



W.A.No.3403 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.No.3403 of 2024

and

C.M.P.No.26434 & 26437 of 2024

Capt.D.K.Chaturvedi

... Appellant

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary,
The Commissioner of Land Administration,
Chepauk, Chennai - 600 005.

2.The District Collector,
Kancheepuram District,
Kancheepuram - 631 502.

3.The Special Tahsildar,
Land Acquisition,
Unit - II, SIPCOT,
Oragadam Expansion Scheme - II,
Sriperumbudur,
Kancheepuram District - 602 105.

4.The Managing Director,
SIPCOT Unit - III,
Sriperumbudur Expansion Scheme,
19-A, Rukmani Lakshmipathi Salai,
Egmore, Chennai - 600 008.

... Respondents



W.A.No.3403 of 2024

WEB COPY

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 19.10.2024 made in W.P.No.28919 of 2022 and allow the Writ Appeal.

For Appellant : Mr.M.Rajasekar

For Respondents 1 to 3 : Mr.Ramanlal,
Additional Advocate General
Assisted by Mr.Vadivel Deenadayalan,
Additional Government Pleader

J U D G M E N T

(Judgment of the Court was delivered by **R.SUBRAMANIAN, J.**)

Challenge in the Writ Petition was to Section 3(1) notification issued under the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997, by the Government seeking to acquire the land belonging to the petitioner.

2. The notification under Section 3(2) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 [for brevity "the Act"] was issued on 27.10.2009. Many of the land owners including the appellant herein had challenged the said notice mainly contending that there was no personal or



W.A.No.3403 of 2022

individual notice to the land owners as contemplated under the Act and Rules.

This Court disposed of the Writ Petition on 30.08.2010 granting liberty to the petitioner and other land owners to file their objections on or before 13.09.2010 and directed the District Collector to conduct an enquiry and pass final orders.

3. Though enquiry was conducted, no notification under Section 3(1) of the Act was made for considerably long period and finally a notification under Section 3(1) of the Act was issued on 23.03.2022. The said notification was challenged in the writ petition in W.P.No.28919 of 2022 by the appellant on the ground that he was not given an opportunity and his objections were not forwarded to the acquiring Authority and the remarks of the acquiring Authority were not considered and no order was passed rejecting his objections. Therefore, the notification under Section 3(2) of the Act is vitiated.

4. A counter affidavit was filed by the State in the Writ Petition claiming that the petitioner's representation was considered and rejected as early as on 23.07.2011 and therefore the notification is perfectly valid. The delay in issuing Section 3(1) notification was sought to be justified on the ground that there were other Writ Petitions filed by other land owners, which went up on appeal upto the Hon'ble Supreme Court and only after conclusion of the said



W.A.No.3403 of 2011

enquiry was conducted on 14.02.2011 and objections were received from the petitioner, we had required the learned Government Pleader to produce the original file relating to the enquiry. The original file has been placed before us.

7. Upon perusal of the original file we find that there was no consideration of the petitioner's representation. Though the representations received from others along with the remarks of the SIPCOT have been considered, the petitioner's representation is conspicuous by its absence.

8. Mr.Ramanlal, learned Additional Advocate General would however contend that the petitioner did not submit his objections within the time granted by the writ Court while disposing of his writ petition in W.P.No.18070 of 2010.

9. Such a plea, we are afraid, is not open to the Government at this stage. In the information supplied under the Right to Information Act, even in the year 2011 there is a specific admission that the objection petition was rejected by the District Collector on 23.07.2011, a specific reference is also made to the writ petition number filed by the appellant. In the counter affidavit filed in the writ petition it is clearly averred that the objection of the petitioner was received before the enquiry that was conducted on 14.02.2011. Therefore, the claim



now sought to be made to the effect that the petitioner did not submit his objections cannot be accepted. We also find that there is a transgression of the procedure relating to enquiry. While Section 3(2) of the Act imposes an obligation on the Collector to conduct an enquiry after issuing notice to the persons interested in the land or any other person who in the opinion of the Government may be interested in such land, the procedure for such enquiry is prescribed under Rules 6(a), (b) and (c) of the Tamil Nadu Acquisition of Land for Industrial Purposes Rules, 2001. Rules 6(a), (b) and (c) of the Rules reads as follows:-

6. Hearing of objections by the Government.

(a) If statement of objections filed by a person who has no interest in the Land, it shall be summarily rejected.

(b) If any objections are received from a person interested in the land, within the time prescribed in rule 3 or 4, the Government shall fix a date for hearing the objections and give notice thereof to the objector or as well as to the Government or company requiring the land. Copies of the objections shall also be forwarded to such department or company and the Department or company may file on or before the date fixed by the Government, a statement by way of answer to the objections and may also depute a representative to attend the enquiry.



(c) On the date fixed for enquiry or any other date to which the enquiry may be adjourned by- the Government, the Government shall hear the objector, or a person authorized by him in this behalf, or his pleader and the representation if any, of the department or company and record any evidence that may be produced by both in support of the objections and in support of the need for acquiring the land.

10. A reading of the above provisions would show that the objections received by the owners of the land were to be forwarded to the acquiring Authority (SIPCOT) and its objections are to be considered by the Collector, while passing the order. Rule (c) creates an obligation on the Government to hear the objector or his pleader and the representative, if any, of the Department and record any evidence that may be produced in support of the objections and in support of the need for acquiring the land.

11. The enquiry was admittedly conducted on 14.02.2011 the objections by SIPCOT was received only on 13.06.2011 there was no enquiry conducted after receipt of the objections from SIPCOT. This by itself is in violation of the statutory mandate. Power of eminent domain is an unbridled power which vests in the Government the power to deprive the citizen of his property, of



W.A.No.3403 of 2025

course, by authority of law. In exercise of such power, the procedure prescribed should be followed scrupulously and there cannot be an infraction of the procedure and if there is one, the same cannot be condoned.

12. Apart from there being an infraction of the procedure, the appellant has been deprived of hearing. Hence, we are unable to sustain the order of the writ Court. The writ appeal stands **allowed**. The order of the writ Court stands set aside. Notifications issued under Section 3(2) dated 27.10.2009 and Section 3(1) of the Act dated 23.03.2022 will stand quashed in respect of the land of the petitioner alone. Of course, the Government will be at liberty to acquire the land by initiating fresh proceedings. No costs. Consequently, the connected miscellaneous petitions are closed.

(R.S.M.,J.) (C.K.,J.)
31.01.2025

dsa

Index : No

Neutral Citation : No

Speaking order



W.A.No.3403 of 2022

To

1.The Secretary,
State of Tamil Nadu,
The Commissioner of Land Administration,
Chepauk, Chennai - 600 005.

2.The District Collector,
Kancheepuram District,
Kancheepuram - 631 502.

3.The Special Tahsildar,
Land Acquisition,
Unit - II, SIPCOT,
Oragadam Expansion Scheme - II,
Sriperumbudur,
Kancheepuram District - 602 105.

4.The Managing Director,
SIPCOT Unit - III,
Sriperumbudur Expansion Scheme,
19-A, Rukmani Lakshmipathi Salai,
Egmore, Chennai - 600 008.



WEB COPY



W.A.No.3403 of 2024

R.SUBRAMANIAN, J.
and
C.KUMARAPPAN, J.

dsa

W.A.No.3403 of 2024

31.01.2025