

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 25.04.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.11114 to 11116 of 2016 &

W.M.P.Nos.9656 to 9661 of 2016

V.A.Purushothaman .. Petitioner in
W.P.No.11114 of 2016

S.Nehru .. Petitioner in
W.P.No.11115 of 2016

S.Veerachandran .. Petitioner in
W.P.No.11116 of 2016

Versus

1.The Secretary to Government,
Education Department,
Fort St. George,
Chennai-600 009.

2.The District Collector,
Office of the Collector of Tiruvallur,
Tiruvallur,
Tiruvallur District.

3.The Revenue Divisional Officer,
Land Acquisition Officer,
Ambattur,
Tiruvallur District. ... Respondents in all WPs'

Prayer in all Writ Petitions: These Writ Petitions are filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records of the first respondent in respect of the impugned Government Order in G.O.Ms.No.1333, Education (XI) dated 24.09.1990 and quash the same and consequently direct the respondents to restore the possession of Acre 54.75 cents in S.No.13/3, Kathivakkam Village; Acre 0.6 cents in S.No.13/3, Kathivakkam Village, 11.25 cents in S.No.13/3, Kathivakkam Village respectively, to the petitioners by handing over physical possession.

For Petitioner in
all Writ Petitions : Mr.S.S.Swaminathan

For Respondents in
all Writ Petitions : Mr.R.Rajeswaran
Special Government Pleader
for R1 to R3

C O M M O N O R D E R

Heard Mr.S.Swaminathan, learned counsel appearing for the petitioner in all Writ Petitions and Mr.R.Rajeswaran, learned Special Government Pleader, accepting notice on behalf of respondents in all Writ Petitions. With the consent of the learned counsel on either side, these Writ Petitions are taken up for final disposal.

2. In all these Writ Petitions, the petitioners seek for issuance of a Writ of Certiorarified Mandamus, to quash the order passed by the first respondent in G.O.Ms.No.1333, Education (XI), dated 24.09.1990 and to direct the respondents to restore the possession of the lands which were acquired from the petitioners.

3. Though the petitioners seek for their relief as prayed in these Writ Petitions, the learned counsel for the petitioners submits that the petitioners would be satisfied, if the petitioners representations are directed to be considered by the District Collector, Tiruvallur District, the second respondent herein.

4. The petitioners' case is that the Land Acquisition Proceedings initiated by the respondents have been lapsed in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013). The petitioners places reliance on the decision of the Hon'ble Division Bench of this Court in Writ Appeal in W.A.No.835 of 2014, which was filed by the landowners challenging the dismissal of their Writ Petition in W.P.No.29240 of 2013, dated 29.10.2013. The said Writ Petition was filed challenging the Award passed in Award No.1 of 1993, dated 15.10.1993 in respect of the Land Acquisition Proceedings initiated by the Government in G.O.Ms.No.13333, Education Department, dated 24.09.1990.

5. The learned counsel for the petitioners submitted that the very same notification which was impugned in the earlier case has been challenged by the petitioners therein in the Writ Petition and the Hon'ble Division Bench has considered the entire matter and also the averments made in the counter affidavit filed in the Writ Petition, held that the Land

Acquisition Proceedings are lapsed. At this juncture, it would be beneficial to record the operative portion of the judgment of the Hon'ble Division Bench of this Court in W.A.No.835 of 2014, dated 23.07.2014, and the same is extracted hereunder:-

"7.In this case, the appellants' lands were subjected to the land acquisition proceedings by issuing notification under section 4(1) as early as on 24.09.1990, followed by passing an award in No.1 of 1993 on 15.10.1993. Subsequent to the passing of the said award, even though it is stated that possession was taken on 07.04.2004, admittedly, the compensation amount was not deposited in the Court or paid to the land owners/appellants till this date. The affidavit filed by the second respondent, the Land Acquisition Officer in this writ appeal also shows that the compensation amount was not deposited in the Court or paid to the appellants. The relevant paragraphs 13, 14 and 15 of the counter is extracted hereunder:

"13.At this stage, it is respectfully submitted that the funds to the tune of Rs.28,15,000/- (Rupees Twenty eight lakhs fifteen thousand only) was kept at the disposal of Land Acquisition Officer at Sub-Treasury, Ponneri under the Work Deposit account on 18.10.1993. But, since the possession of lands acquired could not be taken, the amount of compensation awarded could not be transferred to Civil Court Deposit as ordered in the Award. When necessary steps were taken to transfer the compensation amount to Civil Court deposit after handing over possession of the lands in September 2004, it was found that the amount of funds provided on 18.10.93 was lapsed in the year 2001 from the Work Deposit Account itself.

14.It is most respectfully submitted, the earnest steps were taken by the then Sub Collector, Ponneri to revive the lapsed deposit amount of Rs.23,59,224/- by an order of revival on 17.09.2004 vide proceedings Rc.8481/87/A3. In continuation of the above sanction order issued by the Sub Collector, Ponneri, necessary refund bill along with bill for transfer of funds towards Civil Court Deposit were prepared and sent to Accountant General (A&E), Chennai-18 for pre audit through the Treasury Officer, Tiruvallur. The Principal Accountant General (A&E), Chennai 18 by his latest letter reference LA III/VII/ABW-70/2004-05/118 dated 25.11.2004 in reply to the letter dated 29.09.2004 of the

Treasury Officer, Tiruvallur has raised some points and called for rectification report.

15. It is most respectfully submitted that due to filing of writ petitions by some other interested persons seeking re-conveyance of acquired land and obtaining stay restraining the respondents from removing the illegal constructions made by them on the acquired lands, the main issue of transferring the amount of compensation by revival of lapsed deposits was side tracked and diverted."

After saying so, the respondents sought three months time to transfer the compensation amount towards City Civil Court Deposit. Thus, it is an admitted fact that the compensation amount has not been either deposited or paid to the appellants.

8. Section 24(2) of the Right to fair compensation and Transparency in Rehabilitation and Resettlement Act, 2013 which came into force with effect from 01.01.2014 contemplates that the land acquisition proceedings initiated under the Land Acquisition Act, 1894, shall be deemed to have lapsed in cases, where an award under section 11 has been made five years or more prior to the commencement of the said Act, but the physical possession of the land has not been taken or the compensation has not been paid. As admittedly in this case, the compensation has not been paid by the respondents to the appellants and the same was also not deposited in the Court till this date, as has been admitted by the respondents in their counter affidavit, we are of the view that the entire land acquisition proceedings initiated under the appellants' land deemed to have lapsed in view of Section 24(2) of the above said Act.

9.

10. Considering the above stated facts and circumstances and applying the law laid down by the Hon'ble Supreme Court which has been followed by the Division Bench of this Court as stated supra, the writ appeal is allowed and the acquisition proceedings initiated against the appellants' land in pursuant to the notification issued in G.O.Ms.No.1333, Education Department dated 24.09.1990 are quashed. However, it is open to the respondents to initiate proceedings fresh in terms of the Central Act 30 of 2013, if the circumstances so warrant."

6. In the light of the above, there will be a direction to the second respondent to consider the petitioners representations dated ***16.02.2015** and pass orders on merits in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

Accordingly, the above Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AS)

Dated : 05.05.2016

***In para 6, correction carried out as per order of this Court dated 07.06.2016 and made in W.P.No.11114 to 11116 of 2016
Sd/- Assistant Registrar(CS VII)
Dated : 13.06.2016**

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government,
Education Department,
Fort St. George,
Chennai-600 009.

To be Substituted to

2.The District Collector,
Office of the Collector of Tiruvallur,
Tiruvallur,
Tiruvallur District.

the Order already

3.The Revenue Divisional Officer,
Land Acquisition Officer,
Ambattur, Tiruvallur District.

despatched on 1.6.16

+3cc to M/S.S.S.Swaminathan, Advocate sr.30359 to 30361
+1cc to the Government Pleader Sr.30943 & 30944

W.P.Nos.11114 to 11116 of 2016 &
W.M.P.Nos.9656 to 9661 of 2016

ala(CO)
srg(11/05/2016)

CA(13.06.2016)

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