

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2017

CORAM

THE HON'BLE Mr. JUSTICE M.DURAI SWAMY

W.P.Nos.20593, 14281 to 14288, 15887 and 15888,
16051 and 16052 of 2016, 1531 to 1533 of 2017,
2513 and 15250 of 2016

M.Venkatachalam ... Petitioner in WP.20593/16
G.Jambulingam ... Petitioner in WP.14281/16
R.Krishnamoorthy ... Petitioner in WP.14282/16
B.C.Krishnappa ... Petitioner in WP.14283/16
M.Akila ... Petitioner in WP.14284/16
S.Subramanian ... Petitioner in WP.14285/16
V.Srinivasan ... Petitioner in WP.14286/16
V.Ganesh ... Petitioner in WP.14287/16
S.Ramachandra ... Petitioner in WP.14288/16

1 M.Shankar Singh
S/o.Madav Singh.

2 Smt.E.Kamala Bai
W/o.Late Eswar Singh.

3 E.Rathan Singh
S/o.Late Eswar Singh.

4 E.Thanuja
D/o.Late Eswar Singh.

5 E.Vijayakumari ... Petitioner in WP.15887/16
D/o.Late.Eswar Singh

V.Ramesh ...Petitioner in WP.15888/16

1 Ramasamy Reddy
S/o Channa reddy

2 Sridhar
S/o Ramasamy Reddy

3 Kavitha ...Petitioner in WP.16051/16
D/o Ramasamy Reddy

1 G. Ramachandrappa
S/o Govindappa Kaarukondapalli Village
Denkanikottai Taluk Dharmapuri District

2 K. Seenivasalu
S/o Krishnappa Kaarukondapalli Village
Denkanikottai Taluk Dharmapuri District
...Petitioner in WP.16052/16

R.Kitleppa ...Petitioner in WP.1531/17

N.Govindappa ...Petitioner in WP.1532/17

S.Devaraj ...Petitioner in WP.1533/17

P.Prema ...Petitioner in WP.2513/16

V.Bharathi ...Petitioner in WP.15250/16

vs.

- 1.The State of Tamil Nadu
Rep.by its, Secretary to Government,
Housing and Urban Development Dept,
Secretariat, Chennai 600 009.
 - 2.The Tamil Nadu Housing Board,
Rep.by its Chairman-cum-Managing Director,
No.493, AnnaSalai,
Chennai-600 035.
 - 3.The Executive Engineer,
Tamil Nadu Housing Board,
Bagalur Road,
Hosur, Krishnagiri District.
 - 4.The Special Tahsildar,
Land Acquisition,
Housing Scheme,
Bagalur Road,
Hosur, Krishnagiri District.
- ... Respondents in all WP's

WP.No.20593 of 2016:

Petition filed under Article 226 of The Constitution of India praying to issue a writ of Declaration declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act 1894 in respect of land bearing Plot No.7 measuring an extent of 1200 Sq.Ft comprised in Survey No.864 of Chennathur Village Hosur Taluk, Krishnagiri District covered by Notification issued under Section 4(1) of the Land Acquisition Act, 1894 in G.O.Ms.No.890, Housing and Urban Development Department, dated:29.05.1991 and section 6 Declaration in G.O.Ms.No.691 Housing and urban development Department dated 09.10.1992, deemed to have lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency

in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013.

WP.14281 of 2016:Declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act 1894 in respect of land bearing Plot No.17 measuring an extent of 1080 sq.ft. comprised in Survey No.863 of Chennathur Village Hosur Taluk Krishnagiri District covered by Notification issued under Section 4(1) of the Land Acquisition Act 1894 in G.O.Ms. No.890 Housing and Urban Development Department dated 29.5.1991 and Section 6 Declaration in G.O.Ms. No.691 Housing and Urban Development Department dated 9.10.1992 deemed to have lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013.

WP.14282 of 2016:Declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act 1894 in respect of land bearing Plot No.19 measuring an extent of 1200 sq.ft. comprised in Survey No.863 of Chennathur Village Hosur Taluk Krishnagiri District covered by Notification issued under Section 4(1) of the Land Acquisition Act 1894 in G.O.Ms. No.890 Housing and Urban Development Department dated 29.5.1991 and Section 6 Declaration in G.O.Ms. No.691 Housing and Urban Development Department dated 9.10.1992 deemed to have lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013.

WP.14283 of 2016:Declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act 1894 in respect of land bearing Plot No.8 measuring an extent of 75 sq.ft. comprised in Survey No.863 and another extent of 1125 sq.ft. comprised in Sruvey Nos.864 of Chennathur Village Hosur Taluk Krishnagiri District covered by Notification issued under Section 4(1) of the Land Acquisition Act 1894 in G.O.Ms. No.890 Housing and Urban Development Department dated 29.5.1991 and Section 6 Declaration in G.O.Ms. No.691 Housing and Urban Development Department dated 9.10.1992 deemed to have lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and re settlement Act, 2013.

WP.14284 of 2016:Declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act 1894 in respect of land bearing Plot No.14 measuring an extent of 1200 sq.ft. comprised in Survey No.863 of Chennathur Village Hosur Taluk Krishnagiri District covered by Notification issued under Section 4(1) of the Land Acquisition Act 1894 in G.O.Ms. No.890 Housing and Urban Development Department dated 29.5.1991 and Section 6 Declaration in G.O.Ms. No.691 Housing and Urban Development Department dated 9.10.1992 deemed to have lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition

Rehabilitation and Resettlement Act 2013.

WP.14285 of 2016:Declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act 1894 in respect of land bearing Plot No.13 measuring an extent of 1050 sq.ft. comprised in Survey No.863 of Chennathur Village Hosur Taluk Krishnagiri District covered by Notification issued under Section 4(1) of the Land Acquisition Act 1894 in G.O.Ms. No.890 Housing and Urban Development Department dated 29.5.1991 and Section 6 Declaration in G.O.Ms. No.691 Housing and Urban Development Department dated 9.10.1992 deemed to have lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013.

WP.14286 of 2016:Declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act 1894 in respect of land bearing Plot No.39 measuring an extent of 1538 sq.ft. comprised in Survey Nos.863 and 864 of Chennathur Village Hosur Taluk Krishnagiri District covered by Notification issued under Section 4(1) of the Land Acquisition Act 1894 in G.O.Ms. No.890 Housing and Urban Development Department dated 29.5.1991 and Section 6 Declaration in G.O.Ms. No.691 Housing and Urban Development Department dated 9.10.1992 deemed to have lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013.

WP.14287 of 2017:Declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act 1894 in respect of land bearing Plot No.44 measuring an extent of 1275 sq.ft. comprised in Survey No.864 of Chennathur Village Hosur Taluk Krishnagiri District covered by Notification issued under Section 4(1) of the Land Acquisition Act 1894 in G.O.Ms. No.890 Housing and Urban Development Department dated 29.5.1991 and Section 6 Declaration in G.O.Ms. No.691 Housing and Urban Development Department dated 9.10.1992 deemed to have lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013.

WP.14288 of 2016:Declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act 1894 in respect of land measuring an extent of 1470 sq.ft. bearing Plot No.25 comprised in Survey No.863 situate at Chennathur Village Hosur Taluk Krishnagiri District covered by Notification issued under Section 4(1) of the Land Acquisition Act 1894 in G.O.Ms. No.890 Housing and Urban Development Department dated 29.5.1991 and Section 6 Declaration in G.O.Ms. No.691 Housing and Urban Development Department dated 9.10.1992 deemed to have lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013.

WP.15887 of 2016:Declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act 1894 in respect of land measuring an extent of 1200 Sq.ft. bearing Plot No.4 comprised in Survey No.864 of Chennathur Village Hosur Taluk Krishnagiri District covered by Notification issued under Section 4(1) of the Land Acquisition Act 1894 in G.O.Ms.No.890 Housing and Urban Development Department dated 29.05.1991 and Section 6 Declaration in G.O.Ms.No.691 Housing and Urban Development Department dated 09.10.1992 deemed to have lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Re-Settlement Act 2013.

WP.15888 of 2016:Declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act 1894 in respect of Plot NO.22 measuring an extent of 1200 Sq.Ft comprised in Survey NO.863 of Chennathur Village Hosur Taluk Krishnagiri District covered by Notification issued under Section 4(1) of the Land Acquisition Act 1894 in G.O.Ms. NO. 890 Housing and Urban Development Department dated 29.05.1991 and Section 6 Declaration in G.O.Ms. No. 691 Housing and Urban Development Department dated 09.10.1992 deemed to have lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Re-Settlement Act 2013.

WP.16051 of 2016:To issue a Writ of Declaration or any other appropriate writ or order or direction in the nature of writ declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act 1894 in respect of land bearing Plot Nos. 6 and 42 measuring an extent of 1200 sq.ft and 1590 Sq.ft respectively comprised in Survey NO.864 situate at Chennathur Village Hosur Taluk Krishnagiri District covered by Notification issued under Section 4(1) of the Land Acquisition Act 1894 in G.O. Ms. No.890 Housing and Urban Development Department dated 29.05.1991 and Section 6 Declaration in G.O. Ms. No.691 Housing and Urban Development Department dated 09.10.1992. Deemed to have lapsed in view of section 24(2) of right to fair compensation and transparency in land Acquisition, Rehabilitation and Re-Settlement Act 2013.

WP.16052 of 2016:To issue a Writ of Declaration or any other appropriate writ or order or direction in the nature of writ declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act 1894 in respect of land bearing Plot No.23 measuring an extent of 1540 sq.ft comprised in Survey NO.863 of Chennathur Village Hosur Taluk Krishnagiri District covered by Notification issued under Section 4(1) of the Land Acquisition Act 1894 in G.O. Ms. No.890 Housing and Urban Development Department dated 29.05.1991 and Section 6 Declaration in G.O. Ms. No.691 Housing and Urban Development

Department dated 09.10.1992 Deemed to have lapsed in view of section 24(2) of right to fair compensation and transparency in land Acquisition, Rehabilitation and Re-Settlement Act 2013.

WP.1531 of 2017:Declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act 1894 in respect of land bearing Plot No.20 measuring an extent of 860 sq.ft. comprised in Survey No. 863 of Chennathur Village Hosur Taluk Krishnagiri District covered by Notification issued under Section 4 (1) of the Land Acquisition Act 1894 in G.O.Ms. No.890 Housing and Urban Development Department dt 29.5.1991 and Section 6 Declaration in G.O. Ms. No. 691 Housing and Urban Development Department dt 9.10.1992 deemed to have lapsed in view of Section 24 (2) of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Re-Settlement act 2013.

WP.1532 of 2017:Declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act 1894 in respect of land bearing Plot No.35 measuring an extent of 1983 sq.ft. comprised in Survey No. 863 of Chennathur Village Hosur Taluk Krishnagiri District covered by Notification issued under Section 4 (1) of the Land Acquisition Act 1894 in G.O.Ms. No.890 Housing and Urban Development Department dt 29.5.1991 and Section 6 Declaration in G.O. Ms. No. 691 Housing and Urban Development Department dt 9.10.1992 deemed to have lapsed in view of Section 24 (2) of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Re-Settlement act 2013.

WP.1533 of 2017:Declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act 1894 in respect of land bearing Plot No.36 measuring an extent of 1220 sq.ft. comprised in Survey No. 863 of Chennathur Village Hosur Taluk Krishnagiri District covered by Notification issued under Section 4 (1) of the Land Acquisition Act 1894 in G.O.Ms. No.890 Housing and Urban Development Department dt 29.5.1991 and Section 6 Declaration in G.O. Ms. No. 691 Housing and Urban Development Department dt 9.10.1992 deemed to have lapsed in view of Section 24 (2) of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Re-Settlement act 2013.

WP.2513 of 2016:Declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act 1894 in respect of land measuring 1320 sq.ft. or 3 cents comprised in Old Survey No.844 New Survey No.844/1A5 of Chennathur Village Hosur Taluk Krishnagiri District covered by Notification issued under Section 4(1) of Land Acquisition Act 1894 vide G.O.Ms. No.890 Housing and Urban Development Department dated 29.5.1991 and Declaration issued under Section 6 of Land Acquisition Act 1894 vide G.O.Ms. No.693 Housing and Urban

Development Department dated 8.10.1992 deemed to have lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Re-Settlement Act 2013.

WP.15250 of 2016:Declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act 1894 in respect of land Plot No.34 measuring an extent of 1882 Sq.ft. comprised in Survey No.863 of Chennathur Village Hosur Taluk Krishnagiri District covered by Notification issued under Section 4(1) of the Land Acquisition Act 1894 in G.O.Ms.No.890 Housing and Urban Development Department dated 29.05.1991 and Section 6 Declaration in G.O.Ms.No.691 Housing and Urban Development Department dated 09.10.1992 deemed to have lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Re-Settlement Act 2013.

For Petitioners in all WPs: Mr.R.Bharath Kumar

For Respondents in all WPs: Mr.S.Diwakar, Spl GP for R1 & R4
Mr.K.Venkatramani, AAG
Assisted by

Mr.Anandhamoorthy,
Standing Counsel for R2 & R3

COMMON ORDER

The above writ petitions have been filed by the petitioners to issue writs of Declaration declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act 1894, in respect of land bearing Plot Nos.7, 34, 17, 19, 8, 14, 13, 44, 25, 4, 22, 20, 35, 36, 39, 6, 42, 23 and land bearing Old Survey No.844, New Survey No.844/IA5 of Chennathur Village, Hosur Taluk, Krishnagiri District is covered by Notification issued under Section 4(1) of Land Acquisition Act, 1894 by G.O.Ms.No.890 of Housing and Urban Development Department dated 29.05.1991 and Declaration issued under Section 6 of Land Acquisition Act, 1894, deemed to have lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013.

2. Heard, Mr.R.Bharath Kumar, learned counsel appearing for the petitioners, Mr.S.Diwakar, learned Special Government Pleader appearing for the 1st and 4th respondents, Mr.K.Venkatramani, Additional Advocate General assisted by assisted by Mr.Anandhamoorthy, learned Standing Counsel appearing for the respondents 2 and 3.

are common, by consent of learned counsels on either side, all the writ petitions are taken up together and disposed of by this common order.

4. According to the petitioners, the impugned Land Acquisition Proceedings are deemed to have lapsed, in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013. The petitioners contended that to get benefit under Section 24(2) of the Act, two grounds have to be satisfied, viz.,

(i) the possession has not been taken over properly by the respondents; and

(ii) compensation has not been paid or deposited before the Competent Civil Court.

5. The learned counsel appearing for the petitioners submitted that the respondents have not taken possession of the acquired lands so far and that they have not paid or deposited the compensation amount before the competent Civil Court. Further, the learned counsel submitted that challenging the very same Notification issued under Section 4 (1) of the Land Acquisition Act, 1894 dated 29.05.1991 and Section 6 Declaration, dated 09.10.1992, the land owners preferred writ petitions in W.P.No.27224 of 2015, 9753 to 9755 of 2015 before this Court and this Court by order dated 04.04.2016, quashed the acquisition proceedings, by holding that the provisions of Section 24(2) of the Act shall be attracted and the entire land acquisition proceedings shall stand lapsed. The learned counsel submitted that the order passed in the said writ petitions dated 04.04.2016 is squarely applies to all the present cases.

6. On a perusal of the counter affidavit filed by the respondents, it could be seen that the respondents 1 and 4 have not stated anything about the possession taken by them and also with regard to the compensation paid or deposited before the Competent Civil Court.

7. Mr.K.Venkatramani, learned Additional Advocate General appearing for respondents 2 and 3 also submitted that the issue is covered by the order passed in the writ petitions dated 04.04.2016.

8. Further, while allowing all these writ petitions, this Court also followed the judgment of the Division Bench of this Court in the case of R.Rajaram and five others vs. The Secretary to Government and two others in W.A.No.1100 of 2014 dated 26.02.2016, where in the Division Bench after considering the law on the 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 protection under Section 24(2) of the Act.

9. In the light of the above, as both the parameteres have been fulfilled, it has to be necessarily held that the respondents are entitled to the benefit of Section 24(2) of the Act.

10. In the result, all the writ petitions are allowed by holding that the provision 24(2) of Act would be attracted and consequently, the entire land acquisition proceedings shall stand lapsed, in so far as the petitioners are concerned. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
Housing and Urban Development Dept,
Secretariat, Chennai 600 009.

2.The Chairman-cum-Managing Director,
The Tamil Nadu Housing Board,
No.493, AnnaSalai,
Chennai-600 035.

3.The Executive Engineer,
Tamil Nadu Housing Board,
Bagalur Road,
Hosur, Krishnagiri District.

4.The Special Tahsildar,
Land Acquisition,
Housing Scheme,
Bagalur Road,
Hosur, Krishnagiri District.

+1cc to Mr.V.Anandha Moorthy, Advocate, S.R.No.68048

+1cc to the Government Pleader, S.R.No.68880

+18cc to Mr.R.Bharath Kumar, Advocate SR.No.68433

W.P.Nos. 20593 of 2016
and etc., batch

GMR(CO)
GN(24/10/2017)