

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2017

Coram: The Honourable Mr. Justice N. SESHASAYEE

W.P.No.16929 of 2016

1. Tmt. D. Papathi

2. D. Rajkumar

3. D. Viswanathamurthy

4. Kalpana

...Petitioners

Versus

The Secretary to Government,
Adi Dravidar Welfare Department,
Fort St. George, Chennai.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondent to pass final orders dropping the entire land acquisition proceedings initiated by the respondent as lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in respect of the land of the petitioners situated in S.No.19/1B measuring an extent of 5 acres and 5 cents in Kaniyur Village, Palladam Taluk, Coimbatore District.

For Petitioners : Mr. N. S. Nandakumar

For Respondent : Mr. A. Zakir Hussain,
Government Advocate

O R D E R

This Writ Petition is filed to declare that the acquisition of petitioners' land under the Land Acquisition Act, 1894 has lapsed since no possession has been taken.

2. The brief facts that provide a cause of action for the petitioners to approach this Court with the present petition may be stated as follows:

- The petitioners jointly owned a land to an extent of 5.05 Acres in S.F.No.19/1B of Kaniyur Village in Sulur Taluk, Coimbatore District. Vide notification in G.O.M.S.No.1297,

Adi Dravida Welfare Department dated 25.07.1990, issued under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as "Act"), the Government came up with its proposal to acquire the above said land of the petitioners for providing house sites to Adi Dravidas of Unjapalayam Village. Subsequently, thereafter, the declaration of its intention to acquire the land was issued under Section 6 of the Act.

- However, the beneficiaries identified for the purpose of granting house sites have been provided with alternate house sites in S.F.No.7/1 and 7/2 of Kaniyur Village. Since, alternate house sites have been provided, the petitioners moved the land Acquisition Authority to re-convey the land under Section 48-B of the Act, and filed a representation to that effect. Thereafter, they moved this Court with W.P.No.44229 of 2002 and on 15.06.2012, the same was disposed of with a direction to consider the representation of the petitioners. In the mean time, even as this was pending consideration, possession of the property was not taken from the petitioners, and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 10 of 2013) came into effect. Section 24(2) of the said Act provided that in all cases where an award has been passed five years prior to the commencement of the Act, where possession of the property was not taken, or compensation has not been paid, then the entire acquisition proceedings would lapse.

Hence, the petitioner has come forward with the petition seeking a direction.

3. Mr. A. Zakir Hussain, learned Government Advocate entered appearance for the respondent. No counter in this case is filed, despite, several opportunities were granted to the respondents.

4. Mr. N. S. Nandakumar, learned counsel appearing for the petitioners brought to the notice of this Court, the proceedings of the District Collector, Coimbatore in Na.Ka.No.183259/1989/Ka6 dated 05.02.2016 addressed to the respondent has indicated that inasmuch as the Adi Dravidas of Unjapalayam Village have been allotted alternate sites in S.F.No.7/2 of Kaniyur Village, the property of the petitioners was no more required for the public purpose, and has recommended the Government to pass necessary notification.

5. This Court perused the said proceedings of the Collector and it is seen that the same is pending consideration with the

respondent for close to 22 months now. If only, the Government proposes to drop the very acquisition proceedings, there may not be any need to declare at the moment that the acquisition has lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013). Therefore, this Court modifies the prayer of the petitioner seeking a declaration that the acquisition has lapsed, directs the Government to take a decision on the recommendation of the District Collector, Coimbatore District in Na.Ka.No.183259/1989/Ka6 dated 05.02.2016 within a period of three months from the date of issuance of a copy of this order.

8. If, however, respondent takes a view contrary to the recommendation of the District Collector, he might so do it with the Speaking Order. It is clarified that the present order should not be construed as divesting or forfeiting the petitioner of his rights, if any available to him under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

9. This Writ Petition is disposed of with the above direction and ordered accordingly. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mrr

To

The Secretary to Government,
Adi Dravidar Welfare Department,
Fort St. George, Chennai.

+1cc to Mr.N.S.Nandakumar, Advocate, S.R.No.92243

+1cc to the Government Pleader, S.R.No.91965

EV(CO)
RRK(05/02/2018)

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