



W.A(MD) No.9 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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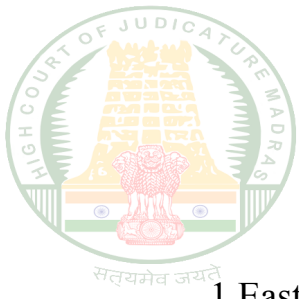
Dated : 17.03.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

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- 1.The Principal Secretary to Government
Government of Tamil Nadu,
Fort St.George,
Chennai 600 009.
 - 2.The Additional Chief Secretary,
Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai.
 - 3.The District Collector,
Dindigul District, Dindigul.
 - 4.The District Revenue Officer,
Dindigul Collectorate Building,
Dindigul 624 004.
 - 5.The Revenue Divisional Officer/Land Acquisition Officer,
Sub Collector Office Road,
Dindigul-624 001.
 - 6.The Special Thasildar (Land Acquisition)
Karur-Dindigul Broad Gauge Line,
Unit No.III, Dindigul.
- ... Appellants / Respondents



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Vs

1. East India Corporation Ltd.,
Represented by its Managing Director,
Tmt. Meenakshi,
12H, Sri Ram Complex,
Ram Nagar,
Madurai-625 010.

... 1st Respondent / Petitioner

2. The General Manager,
Southern Railway Head Quarters,
Park Town,
Chennai-600 003.

... 2nd Respondent / 7th Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 23.06.2021 passed in W.P. (MD)No.17654 of 2019 by allowing this writ appeal and to grant such other relief.

For Appellants : Mr.R.Baskaran
Additional Advocate General
assisted by Mr.K.Balasubramani
Special Government Pleader

For Respondents : Mr.Sricharan Rangarajan
Senior Counsel for Mr.A.S.Vaigunth
for R1

Mr.A.Haja Mohideen for R2



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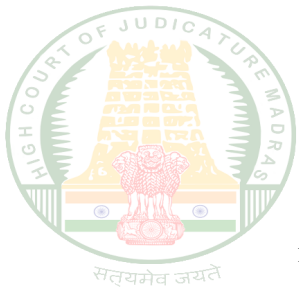
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ORDER

(By G.R.SWAMINATHAN, J.)

East India Corporation Limited owned about 2 acres and 30 cents of land in T.S.Nos.1644, 1645/1, 1645/2 in Adhiyanoothu Village. The said land was required for railway purpose. Notification under Section 4(1) of the Land Acquisition Act, 1894 was issued on 24.02.1987. Since declaration under Section 6 of the Act was not issued within three years, the acquisition proceedings lapsed in the year 1990. Even though the proceedings had lapsed, the authorities chose to take possession of the land on 07.06.1990. Thereafter, fresh proceedings were initiated and they were challenged in W.P.No.7766 of 1992. It is not necessary to refer to the subsequent events. The land owner, however, kept representing that since they had been illegally dispossessed, they should be paid due compensation. With this prayer, the East India Corporation Limited filed WP(MD)No.1389 of 2014. It was disposed of on 19.06.2014 in the following terms :-

“4.Though the matter is pending from 28.01.2014, the respondents have not chosen to file counter. Hence, considering the submissions made by the learned counsel appearing on either side and the averments made in the affidavit, this Court directs the fourth



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respondent to consider the representation of the petitioner dated 01.01.2014, in the light of the communication of the second respondent dated 29.07.2006, and pass appropriate order on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion with regard to the merits of the claim made by the petitioner.”

Since this direction was not acted upon, the East India Corporation Limited filed Contempt Petition (MD) No.570 of 2015. When the contempt petition was taken up on 28.07.2015, it was submitted on behalf of the Southern Railways that a sum of Rs.10/- crores had already been deposited with the Revenue Divisional Officer, Dindigul. Subsequently, the contempt petition was closed.

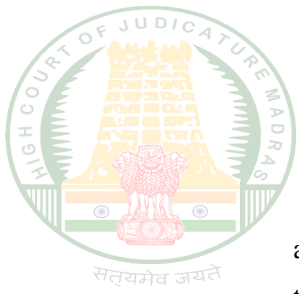
2.In the meanwhile, Central Act 30 of 2013 came into force. However, the proceedings were initiated only under Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. Notice under Section 3(2) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act was issued on 22.12.2017. Publication under Section 3(1) of the Act was made on 18.06.2018. Section 7(6) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 states that



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compensation for the acquired land will have to be determined with reference to the provisions of the Land Acquisition Act, 1894. Since the said Act had been repealed by the Central Act 30 of 2013, the resultant legal position is that compensation even for the lands acquired under the Tamil Nadu Acquisition of Land for Industrial Purposes Act will have to be computed only in terms of the newly enacted Act (Central Act 30 of 2013). Applying the formula set out in the new Act, G.O.Ms.No.28, Transport Department, dated 05.03.2019 was issued. The Government calculated that the total compensation payable to the East India Corporation Limited would be Rs.10,22,82,598/- Since a sum of Rs.10,71,48,174/- had already been deposited, after deducting the accrued interest amount, it was concluded that a sum of Rs.48,65,576/- was liable to be recovered from the East India Corporation Limited. Challenging the said G.O, the East India Corporation Limited filed W.P. (MD)No.17654 of 2019. The writ petition was allowed and the impugned G.O was quashed vide order dated 23.06.2021 in the following terms:-

“19. In the result, the impugned Government order in G.O.Ms.No. 28 Transport (I.1) Department dated 05.03.2019 is hereby quashed. The calculation that has been made at S.No.8 in the award dated 05.03.2019 with regard to the



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additional market value of the land is also set aside. There shall be a direction to the 5th respondent, namely, the Revenue Divisional Officer and Land Acquisition Officer to once again calculate the additional market value in accordance with Section 23(1-A) of the 1894 Act by taking into consideration the period from the date on which the possession was taken till the date of the award, namely, from 07.06.1990 up to 05.03.2019. This exercise shall be completed by the 5th respondent within six weeks from the date of receipt of a copy of this order. The 5th respondent shall give an East India Corporation Ltd., v. The Principal Secretary to Government opportunity to the petitioner and the 7th and 8th respondents before passing the award. The fresh award shall be communicated to the petitioner and a copy of the same shall also be sent to the first, 7th and 8th respondents. The first respondent, on receipt of the award, shall pass a fresh Government order within a period of six weeks from the date of receipt of the award from the 5th respondent.”

Aggrieved by the same, the Government has filed this writ appeal.

3.Heard the learned Additional Advocate General appearing for the appellant.

4.The learned Senior Counsel appearing for the writ petitioner was at pains to demonstrate that in similar cases where possession had been taken either under lapsed notification or illegally by the Government, the standard approach adopted was to take into account the market value as on the date of passing the judicial order and awarding compensation by computing interest at the rate of 15% from the date when the land owner



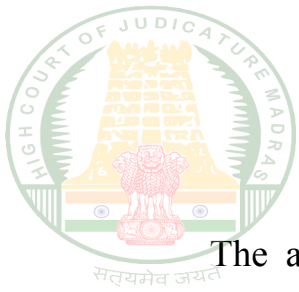
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was deprived of his possession. In this regard, he relied on the decision reported in **(2007) 9 SCC 650 (Madishetti Bala Ramul Vs. Land Acquisition Officer)**. He also pointed out that the land owner was deprived of their possession way back in the year 1990 and that they had been filing one case after another for the last 35 years. He called upon this Court to sustain the order passed by the learned single Judge and dismiss the writ appeal.

5.We carefully considered the rival contentions and went through the materials on record.

6.Paragraph No.20 of the decision relied on by the learned Senior Counsel for the petitioner reads as follows:-

“20. In the peculiar facts and circumstances of the case, although the proper course for us would have to remand the matter back to the Collector to determine the amount of compensation to which the appellants would be entitled for being remained out of possession since 1979, we are of the opinion that the interest of justice would be met if this appeal is disposed of with a direction that additional interest @ 15% per annum on the amount awarded in terms of award dated 02.01.1999 for the period 16.03.1979 till 22.12.1991, should be granted, which, in our opinion, would meet the ends of justice.”



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The above para opens with the expression “in the peculiar facts and circumstances of this case”. Therefore, it cannot be taken as a precedent.

It is true that relief was given in certain cases as pointed out by the writ petitioner's Senior Counsel. However, in those cases, we are not able to discern any definite ratio as such. It is well settled that what has to be followed is the ratio laid down in earlier cases involving similar facts. Directions and reliefs given without any discernible ratio will not constitute precedents. The learned Single Judge had taken the market value determined as on 22.12.2017 and directed that the additional market value should be paid on that basis as prescribed under Section 23(1-A) of 1894 Act. Since the 1894 Act had already been repealed, we are of the view that reference to 1894 Act may not be in order.

7. Section 30(3) and Section 80 of the New Act are as follows :

“**30.Award of solatium.**—(1)

(2)...

(3) In addition to the market value of the land provided under section 26, the Collector shall, in every case, award an amount calculated at the rate of twelve per cent per annum on such market value for the period commencing on and from the date of the publication of the notification of the Social Impact Assessment



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study under sub-section (2) of section 4, in respect of such land, till the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.”

“80.Payment of interest.—When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of nine per cent per annum from the time of so taking possession until it shall have been so paid or deposited:

Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per cent. per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.”

In terms of the aforesaid statutory provisions, compensation payable to the land owner was quantified at Rs.10,22,82,598/-. Since pursuant to the High Court's direction, a sum of Rs.10,71,48,174/- had already been paid, the G.O directed that Rs.48,65,576/- must be recovered from the land owner. It is this G.O that was put to challenge in the writ petition and the learned Single Judge directed passing of fresh award by taking into consideration the period from the date of dispossession till the date of award ie., 07.06.1990 to 05.03.2019.



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8. We are clearly of the view that the writ petitioner/land owner cannot have things both ways. If the date of dispossession alone is to be reckoned, then, the market value which prevailed on that date alone should be taken into account. The learned Judge was not justified in directing the authorities to pass a fresh award by taking into account the period from the date of dispossession on the basis of the market value that obtained 37 years later.

9. No doubt, the statutory provisions mentioned above paying 15% on the compensation from the date when the possession was taken. But those provisions will have to be understood in their appropriate statutory context. The statute contemplates a certain trajectory or sequence of events. The acquisition notification is issued first. Award is passed. Deposit is made. Possession is taken. This would be in the normal course of events. If possession is taken before deposit but after award, award of 15% interest from the date of taking possession would be in order. But, in this case, possession was taken way back in the year 1990 whereas the acquisition notification came to be issued only in December 2017 and the award was passed only in the year 2019. We are satisfied



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that the impugned G.O has been passed in consonance with the Central Act 30 of 2013. But two things have been omitted. The land owner had not been paid any damages for the period from 1990 till the acquisition notification was issued. Therefore, in the case on hand, we are concerned only with one aspect ie., damages or quantum of compensation payable to the land owner.

10. It is seen that in the year 1990, the market value per square feet of land was Rs.36/-. The file now produced by the learned Special Government Pleader was not produced earlier. Even according to the appellant, if the land owner had been paid full compensation in the year 1990 itself, it would have come to Rs.1,00,00,000/-. If the land owner had been paid a sum of Rs.1.00 crore then itself, definitely, they could have purchased a land of an equivalent extent and value elsewhere. Or they could have made a profitable investment. Therefore, the appellant will not be justified in submitting that the land owner can only claim bank interest on the said amount for the period from 1990 till 2017.



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11.The learned Senior Counsel appearing for the appellant has drawn our attention to the proceedings obtained under the RTI Act. It is seen therefrom that before the acquisition notification was issued, the guideline value per square feet was Rs.1,000/-. On that basis, the authority themselves had calculated that a sum of Rs.50.00 crores will have to be paid to the land owner. In fact, the learned Senior Counsel drew our attention to the fact that Mrs.Jeeva who passed the award based on the impugned G.O had stated that a sum of Rs.46.00 crores /- will have to be paid to the East India Corporation Ltd.,

12.In the case on hand, compensation payable to the land owner cannot be computed only by applying the statutory formula. An award in terms of Central Act 30 of 2013 had been passed and compensation to the tune of Rs.10,71,48,174/- had already been disbursed. What has to be done is to compute the damages payable to the land owner from the date of dispossession till the date of passing the award. The Government will have to pay interest on the said amount also.



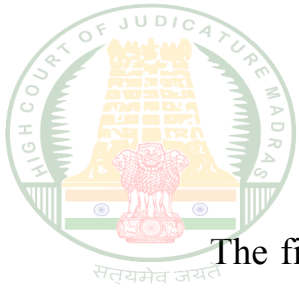
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13. Taking into account all these aspects, we are of the view that interest of justice will be served if the market value for the purpose of calculating damages is taken as Rs.240/- per square feet. Since the writ petitioner had been illegally dispossessed, the department has to pay the damages with 12% interest of the said market value so computed. The amount payable to the writ petitioner is calculated as follows:-

Extent of land - 99,909 sq.ft
Land value - 99,909 x 240 = Rs.2,39,78,160/-
15% interest on the said amount
with effect from 07.06.1990 to
21.12.2017 (notification date) = Rs.9,91,31,625.86
12% interest on the damages
calculated above w.e.f 22.12.2017 till
17.03.2025 = Rs.8,61,38,593/-
Total = Rs.18,52,70,219/-
Excess payment already made
with accrued interest to be deducted
(Excess amount Rs.48,65,576/- +
interest Rs.45,79,773/ = Rs.94,45,349/- (-)

.....
Total Rs.17,58,24,870/-
.....



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The financial liability of the appellants towards the writ petitioner as on 17.03.2025 is quantified at **Rs.17,58,24,870/-**. Further interest @ 12% on the said amount will also accrue in favour of the writ petitioner. The appellants shall pay the amount as calculated above to the respondent within a period of twelve weeks from the date of receipt of copy of this order.

14.The order of the learned Single Judge is modified and this writ appeal is partly allowed. No costs.

(G.R.S., J.) & (M.J.R., J.)

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