

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 01.04.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.28384 of 2014

1 P.Vilvam

2 P.Vinayagam

[PETITIONERS]

Vs

1 The Government of Tamil Nadu
Rep. by Secretary to Government
Housing and Urban Department
St. George, chennai.

2 The Tamil Nadu Housing Board
Rep. by Chairman and Managing Director
Nandanam, Anna Salai, Chennai.

3 The Executive Engineer
Administrative office
Housing Unit, Vellore.

4 The District Collector
Vellore.

5 The Revenue Divisional Officer
Ranipet, Walaja Taluk,
Vellore District.

6 The Special Tahsildar
Land Acquisition Housing
Ranipet, Vellore District.

[RESPONDENTS]

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of declaration to declare the land acquisition proceedings initiated under award No.4/88 dated 07.07.1988 comprising Seekarajapuram S.No.28/3 - 74 cents as lapsed in view of Sec.24(2) of Right Fair Compensation and Transparency land Acquisition Rehabilitation and Resettlement Act 2013 (Act 30-2013).

For Petitioners : Mr.R.Margabanhu

For Respondents : Mr.R.Rajeswaran, R1, 4, 5 & 6
Special Govt. Pleader

Mr.R.V.Babu, R2 & R3

O R D E R

Heard Mr.R.Margabanhu, learned counsel appearing for the petitioners, Mr.R.Rajeswaran, learned Special Government Pleader, appearing on behalf of respondents 1, 4, 5 & 6 and Mr.R.V.Babu, Counsel appearing for the respondents 2 & 3 and With the consent of the learned counsel on either side, the Writ Petition is taken up for final disposal.

2.The petitioners have filed this Writ Petition to declare that land acquisition proceedings culminated in the Award No.4/88 dated 07.07.1988, has lapsed in view of Sec.24 (2) of Right Fair Compensation and Transparency land Acquisition Rehabilitation and Resettlement Act 2013 (Act 30-2013).

3.The factors which have to be fulfilled for the land owner to be entitled to the relief under section 24(2) of the Act, have been clearly set down by the Hon'ble Division Bench of this Court in the case of R.Rajaram and five others vs. The Secretary to Government and two others [W.A.No.1100 of 2014 dated 26.02.2016]. The Hon'ble Division Bench, after considering the law in issue held that if the land owner has not been dispossessed or the Award has not been passed within five years, the land owner is entitled to seek umbrage under section 24(2) of the Act.

4.In the instant case, both from the affidavit filed in support of the Writ Petition as well as from the counter affidavit, it is seen that the award was passed awarding compensation of Rs.12,359.65 and the said amount was received by the land owners under protest and a Reference under section 18 of the 1898 Act for enhanced compensation was filed and the matter was referred to the Civil Court and numbered as L.A.O.P. No.12 of 2005, on the file of the Sub Court, Ranipet and the Reference Court fixed the compensation at Rs.375/- per cent.

5.It appears that the respondents challenged the enhanced compensation which was rejected by an order dated 03.11.2004, as against which it is stated that the Tamil Nadu Housing Board has filed a Review Application in Rev.A.No.67 of 2006 and the same is pending.

6.Faced with the above factual situation, it is submitted that though the land acquisition proceedings cannot be declared as lapsed under section 24(2) of the Act 30 of 2013, the land owner should be able to realise the enhanced compensation as awarded by the Reference Court and the petitioner seeks for appropriate directions in this regard. From the counter affidavit of the Housing Board, it is seen that the Review Application is pending since 2006 and till date nothing has happened to the Review Application. This counter affidavit has been sworn to by the respondent Board on 10.03.2006.

7.Thus, from 2006 to 2016, the Housing Board has not taken any steps to get the Review Application disposed of. Therefore, the pendency of the Review Application cannot be a reason for non implementation or non payment of compensation at the enhanced rate as awarded by the Reference Court and confirmed by this Court.

8.In the light of the above, while declining to grant the declaratory relief as sought for by the petitioners, there will be a direction to the respondents 2, 3 5 & 6 to pay the enhanced compensation to the petitioners as awarded by the Reference Court, which has been confirmed by this Court. The above direction be complied with by the respondents 2, 3 5 & 6, within a period of three month from the date of receipt of a copy of this order. Accordingly, the Writ Petition stands disposed. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

rpa

To

- 1 The Government of Tamil Nadu
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Land Acquisition Housing
Ranipet, Vellore District.

+1 cc to Mr.R.Margabandhu, Advocate, sr.21179

+1 cc to Government Pleader, sr.20907

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