

vs.

1. The Secretary to Government of
Tamil Nadu, Industries Department,
Fort St. George,
Chennai – 600 009.
2. The District Collector,
Kancheepuram District,
Kancheepuram.
3. The State Industrial Promotion Corporation



WEB COPY



W.P.No.35645 of 2023

of Tamilnadu (SIPCOT),
Rep. by Assistant General Manager (Law)
19 A, Rukmani Lakshmipathy Road,
Chennai – 600 008.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus to call for the records in G.O.Ms.No.149 (SIPCOT LA) dated 25.05.2007 approval of acquisition and publish the said notification published in TN.G.G.Extrordinary No.138, dated 25.05.2007 and quash the same as illegal and direct the respondents to exempt the land from acquisition under Tamil Nadu Act 10/1999 by considering the representation dated 09.03.2007 in accordance with law by exempting the land in Survey No.103/2B measuring about Acre 1.37 cents with well shed and temporary hut of Varathan situated at Sennakuppam Village Kundrathur Taluk, Kancheepuram District under Section 4 of provisions that the land is no more required for the purpose of the act Seventeen years parity with other land owners whose lands were exempted to secure the ends of justice.

For Petitioners : Mr.R.Sankarasubbu

For Respondents : Mr.T.Arunkumar,
Addl. Government Pleader for R1 & R2

Mr.G.Suresh Kumar,
Standing Counsel for R3



W.P.No.35645 of 2023

ORDER

WEB COPY

The writ petition has been filed seeking to quash the G.O.Ms.No.149 Industries (SIPCOT LA), dated 25.05.2007 and the notification published in Gazatte No.138, dated 25.05.2007 and to exempt the petitioner's land from the acquisition.

2 The case of the writ petitioners is that the first petition is wife and petitioners 2 to 8 are children of of one Varadhan and the said Varadhan questioned the acquisition proceedings in Na.Ka.No.9/2007 dated 22.01.2007 and submitted his objections on 09.03.2007, but the same was not considered during the enquiry conducted by the respondents on 20.03.2007 and 26.06.2007 and thereafter he filed writ petition in W.P.No.28097 of 2007 challenging the acquisition proceedings dated 22.01.2007, but the same was dismissed on the ground that 3(1) Notification of the Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1997 (in short 'the Act'), was not challenged and liberty was granted him, against which, appeal was filed. The Division Bench of this Court granted interim orders protecting the possession, but pointed out the liberty granted by the



W.P.No.35645 of 2023

Single Judge. Therefore now the writ petitioners has challenged 3(1)

Notification of the first respondent in Government G.O.Ms.No.149 Industries (SIPCOT – LA) dated 25.05.2007 published in the Tamilnadu Government Gazette Extraordinary No.138 dated 25.05.2007.

2.1 The entire acquisition proceedings become infructuous as the scheme become unenforcible and in and around the locality the respondents exempted the lands of one Jayaram. Form A notice was not issued by the District Collector, Kancheepuram and it was only issued by Special Tahsildar. Further the acquisition is now impossible since the land is no more required for the purpose of the Act and the Nissan Car Company for which the land is sought to be acquired, already commenced its product leaving the petitioners' land. Therefore the land has to be exempted from acquisition under Section 4 of the Act.

3 The second and third respondents filed counter stating that the Government in their order issued in G.O.Ms.No.139, Industries (MIG-2) Department, dated 03.11.2006 and have accorded administrative sanction for



W.P.No.35645 of 2023

acquisition of lands to an extent of 360.97.5 Hectares of patta lands and 34.90.0 Hectares Government poramboke lands in Oragadam and Sennakuppam villages of Sriperumbudur Taluk, Kancheepuram District under the provisions of the Tamil Nadu Acquisition of land for Industrial Purposes Act, 1997 (Tamil Nadu Act 10/1999) for expansion of the Oragadam Industrial Complex by SIPCOT. Pursuant to the same, notice under Section 3(2) of the said Act was issued to the petitioners' father in Na.Ka.No.9/2007 dt.22.01.2007 after getting approval from the District Collector, Kancheepuram, wherein he was asked to show cause within 30 days from the date of publication of public notice, as to why his land should not be acquired for industrial purpose. The said notice was published on 22.01.2007 in the locality and the representation was received on 12.03.2007 i.e. after the stipulated period, but however, the petitioners' father's representation along with his objections were forwarded to the SIPCOT for their opinion.

3.1 The requisitioning body namely SIPCOT, have stated that the acquisition of petitioners' land among other lands and as per the



W.P.No.35645 of 2023

administrative sanction of the Government is quite inevitable due to rapid industrialization in Tamil Nadu. Further the establishment of the industry will create direct and indirect employment opportunities to thousands of unemployed persons. This place is particularly selected for acquisition due to the availability of the infrastructure facilities and considering its close proximity to Chennai and the petitioners' land is located in the midst of the other lands under acquisition. Therefore it is not possible to exclude this land from acquisition.

3.2 The opinion offered by the SIPCOT was considered and finally proposal under Section 3(1) of the Act was sent and the same was also approved by the Government in G.O.Ms.No.149 (SIPCOT-LA) dated 25.05.2007, which was published in the Gazette on 25.05.2007 and from that date onwards, the lands become vested with the Government. Pursuant to the said notice, Form -E was sent to the petitioners' father on 14.06.2007 and he received the same on 25.06.2007. Subsequently, the petitioners' land in Survey No.103/2B of Sennakuppam Village measuring 0.53.5 Hectares was taken possession on 14.09.2007 itself and handed over the same to SIPCOT.



W.P.No.35645 of 2023

Further Award was passed in Award No.14/2007 dated 09.07.2012 and compensation amount is lying in Sub Treasury Sriperumbudur, since even after intimating the Award to the petitioners' father to submit the relevant documents, he did not come forward to receive the same.

3.3 Therefore already possession was handed over to SIPCOT the requisitioning body and the award was passed under Section 7(3) of the Act and hence the claim of the petitioners cannot be entertained at this point of time and the writ petition is devoid of merits and the same is liable to be dismissed.

4 Learned counsel for the writ petitioners would submit that the petitioners' father one Varadhan is the owner of the lands in S.Nos. 49-1B, 64-8, 65-2, 69-6, 53-5, 54-1 and 103-2B and later all of his agricultural lands were acquired by the Government for establishing RENUIT NISSAN. The father of the petitioners also surrendered all of his agricultural lands except the land in S.No.103-2B ad measuring 0.535 Hectre (1 Acre 37 Cents). The petitioners were living peacefully in the agricultural land in S.No. 103-2B



W.P.No.35645 of 2023

with Well, pumpset and trees all surrendered and maintained by the members of the petitioners' family within the income derived from the small extent of agricultural land. The said agricultural land bearing S.No.103-2B is between local pond and the other acquired land (project site). The pond is a source of good water to the the locality for habitation, which is popularly known as Kuyavian Kuttai.

4.1 A small house was partially demolished and all agricultural crops, trees and medicinal plants were totally damaged by men from the land acquisition department in spite of the order of stay granted by this Court. The petitioners were tried to evict from the agricultural lands forcefully and tried to acquire and take possession of the lands. Therefore the petitioners' father filed W.P.No.23097 of 2007 and obtained an order of stay, but, subsequently the writ petition was dismissed on the ground that 3(1) notification was not challenged and liberty was given to the petitioners' father to challenge the 3(1) notification. The petitioners' father already surrendered all the lands except the land in S.No.103-2(B) and got compensation, but, since the subject land is only an agricultural land for



W.P.No.35645 of 2023

their survival, the petitioners' father made objections which was not considered. Therefore he file writ petition, but, however same was dismissed with liberty to challenge 3(1) notification. Therefore present writ petition is filed.

4.2 Learned counsel for the petitioners would further submit that except this, all the agricultural lands were surrendered by the petitioners' father and the petitioners do not have any other land and the petitioners and their 14 children are surviving only depends upon the subject land and income by cultivating the lands. RENUIT NISSAN had already completed the project without the acquired land of the petitioners in S.No.103-2(B) and the petitioners' land is no way affecting the project nor hurdle to the project. The petitioners' land is situated adjacent to the pond, which is the only water source for the whole village for rearing the cattle and for performing last religious rituals of the villagers and there is no purpose in acquiring the agricultural lands.

4.3 Therefore the learned counsel would submit that S.No103-2(B)



W.P.No.35645 of 2023

belong to the petitioners may be exempted from acquisition. Further in and around the locality, the respondents exempted the lands and therefore the petitioners' land also to be exempted. In support of his contentions, the learned counsel placed reliance on the decisions of the Hon'ble Supreme Court and this Court reported in ***(2010) 3 SCC 621 (Hari Ram and another vs. State of Haryana and others)***, ***(2012) 9 SCC 503 (Patsi Devi vs. State of Haryana and others)*** and the cases in Civil Appeal No.4097 of 2010 in the case ***Bondu Ramaswamy vs. Bangalore Development Authority & Ors*** and ***W.A.Nos.781 of 2008 etc. batch in the case of J.Doraibabu vs. Sate of Tamilnadu.***

5 Learned Additional Government Pleader for the respondents 1 & 2 would submit that the Government issued G.O.Ms.No.139, Industries (MIG-2) Department, dated 03.11.2006 and have accorded administrative sanction for acquisition of an extent of 360.97.5 Hectares patta lands and 34.90.2 Hectares Government Poramboke lands in Oragadam and Sennakuppam, Village of Sriperumbudur Taluk, Kancheepuram District under the provisions of the Act (Act 10/1999) for expansion of Oragadam



W.P.No.35645 of 2023

Industrial Complex by SIPCOT. Pursuant to the said order, land acquisition proceedings was initiated under the Act and notice under Section 3(2) of the Act was issued to the father of the writ petitioners. In the said notice father of the writ petitioners was asked to show cause within 30 days from the date of publication of notice, which was published on 22.01.2007. As such the petitioners' father was required to submit his representation/objections, however, his representation dated 08.03.2007 was received by the second respondent only on 12.03.2007 and enquiry was already conducted on 09.03.2007 itself.

5.1 Even though father of the petitioners was asked to file his objections, he failed to submit the same within the statutory and stipulated time. However, the representation of the petitioners' father along with objections were sent to SIPCOT for their opinion and the same was received on 09.04.2007, in which, they have stated that the acquisition of the petitioners' land among other lands as per the administrative sanction of the Government is quiet inevitable due to rapid industrialization in Tamil Nadu. The opinion offered by SIPCOT was considered by the respondent and



W.P.No.35645 of 2023

finally decided to recommend the proposal under Section 3(1) of the Act to the Government. Accordingly 3(1) proposal was sent to Government and also approved by the Government in G.O.Ms.No.149 (SIPCOT-LA) dated 25.05.2007 and same was published on 25.05.2007. Upon such publication, the lands become vested with the Government. Form-E notice was sent to the petitioners' father, which required him to surrender possession of the land within 30 days from the date of receipt of the above notice. The petitioners' father received the Form – E on 25.06.2007 and the land in S.No.103-2(B) to the extent of 0.53.5 Hectares was taken possession on 14.09.2007 and handed over to the requisitioning body on 14.09.2007.

5.2 Further he would submit that Award was passed vide Award No.14/2007 and compensation amount of Rs.21,12,000/- is ordered to be paid and the same is kept in the Sub Treasury, Sriperumbudur and also they sent letter to the father of the petitioners, intimating him the compensation amount and he was asked to submit the relevant documents, but, he did not come forward to receive the compensation amount. Therefore the land was acquired under due process of law and possession was taken and handed



W.P.No.35645 of 2023

over to the requisitioning body and hence the petitioner is not entitled to the relief sought for in the writ petition.

6 Learned Standing Counsel for the third respondent would submit that though the father of the writ petitioners earlier filed writ petition challenging the 3(2) and 4(2) notice, but, the same was dismissed on 13.06.2019 and liberty was granted to challenge 3(1) notification. But, instead of availing the liberty, petitioners' father filed an appeal before the Division Bench of this Court in W.A.No.2257/19 and the said appeal was pending, however taking advantage of the liberty, the present writ petition has been filed challenging the 3(1) notification.

6.1 Already acquisition proceedings was initiated and show cause notice under Section 3(2) of the Act was issued and public notice in the locality was published on 22.01.2007. Father of the petitioners did not submit his representation within the stipulated time and hence enquiry was conducted and 3(1) notification was published. Form-E notice was also issued for surrender of possession. Award was passed and amount was also



W.P.No.35645 of 2023

deposited. Since the land of the petitioners in S.No.103-2(B) is situated in the midst of the other lands acquired and due to the availability of infrastructure facilities and considering its close proximity to Chennai, it is quite inevitable due to rapid industrialization in Tamil Nadu. Further they already handed over the possession to the SIPCOT and therefore the petitioners request cannot be considered.

7 Heard the learned counsel appearing on either side and perused the materials available on record.

8 Admittedly the petitioners' land situated in S.No.103-2(B) to the extent of 1 Acre 37 cents at Sennakuppam Village, Kundrathur Taluk, Kancheepuram District, was acquired for industrial purpose. However, the father of the writ petitioners surrendered all his lands except the lands in S.No.103-2(B). Even though father of the writ petitioners earlier filed writ petition challenging 3(2) and 4(2) notices, this Court dismissed the same on the sole ground that he has not challenged the notification under Section 3(1) of the Act and therefore liberty was granted. Father of the writ petitioner has



W.P.No.35645 of 2023

also later filed an appeal challenging the same, which is pending before this Court. However, the petitioners now have filed the present writ petition taking advantage of the liberty granted by this Court in the earlier writ petition to challenge the 3(1) notification.

9 The main ground taken by the writ petitioners is that this is the only agricultural land for their livelihood and therefore father of the petitioners also sent representation before the respondent. Even though, the submissions/objections made by the petitioners' father reached only after the statutory period, however, the respondent considered the same with an opinion of the third respondent and considered the entire facts and rejected the claim of the petitioners and issued under Section 3(1) of the Act and Form-E was also issued and finally taken possession of the lands and handed over the same to the requisitioning body viz. SIPCOT.

10 Respondents 2 and 3 in their counter affidavits have clearly stated that even though notification under Section 3(2) was issued on 22.01.2007 and father of the writ petitioners was asked to submit his



W.P.No.35645 of 2023

objections within 30 days from the date of publication of notice, however, the same was received by the second respondent only on 12.03.2007, after the statutory period, but, the objections should have been presented within 30 days from the date 22.01.2007 on or before 21.02.2007. However, the representation of the writ petitioners' father along with other objections sent to requisition body SIPCOT and they have expressed their opinion stating that since it is the land situated in the midst of other lands, it is quite inevitable and considering the entire facts, the respondent issued 3(1) notification on 25.05.2007. Subsequently that was not challenged immediately by the father of the petitioners and he challenged only 3(2) notification in the earlier writ petition, which was dismissed by this Court by granting liberty to challenge 3(1) notice.

11 Even though this Court given liberty to the father of the writ petitioners, but without challenging the 3(1) notification, he filed an appeal and the same is pending before the Division Bench of this Court. Thereafter now, the present writ petition is filed challenging the 3(1) notification, which was issued on 25.05.2007 and already Form-E notice also issued on



W.P.No.35645 of 2023

25.06.2007. Subsequently the land was also taken possession and the same was handed over to SIPCOT on 14.09.2007 itself. Award was passed vide Award No.14/2007 on 09.07.2012 and compensation amount was deposited in the Sub Treasury, Sriperumbudur. Therefore under these circumstances, challenge of 3(1) notification in the said circumstances is not valid. Now the Government already acquired the land and passed the Award and amount was also deposited. Therefore the petitioner is not entitled to the relief sought for in the writ petition. However, the petitioners are at liberty to workout their remedy for enhancement of compensation if they are so advised and if the Award amount does not reflect fair compensation.

12 Further it is seen that father of the petitioners sent representation to the respondents on 24.08.2010, in which it is stated that if the Government feels it right to acquire the subject land, he is ready and willing to surrender the same, if the Government allots alternate land in the same locality as allotted to the Velankanni Matriculation and Kumaran Matriculation Schools and also to give right and bright compensation for the teak trees, Well, Pumpset and house. Therefore, the petitioners are at liberty



W.P.No.35645 of 2023

to make fresh representation before the Government and in case representation is filed, the Government shall ascertain the facts that as to whether the petitioners are using the subject land in S.No.103-2(B) for agricultural purpose and they are surviving with the said agricultural land, if so and the petitioners are otherwise fit and eligible, the Government shall consider the petitioners representation for allotment of alternative land in the same locality.

13 With the above observations and directions the writ petition stands disposed of. No costs. Consequently connected miscellaneous petitions are closed.

10.06.2024

Index: Yes/No
Neutral citation : Yes/No
cgi



W.P.No.35645 of 2023

WEB COPY

- To
1. The Secretary to Government of
Tamil Nadu, Industries Department,
Fort St. George,
Chennai – 600 009.
 2. The District Collector,
Kancheepuram District,
Kanchipuram.



WEB COPY



W.P.No.35645 of 2023

P.VELMURUGAN, J.,

cgi

Pre-Delivery Orders in
W.P.No.35645 of 2023 and
W.M.P.Nos.35599 and 35597 of 2023

10.06.2024

20/20