

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 20238 of 2015

&

M.P. Nos. 1 & 2 of 2015

1. A.R.K. Varadharajan

2. P. Ganesan

(Petitioner No.2 is suo motu
impleaded as per order dated
07.09.2015 in M.P. No.3 of
2015 in W.P. No. 20238 of
2015 by NKKJ)

...Petitioners

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Housing and Urban Development
Department, Fort St. George,
Chennai - 600 009.

2. The Managing Director,
Tamil Nadu Housing Board,
Anna Salai, Nandanam,
Chennai - 600 035.

3. The Administrative Officer/
Executive Engineer,
Tamil Nadu Housing Board,
Ayyanthirumaligai Road,
Asthamatti,
Salem - 8.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India
praying for issue of a Writ of Certiorari to call for the entire
records relating to the impugned U/s 4(1) notification in G.O.Ms.
No. 525 Housing and Urban Development Department dated 26.05.1985
and subsequently issued notification U/s 6 Declaration of Land
Acquisition Act in G.O.Ms. No. 1408, Housing and Urban
Development Department dated 03.09.1986 issued by the 1st
respondent and quash the same, since as per Section 24(2) of
Right to Fair Compensation and Transparency in Land Acquisition,
Rehabilitation and Resettlement Act, 2013 (30 of 2013), the
entire acquisition proceedings become lapsed.

For Petitioner
No.1 :: Mr.C. Prakasam
For Petitioner
No.2 :: Mr.T. Chellapandian

For Respondents:: Mr.RM. Muthukumar
Govt. Advocate for R1
Mr.R.V. Babu for R2 & R3

O R D E R

This writ petition is filed for issue of a Writ of Certiorari to call for the entire records relating to the impugned U/s 4(1) notification in G.O.Ms. No. 525 Housing and Urban Development Department dated 26.05.1985 and the subsequent notification U/s 6 Declaration of Land Acquisition Act in G.O.Ms. No. 1408, Housing and Urban Development Department dated 03.09.1986 issued by the 1st respondent and quash the same, since as per Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013), the entire acquisition proceedings become lapsed.

2. The land in question, to an extent of 17000 sq.,ft, equivalent to 39 ½ cents, comprised in S.No. 245/8, Jagir Ammapalayam, Salem West Taluk, Salem District, was acquired by the 1st respondent by virtue of G.O.Ms. No. 525 Housing and Urban Development Department dated 26.05.1985 by issuing 4(1) notification and by issuing declaration under Section 6 of Land Acquisition Act vide G.O.Ms. No. 1408 Housing and Urban Development Department dated 03.09.1986. Thereafter, award was also used in the year 1988. Subsequently, the 1st petitioner, after verifying the revenue records, which showed that the patta and adangal stood in the name of Palanisamy Gounder, had purchased the land in question from the legal heirs of the said Palanisamy Gounder and is in possession and enjoyment of the same. The 1st petitioner was also issued with possession certificate on 12.06.2015 by the Village Administrative Officer, Jagir Ammapalayam clearly stating that the 1st petitioner is in possession of the above said extent of land. In the meanwhile, the 1st petitioner received information that compensation in respect of the land has been deposited with Sub Court, Salem on 28.11.2014, after a lapse of 28 years. According to the petitioner, as the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013), came into force on 01.01.2014 and the compensation amount was deposited by the respondents only on 28.11.2014 and furthermore, the possession of the land is still with the 1st petitioner, the provisions of the new Act alone will be applicable and the compensation has to be paid as per the new

Act. Therefore, the present writ petition.

3. Heard Mr.C. Prakasam, learned counsel for the first petitioner, who would submit relying upon Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013), that the entire proceedings are deemed to have been lapsed. As per Section 24(1)(A), the provisions of the new Act alone will be applicable. He would also rely upon a judgment of the Honourable Supreme Court reported in 2015 2 CTC 568 (SITA RAM Vs. STATE OF HARYANA) and would contend that as on the date, the new Act came into force, the compensation amount was not deposited and even as per the counter filed by 2nd and 3rd respondents, it was deposited only subsequently on 03.12.2014. Therefore, the provisions of the new Act alone will be applicable.

4. On the other hand, Mr.RM.Muthukumar, learned Government Advocate for the 1st respondent would submit that the award amount had already been deposited and therefore, the new Act will not be applicable. Further, according to the learned Government Advocate, the first petitioner, being the subsequent purchaser, is not entitled to challenge the proceedings.

5. Mr.R.V. Babu, learned counsel for respondents 2 and 3 would submit, relying on paragraph No.2 of the counter affidavit filed by respondents 2 and 3, that the compensation amount was deposited on 03.12.2014 pursuant to the award passed on 31.08.1988.

6. Heard the parties and perused the records.

7. As rightly contended by the learned counsel for the first petitioner, proceedings were initiated as early as on 25.06.1985 by issuance of Section 4(1) notification and Section 6 declaration on 03.09.1986. Eventhough the award was passed on 31.08.1988, the award amount was deposited only on 03.12.2014. Therefore, it is crystal clear that only after the new Act came into force, the award amount was deposited. Therefore, as per Section 24(1)(A) of the Act, the provisions of the new Act alone will be applicable to the case of the 1st petitioner. That apart, in paragraph No.5 of the counter affidavit filed by respondents 2 and 3, they admit that the possession of the property has not been taken over by the Acquisition Officer. Therefore, the 1st petitioner is in possession of the property. As long as the award amount was not deposited on the date of coming into being of the new Act, the land acquisition proceedings got lapsed.

8. As regards the contention of the learned Government Advocate that the first petitioner is not entitled to challenge the acquisition proceedings, as he is a subsequent

purchaser, is concerned, the owner himself is before this Court as second petitioner. In view of that, the said contention is rejected.

9. For the reasons stated above, the proceedings under the old Act, namely, Land Acquisition Act, get lapsed. With the above direction, the writ petition is disposed of. No costs. Connected M.Ps are closed.

Sd/-
Assistant Registrar (CS-III)

True Copy

Sub Assistant Registrar

To

1. The Secretary to Government,
Housing and Urban Development
Department, Fort St. George,
Chennai - 600 009.
2. The Managing Director,
Tamil Nadu Housing Board,
Anna Salai, Nandanam,
Chennai - 600 035.
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Executive Engineer,
Tamil Nadu Housing Board,
Ayyanthirumaligai Road,
Asthampatti,
Salem - 8.

+1cc to M.C. Prakasam, Advocate Sr.52511
+1cc to Mr.R.V.Babu, Advocate Sr.52255
+1cc to The Government Pleader sr.52213

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W.P. No. 20238 of 2015

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