

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 21.11.2017

Pronounced on: 15.12.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.924 of 2012 and M.P.No.1 of 2012,
W.A.No.2330 of 2013 and M.P.No.1 of 2013,
W.P. (MD)No.4712 of 2014 and M.P. (MD)No.1 of 2014,
W.P.No.6619 of 2013 and M.P.No.1 of 2013,
W.P.No.7340 of 2013 and M.P.No.1 of 2013,
W.P.No.12418 of 2013 and M.P.No.1 of 2013

W.A.No.924 of 2012:

The Tamil Nadu Housing Board
rep.by its Chairman,
Nandanam, Chennai-600 035. ... Appellant/Respondent 2

-vs-

1. K.S.Aiyadurai ...R1/Petitioner

2. State of Tamil Nadu,
rep.by its Secretary,
Housing and Urban Development Department,
Fort St.George,
Chennai-600 009. ...RR2 & 3/RR1 & 3

3.The Special Tahsildar (Land Acquisition),
Neighbourhood Scheme,
O/o.the Executive Engineer and Admn. Officer,
Tamil Nadu Housing Board,
Maharaja Nagar, Tirunelveli-11.

4.L.K.S.M.Jahwar Beevi

5.L.K.M.A.Mohamed Saleem

6.L.K.M.A.Mohamed

7.L.K.M.A.Mohmed Nawab Hussain

(Respondents 4 to 7 impleaded as per the
order of this Court dated 21.11.2017

made in M.P.Nos.1 and 1 of 2014 in
W.A.Nos.924 of 2012 and 2330 of 2013).... Respondents

W.A.No.2330 of 2013:

The Tamil Nadu Housing Board
rep.by its Chairman,
Nandanam, Chennai-600 035.

... Appellant/Respondent 2

-vs-

1.Mohamed Beevi (Deceased)

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

3. The Special Tahsildar (Land Acquisition),
Neighbourhood Scheme,
O/o.the Executive Engineer and Admn. Officer,
Tamil Nadu Housing Board,
Maharaja Nagar, Tirunelveli-11.

4. S.K.S.M.Mohammad Javad

5. Ragumath Nisha

(Respondents 4 and 5 substituted as LRs of
the deceased first respondent vide order of
this Court dated 12.09.2013 made in
M.P.No.1 of 2013 in WA.SR.No.32142 of
2012).

6.L.K.S.M.Jahwar Beevi

7.L.K.M.S.Mohamed Nawab Hussain

8.L.K.M.A.Mohamed Saleem

9.L.K.M.A.Mohamed

(Respondents 6 to 9 impleaded as per the
order of this Court dated 21.11.2017
made in M.P.Nos.1 and 1 of 2014 in
W.A.Nos.924 of 2012 and 2330 of 2013)

.... Respondents

W.P.(MD)No.4712 of 2014:

L.K.S.M.Jawahar Beevi

... Petitioner

-vs-

1. The Government of Tamil Nadu,
rep.by the Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Chennai-600 009.
2. The Tamil Nadu Housing Board,
rep.by its Chairman / Managing Director,
Nandanam, Chennai-600 035.
3. The Executive Engineer / Administrative Officer,
Tamil Nadu Housing Board, Anbu Nagar,
Tirunelveli-627 011.
4. The Special Tahsildar (Land Acquisition),
Neighbourhood Scheme,
Office of the Executive Engineer and Administrative Officer,
Tamil Nadu Housing Board, Anbu Nagar,
Tirunelveli-627 011.
- 5.L.K.M.A.Mohamed Saleem
- 6.L.K.M.A.Mohamed
- 7.L.K.M.A.Mohamed Navab Hussain ... Respondents

W.P.No.6619 of 2013:

- 1.V.Selvaraj
- 2.K.Edward
- 3.K.Subramanian
- 4.P.Vijaya Kumar
- 5.S.Narayanan
- 6.R.Sankarakrishnan
- 7.S.Ayyappan
- 8.N.Esakki
- 9.N.Seenivasan
- 10.M.Theivasigamani
- 11.A.Thetchinamoorthy
- 12.G.Muthiah

... 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 Tamil Nadu Housing Board,
rep.by its Chairman / Managing Director,
Nandanam, Chennai-600 035.
3. The Executive Engineer / Administrative Officer,
Tamil Nadu Housing Board,
Tirunelveli Housing Unit,
Anbu Nagar,
Tirunelveli-11.
4. The Special Tahsildar (LA),
Neighbourhood Scheme,
Tirunelveli-627 011. Respondents

W.P.No.7340 of 2013:

- 1.S.Gangatharan
- 2.K.Sulochana
- 3.T.Clement Raja
- 4.C.Arumugam
- 5.Janaki Chockalingam
- 6.V.Thanammal
- 7.S.Janaki Veeraraj
- 8.B.Sivagami
- 9.Raja Mohan
- 10.C.Neelakanta Pillai
- 11.S.Kolappa Pillai
- 12.S.Shanmuga Sundaram
- 13.D.Lalitha
- 14.Janaki
- 15.Thilagavathi
- 16.Murugammal
- 17.Gomathi
- 18.Ramkumar
- 19.Devatharani Thilagavathi Sekaran
- 20.Philo Selvaraj
- 21.J.N.Selvaraj
- 22.G.Packiam
- 23.S.R.Thangavel
- 24.Lakshmi Sundaram
- 25.V.Dhanalakshmi
- 26.R.Chandramathi
- 27.M.Sivagami
- 28.P.Anandan
- 29.Philo Selvaraj

30.G.Venkateswaran
31.T.Ponnaiah Pillai
32.G.Jeyapaul
33.Chithambara Sundaram Ammal
34.C.Seethalakshmi
35.M.Saraswathi
36.V.Panjapoornam
37.V.Peter Padiaraj
38.V.Antonysamy
39.Kanagavalli
40.K.Sulochana Devi
41.Arlidin Rodrigo
42.M.Alphonse Raj
43.S.Jeyaraj
44.S.Periya Subbiah
45.S.Gomathi Nayagam
46.D.Andrews
47.K.Narayana Prasad
48.H.P.A.Dorathy
49.G.Thangaraja
50.I.Kulandai Theresa
51.Rose Mary Demity Leela
52.J.Annammal

... 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 Tamil Nadu Housing Board,
rep.by its Chairman / Managing Director,
Nandanam, Chennai-600 035.
3. The Executive Engineer / Administrative Officer,
Tamil Nadu Housing Board,
Tirunelveli Housing Unit,
Anbu Nagar,
Tirunelveli-11.
4. The Special Tahsildar (LA),
Neighbourhood Scheme,
Tirunelveli-627 011.

... Respondents

W.P.No.12418 of 2013:

- 1.N.Gomathy
- 2.K.V.Krishnamoorthy
- 3.V.Gomathy
- 4.N.Radha

5.V.Rajalakshmi
6.S.Sitalakshmi
7.V.Veerasubramanian
8.M.Prabhakaran
9.A.Mathilagan
10.Kanagamani
11.M.V.Thangaraj
12.T.Sekar
13.B.Kanagaraj
14.P.Thangaraj
15.Manorengitham
16.Kumuthavalli
17.Kavitha Raiser
18.Mariammal Sarasvathi
19.Shunmugha Vadivoo
20.J.Chandra Lakshmi
21.K.Pushkalambal
22.Jeya Leo Ashley
23.L.D.Thilagavathy Sekaran
24.L.Philip Manickaraj Ashley ... 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 Tamil Nadu Housing Board,
rep.by its Chairman / Managing Director,
Nandanam, Chennai-600 035.
3. The Executive Engineer / Administrative Officer,
Tamil Nadu Housing Board,
Tirunelveli Housing Unit,
Anbu Nagar,
Tirunelveli-11.
4. The Special Tahsildar (LA),
Neighbourhood Scheme,
Tirunelveli-627 011. ... Respondents

W.A.No.924 of 2012 filed under Clause 15 of the Letters Patent, against the order passed by this Court in W.P.No.13485 of 2001 dated 13.07.2010.

W.P. No 13485 of 2001:

Writ Petition is filed under Article 226 of the constitution of India for the issuance of a Writ of Mandamus, forbearing the respondents from interfering with the Petitioners right to enjoy

his property admeasuring 10.01 cents of land comprised in Survey Nos.579/2, part, Kulavanigapuram Village, Palayamkottai Taluk, Tirunelveli District Pursuant to the land Acquisition proceedings initiated vide G.O.(MS) No 784, Housing and Urban Development Department dated 04.08.1989 issued under Section 4 (1) and G.O(Rt) No 1191 Housing and Urban Development Department dated 01.10.1990 issued under Section 6 of the land Acquisition Act.

W.A.No.2330 of 2013 filed under Clause 15 of the Letters Patent, against the order passed by this Court in W.P.No.13475 of 2001 dated 13.07.2010.

W.P. No 13475/2001:

Writ Petition is filed under Article 226 of the constitution of India for the issuance of a Writ of Mandamus, forbearing the respondents from interfering with the Petitioners right to enjly his property admeasuring 1.01 acres of land comprised in Plot No1(9.15 Cents), Plot No.2(8.9 Cents), Plot No.4(8.38 Cents) Plot No.5(7.24 Cents), Plot No.6(7.06 Cents), Plot No 7(6.88 Cents), Plot No 8(6.69 Cents), Plot No 9(13.35 Cents), Plot No 12(7.22 Cents)Plot No 13(7.22 Cents), Plot No 15(11.63 Cents) and Shop(7.74 Cents) Comprised in R.S. No 580/2, Kulavanigapuram Village, Palayamkottai Taluk, Tirunelveli District Pursuant to the land Acquisition proceedings initiated vide G.O.(MS) No 784, Housing and Urban Development Department dated 04.08.1989 issued under Section 4(1) and G.O(Rt) No 1191 Housing and Urban Development Department dated 01.10.1990 issued under Section 6 of the land Acquisition Act.

W.P.(MD)No.4712 of 2014 filed under Article 226 of the Constitution of India, for issuance of a writ of Declaration declaring the land acquisition proceedings initiated by the issue of G.O.Ms.No.784 issued under Section 4(1) dated 04.08.1989 followed by a Notification of declaration under Section 6 in G.O.Ms.No.1191, Housing and Urban Development Department, dated 01.10.1990 and culminated in passing the award 1/2001-2002 dated nil signed on 04.06.2001 as lapsed and cannot be implemented and enforced.

W.P.No.6619 of 2013 filed under Article 226 of the Constitution of India, for issuance of a writ of Declaration declaring the land acquisition proceedings initiated by the issue of G.O.Ms.No.784 issued by the first respondent on 04.08.1989 and culminated in passing the award 1/2001-2002 dated nil signed on 04.06.2001 as null and void and cannot be implemented and enforced as it was envisaged in 1989.

W.P.No.7340 of 2013 filed under Article 226 of the Constitution of India, for issuance of a writ of Declaration declaring the land acquisition proceedings initiated by the

issue of G.O.Ms.No.784 issued by the first respondent on 04.08.1989 and culminated in passing the award 1/2001-2002 dated nil signed on 04.06.2001 as null and void and cannot be implemented and enforced as it was envisaged in 1989.

W.P.No.12418 of 2013 filed under Article 226 of the Constitution of India, for issuance of a writ of Declaration declaring the land acquisition proceedings initiated by the issue of G.O.Ms.No.784 issued by the first respondent on 04.08.1989 and culminated in passing the award 1/2001-2002 dated nil signed on 04.06.2001 as null and void and cannot be implemented and enforced as it was originally proposed.

W.A.Nos.924 of 2012 and 2330 of 2013:

For Appellant :: Mr.V.Ayyadurai,
Addl.Advocate General for
Mr.V.Anandhamurthy,
Standing Counsel for TNHB

For Respondents:: Mr.V.Raghavachari for R1
in W.A.No.924 of 2012

R1 died in W.A.No.2330 of 2013

Mr.P.S.Sivashanmugasundaram,
Spl.GP for R2 and R3 in both the
appeals

No appearance for R4 and R5
in W.A.No.2330 of 2013

Mr.M.Vallinayagam, Sr.Counsel
for Mr.D.Nallathambi for
R4 to R7 in W.A.No.924 of 2012
and

R6 to R9 in W.A.No.2330 of 2013

W.P. (MD)No.4712 of 2014:

For Petitioner ::Mr.M.Vallinayagam, Sr.Counsel
for Mr.D.Nallathambi

For Respondents ::Mr.P.S.Sivashanmugasundaram,
Spl.GP for R1 and R4

Mr.V.Ayyadurai,
Addl.Advocate General for
Mr.V.Anandhamurthy for R2 & R3

W.P.Nos.6619, 7340 and 12418 of 2013:

For Petitioners : :Mr.V.Raghavachari
in all the W.Ps.

For Respondents : :Mr.P.S.Sivashanmugasundaram,
in all the W.Ps. Spl.GP for R1 and R4

Mr.V.Ayyadurai,
Addl.Advocate General for
Mr.V.Anandhamurthy for R2 & R3

COMMON JUDGMENT

HULUVADI G.RAMESH, J.
and
RMT.TEEKAA RAMAN, J.

The matter relates to land acquisition. The petitioners in W.P.Nos.6619, 7340 and 12418 of 2013 and W.P.(MD)No.4712 of 2014 stands on a similar footing. These writ petitions have been filed challenging the land acquisition proceedings initiated by the issue of G.O.Ms.No.784, Housing and Urban Development Department, dated 4th August 1989 and the Award 1/2001-2002 dated nil signed on 04.06.2001, by the Special Tahsildar (Land Acquisition), Neighbourhood Scheme, Tirunelveli.

2.The common facts involved in these writ petitions are as follows:

The Government of Tamil Nadu, proposed to acquire an extent of 320 acres of land in Kulavanigarapuram Village, in the year 1974 and the same was not processed further and hence dropped in the year 1981. Again, another proposal for an extent of 256.55 acres of land was made during 1992 and the same was also dropped in the year 1993. The lands in S.Nos.613, 614/2, 615/2 and 617/2 in the same village were also dropped from the acquisition. The present action is based on the Notification issued under Section 4(1) of the Land Acquisition Act, 1894 in G.O.Ms.No.784 dated 04.08.1989. The said Notification ("1st Notification" in short) has been published in TNGG Part-II Section-2 dated 30.08.1989 covering an extent of 83.83 acres. An extent of 39.28 acres in the same village was also notified under Section 4(1) by G.O.Ms.No.794, Housing and Urban Development Department, dated 08.08.1989 ("2nd Notification" in short). The purpose of acquisition was for the formation of Neighbourhood Scheme. The fourth respondent in the writ petitions herein, ie., the Special Tahsildar (LA), Neighbourhood Scheme, Tirunelveli, was to perform the functions of a District Collector under the Land Acquisition Act. These lands are near Sarah Tucker College,

Palayamkottai. The 1st Notification was for 83.83 acres and the same was covered by Section 6 Declaration in G.O.Ms.No.1191, Housing and Urban Development Department, dated 01.10.1990. The 2nd Notification is covered by Section 6 Declaration in G.O.Ms.No.1192, Housing and Urban Development Department, dated 01.10.1990. For the 1st Notification, award was passed on 04.06.2001 for an extent of 72.22 acres, leaving an extent of 11.61 acres from the acquisition on the ground of urban land ceiling. No award was made for the said extent of 11.61 acres till date. An extent of 4.55 acres in S.No.1026 and 3.02 acres in S.No.572 was excluded in favour of St.Annie's Convent and Rose Mary School, respectively. The extent covered by the approved layout comes to 32.80 acres. It is stated by the petitioners in these writ petitions that an overhead tank has been constructed by Tirunelveli Corporation in the space reserved for park in the layout No.135/87 and there are 123 pucca residential buildings constructed by the land owners and they are living in the houses. If these extents are excluded, then the balance will be 31.85 acres and with that extent, the Housing Board cannot implement its original proposal for which the scheme was originally devised. It is also stated that the Declaration which was made in G.O.Ms.No.1192 in respect of the 2nd Notification and the subsequent award which was made on 04.06.2001, have lapsed on account of the orders passed by this Court on the ground that the award was made beyond the statutory period.

3.It is stated that the Tamil Nadu Housing Board issued a Public Notice in the local Dhina Thanthi dated 10.10.2010, in which it has been stated that against the questioning of the award, appeals have been filed and hence the public are warned not to deal with the lands. The petitioners herein state that they made enquiries and when enquired about the appeal to one of the writ petitioners (W.P.No.13485 of 2001) against whom W.A.No.924 of 2012 has been filed by the Department, viz. Mr.Ayyadurai, he stated that no notice was issued to him in the said appeal filed by the Tamil Nadu Housing Board. The Tamil Nadu Housing Board issued a similar notice in the local Dhinamalar dated 28.05.2011. Again the petitioners herein enquired the said Ayyadurai, for which he replied that he has no knowledge and he has not received any notice. Hence, the petitioners were under the impression that they will receive notice at one point of time, but notice was not sent by the Housing Board. Thus, it is stated by the petitioners that the respondents cannot be allowed to proceed further, since under the stated circumstances, the original scheme itself has been given a go-by.

4.As far as the 2nd Notification is concerned, W.P.Nos.17144 to 17173, 17371, 14709 to 14715 and 16987 to 16989 of 2001 were filed challenging the award and the same were allowed by order dated 05.10.2001. Two land owners covered by the 1st Notification filed W.P.Nos.13475 and 13485 of 2001 challenging the award. On the ground of limitation in passing the award, the said writ petitions came to be allowed on 13.07.2010 and consequently the entire acquisition proceedings were terminated by the said order. Against the order made in W.P.Nos.13475 and 13485 of 2001, appeals were filed by the Department in W.A.Nos.924 of 2012 and 2330 of 2013. The petitioners state that the local body has already provided necessary basic amenities and facilities such as tar road, over head water tank, park, street lights etc. and hence no facility is now required for the area in question. It is also stated that the respondents 2 and 3 took steps to get the layout / scheme / plan approved by the local body, ie., Tirunelveli Municipal Corporation and after taking note of the real ground situation, the Municipal Corporation refused to approve the scheme by reply dated 11.10.2012. Hence, according to the petitioners the scheme as of now, cannot be implemented without demolishing the buildings which have already come up. Further, the lands in question are no longer required for the original purpose for which it was devised.

5.It is also stated by the petitioners that as per Section 11 of the Act, a time limit of two years has been prescribed. If no award is made within the said period of two years, the entire proceedings for the acquisition of the land will lapse. The proposed acquisition was for an extent of 83.83 acres of land, but at the award stage it was restricted to 72.22 acres. An extent of 11.61 acres of land in four survey numbers covered by Sections 4(1) and 6 have not been touched by the Housing Board. Thus, the petitioners state that when 116 plot owners were saved from the acquisition under the innocent purchasers scheme, the petitioners herein should not be made to suffer, as they are better placed than those persons, because the plots of the petitioners herein were covered by the approved lay out prior to acquisition. It is also specifically pointed out that a colony by name Ram Nagar comprised in S.Nos.573, 576 and 577 of the same village was not at all notified for acquisition, without any valid reason, despite the fact that these lands were the subject matter of acquisition under a Government Order issued in the year 1974. Instructions were already issued by the Government vide G.O.Ms.No.620, Housing and Urban Development Department, dated 29.06.1990 that the lands covered by approved lay out should not be acquired, but in spite of the same, the Tamil Nadu Housing Board sought for acquisition. It is also contended that the requisitioning body had not applied its mind on the objections raised by the land owners during Section 5A

Enquiry and turned a deaf ear to the objections and simply ruled the same as frivolous and thereby violated the provisions contained in Article 300-A of the Constitution of India. It is also contended that no enquiry has been conducted by the Land Acquisition Officer and the petitioners have not received the compensation amount awarded by the Land Acquisition Officers.

6.Thus, contending that the award was made beyond the statutory period, notice was not sent before commencing the acquisition, not notifying certain selected areas thus leading to discrimination, Municipal Corporation refused to approve the lay out by proceedings dated 11.10.2012, Mr.V.Raghavachari, learned counsel for the petitioners in W.P.Nos.6619, 7340 and 12418 of 2013 sought for a writ of Declaration declaring the land acquisition proceedings initiated by the issue of G.O.Ms.No.784 issued by the first respondent on 04.08.1989, which culminated in passing the award 1/2001-2002. The learned counsel relied on the decision of this Court in P.Arunodayam & another v. The Executive Engineer, Public Works Department, WRO, Chennai & others, reported in 2017-4-L.W. 481, in fortification of his contention that if the possession has not been taken over by the authorities as contemplated under law, Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is squarely attracted and the acquisition gets lapsed.

7.Mr.M.Vallinayagam, learned senior counsel appearing for the petitioner in W.P.(MD)No.4712 of 2014 and also for the respondents 4 to 7 in W.A.No.924 of 2012 and respondents 6 to 9 in W.A.No.2330 of 2013, in addition to the above factual scenario which is also applicable herein, submitted that the Land Acquisition Act of 1894 was repealed by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ("New Act" in short) and by the said new Act, land acquisition proceedings has undergone a sea change in all aspects. As per Sub-Clause(2) of Section 24 of the New Act, the deposit of award amount into Court and the possession of the lands, ought to have been made before 31.12.2009, in the present case. If the award amount has not been given to the land losers like that of the petitioner herein, or the possession of the lands had not been taken over by the Department on or before 31.12.2009, then the land acquisition proceedings initiated under the Land Acquisition Act, 1894 by the 1st Notification has to be declared as lapsed. The compensation amount for the land in S.Nos.572, 578/1, 579/2, 580/1 and 580/2 has not been deposited in the Court till date and the petitioner had also not received the compensation. He also referred to the decision of the Hon'ble Supreme Court in Pune Municipal Corporation v. Harakchand Misirimal Solanki,

reported in 2014 (1) CTC 755, in which, while dealing with the expression "compensation has not been paid" occurred in 2013 Act, ie., the new Act, it was held that compensation shall be regarded as 'paid' only if compensation has been offered to person interested and such compensation has been deposited in Court and mere deposit of compensation amount in Government Treasury is of no avail and cannot be held to be equivalent to compensation paid to land owners and hence the land acquisition proceedings is deemed to have been lapsed for non-compliance of Section 24(2) of the new Act. In the present case, possession of the land also has not taken over by the Department till date and as on date, the name of the petitioner and other co-sharers find place in the Town Survey Register and it discloses existence of various buildings. In fortification of his contention with regard to non-compliance of Section 24(2) of the new Act, he also relied upon the decisions of the Hon'ble Supreme Court in Bimla Devi v. State of Haryana reported in (2014) 6 SCC 583, Bharat Kumar v. State of Haryana and another reported in (2014) 6 SCC 586, Sree Balaji Nagar Residential Association v. State of Tamil Nadu and others reported in 2014 (5) CTC 857, Karnail Kaur v. State of Punjab reported in 2015(1) CTC 551, Ram Kishan v. State of Haryana reported in AIR 2015 SC 440 and Magnum Promoters P. Ltd. v. Union of India reported in AIR 2015 SC 444. Stating so, the learned senior counsel prayed for quashing the land acquisition proceedings initiated under G.O.Ms.No.784 dated 04.08.1989 and to declare the Notification of declaration under Section 6 of the Act under G.O.Ms.No.1191, dated 01.10.1990 culminated in passing the award 1/2001-2002 dated Nil signed on 04.06.2001, as null and void. He also relied upon a decision of the Hon'ble Supreme Court in Union of India v. Shiv Raj, reported in AIR 2014 SC 2242, to state that the acquisition officer should hear the objections of the parties and give report and that hearing by one officer and report his successor is against the principles of natural justice. In respect of his contention that notice for hearing objections not duly served on the petitioner and he was not given opportunity of hearing as per mandate of Section 5-A(2) of the Land Acquisition Act, 1894, the decision of the Hon'ble Supreme Court in Raghbir Singh Sehrawat v. State of Haryana, reported in (2012) 1 SCC 792 has been relied upon. As regards the point that if possession of land was not taken and award was made prior to five years of commencement of 2013 Act, Section 24(2) of the New Act would be applicable and all acquisition proceedings would stand lapsed, the judgment of this Court in Tamil Nadu Housing Board v. iGate Global Solutions Limited, reported in 2016(2) CTC 241 has been relied upon.

8.W.A.Nos.924 of 2012 and 2330 of 2013 have been filed against the orders passed by this Court in W.P.Nos.13485 and 13475 of 2001 respectively dated 13.07.2010, by the Tamil Nadu

Housing Board. The said writ petitions were filed to forbear the official respondents from interfering with the right of the petitioners therein in respect of their property in Kulavanigarpuram Village, which is the subject matter in the present cases. The said writ petitions were allowed on the ground that the award was passed after two years as provided under the Land Acquisition Act and in such view of the matter, the petitioners therein are entitled for the relief prayed for. A direction was also given to the official respondents not to proceed against the subject properties in those writ petitions pursuant to G.O.(Rt.)No.1191, Housing and Urban Development Department, dated 01.10.1990 and the entire acquisition proceedings were also terminated.

9.The learned Addl.Advocate General appearing for the appellant-Department in W.A.Nos.924 of 2012 and 2330 of 2013 has submitted that the learned single Judge has failed to see that W.P.Nos.13475 of 2001 and 13485 of 2001 were filed after passing the awards; that the writ petitioners were not entitled to file the writ petitions challenging the land acquisition proceedings after passing the award in Award No.1/2001-02 dated 04.06.2001. He also submitted that the learned single Judge has failed to see that the date of stay order granted in W.M.P.No.27898 of 1990 in W.P.No.17762 of 1990 was 26.11.1990 and that the stay came into force on 26.11.1990; that the award was passed within a period of two years after excluding the said stay period. He also submitted that the learned single Judge has failed to see the name transfer made in favour of Tamil Nadu Housing Board in the revenue accounts for the land in S.No.579/2 of Kulavanigarpuram Village, Tirunelveli District. Stating so, he prayed for quashing the common order passed in the writ petitions, which are under challenge in these appeals. The learned Addl.Advocate General who is also appearing for the respondents 2 and 3 in the writ petitions herein, relying on the above points, submitted that the writ petitions filed herein have to be dismissed.

10.The learned Addl.Advocate General has referred to the decision of this Court in B.Gurubackiam v. The State of Tamil Nadu, reported in 2011 (1) CTC 1 in support of his contention that the acquisition could not be questioned on the ground of award being made after lapse of two years from the date of Section 6 Declaration.

11.Mr.V.Raghavachari, learned counsel appearing for the first respondent in W.A.No.924 of 2012 has submitted that this Court granted an order of stay on 21.12.1990 in W.P.M.P.No.31054 of 1990 in W.P.No.19759 of 1990 challenging the declaration made under Section 6 of the Land Acquisition Act vide G.O.Ms.No.1191 dated 01.10.1990 and the said order of stay was in force till

the disposal of the said writ petition, ie., till 02.08.1999. When the subsequent writ petition in W.P.No.13485 of 2001 challenging the award came up for final hearing, the learned single Judge has rightly terminated the entire land acquisition proceedings on the ground that the impugned award was barred by limitation and allowed the writ petition. He also submitted that the award amount has not been given to the land losers and hence the land acquisition proceedings initiated under the old Act by the 1st Notification has to be declared as lapsed. In respect of calculating the period of five years, he relied upon the decision of the Hon'ble Supreme Court in the case of Sree Balaji Nagar Residential Association v. State of Tamil Nadu and others reported in 2014(5) CTC 857 and submitted that the stay period has also to be counted for the purpose of Section 24(2) of the New Act. Ultimately he submitted that even a person having a fractional interest in the property under law, he is entitled to get declaration that the acquisition is lapsed under Section 24 (2) of the New Act.

12.Heard the learned counsel on either side and perused the materials available on record.

13.The point to be decided is, whether the requirements of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, have been complied with or not?

14.We have perused the typed set of papers filed in support of the writ appeals in W.A.Nos.924 of 2012 and 2330 of 2013. It is seen that a sum of Rs.2,56,49,806/- (Rupees Two Crore Fifty Six Lakhs Forty Nine Thousand Eight Hundred and Six Only) has been deposited by the Special Tahsildar, Neighbourhood Scheme, Tirunelveli vide Challan dated 11.06.2001 bearing No.139 to the Treasury under the head "8443 Civil Court Deposit". A copy of the said challan is enclosed in Page-89 of the typed set of papers. Relying on the same, the learned Addl.Advocate General has submitted that the compensation amount for the entire Scheme, ie., Rs.2,56,49,806/- has been duly deposited. Further, he contended that the lands have been handed over to the Housing Board. At Page No.114 of the typed set of papers, a copy of the document relating to possession of land by the Tamil Nadu Housing Board has been enclosed. The said document was signed by the Surveyor (Land Acquisition), Neighbourhood Scheme, Tirunelveli, on 10.05.2002 handing over the said lands and the same was taken over by the Surveyor, Tirunelveli Housing Unit, Tirunelveli, whose signature is also found in the said document.

15.In view of the factual position that possession has been taken over by the Tirunelveli Housing Unit, Tirunelveli and the award amount has been deposited well within the stipulated time, as could be seen from the above two documents, viz., Challan

depositing the award amount and the document showing handing over and taking over of the possession of the lands in question, we are of the considered view that the conditions contemplated in Sub-Section(2) of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, have been complied with. This point has not been properly taken into account by the learned single Judge. Thus, we are unable to accept the contentions raised by the land losers that they are entitled for the benefit of Section 24(2) of the New Act, as the fact remains that the compensation amount has been properly deposited and the possession has been taken over properly by the Housing Board.

16.As has already been held by the Hon'ble Supreme Court, mere deposit of compensation amount in Government Treasury is of no avail and cannot be held to be equivalent to compensation paid to land owners, but here is the case where it is not a mere deposit of amount, but it has been deposited under the head "8443 Civil Court Deposit".

17.It is also seen that the date of stay order granted in W.M.P.No.27898 of 1990 in W.P.No.17762 of 1990 was 26.11.1990 and it came into force on 26.11.1990. The award was passed within a period of two years after excluding the said stay period. Pursuant to the taking over possession by the Housing Board, mutations in the revenue records have been effected in favour of the Tamil Nadu Housing Board for Fasli 1421 as could be seen from the Adangal issued by the Village Administrative Officer on 04.06.2012. Further, necessary changes have been made in the Village Map in respect of S.No.579 in Revenue Village No.34, as could be seen from the copy of FMB Sketch enclosed in the typed set in respect of W.A.No.924 of 2012.

18.The petitioners in W.P.Nos.6619 of 2013, 7340 of 2013 and 12418 of 2013 are subsequent purchasers. The subsequent purchasers are also entitled to file a case for declaration against the land acquisition proceedings as regards Section 24 (2) of the New Act. In this regard, it would be appropriate to refer to the judgment of the Hon'ble Supreme Court in Government (NCT of Delhi) v. Manav Dharam Trust reported in (2017) 6 SCC 751, wherein it has been held that for such a declaration, it cannot be said that the subsequent purchasers do not have any locus standi. Thus, the subsequent purchasers are entitled to challenge the land acquisition proceedings.

19.The principles enunciated in a catena of decisions rendered by the Hon'ble Supreme Court, which have been relied upon by the respective learned counsel in respect of deposit of award amount and taking possession of the lands, are not in dispute. But here is the case, where the compensation amount has been deposited properly in accordance with law and also the

possession of lands has been taken over within the stipulated time frame. In such circumstances, we are inclined to interfere with the common order passed by the learned single Judge in W.P.Nos.13485 and 13475 of 2001 dated 13.07.2010 quashing the land acquisition proceedings. Accordingly, the order passed by the learned single Judge in W.P.Nos.13485 and 13475 of 2001 dated 13.07.2010 is quashed and the writ appeals in W.A.Nos.924 of 2012 and 2330 of 2013 are allowed. The other writ petitions in W.P.(MD)No.4712 of 2014, W.P.Nos.6619 of 2013, 7340 of 2013 and 12418 of 2013, challenging the land acquisition proceedings are dismissed. No costs. Consequently the connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

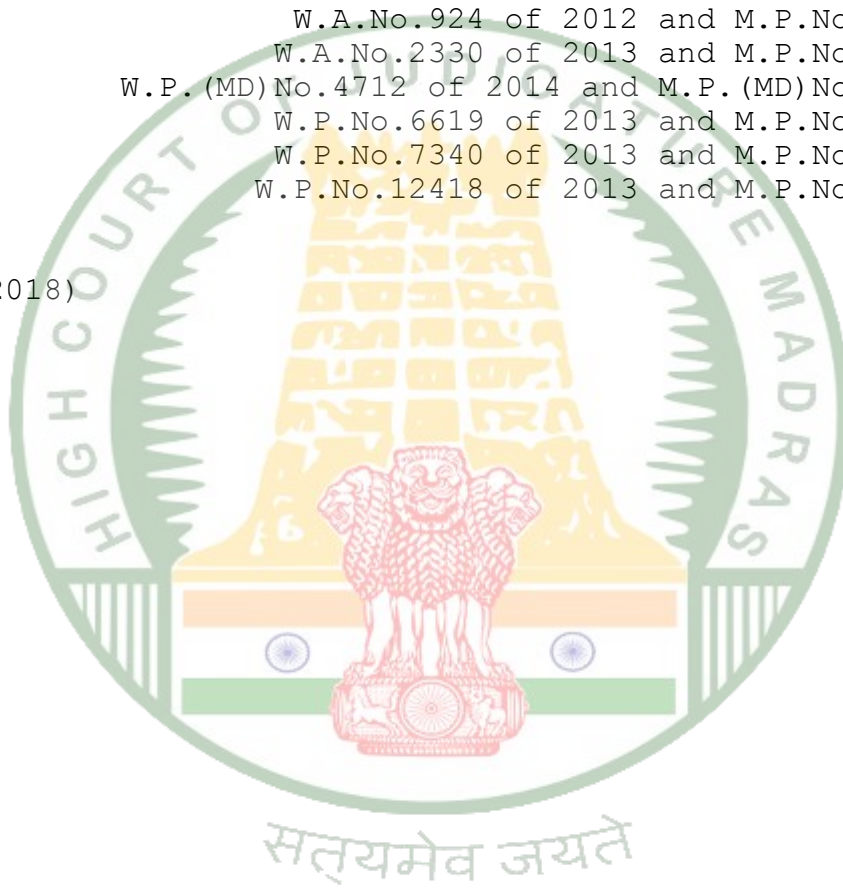
KM
To

1. The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George,
Chennai-600 009.
2. The Special Tahsildar (Land Acquisition),
Neighbourhood Scheme,
O/o.the Executive Engineer and Admn. Officer,
Tamil Nadu Housing Board,
Maharaja Nagar, Tirunelveli-11.
3. The Chairman / Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai-600 035.
4. The Executive Engineer / Administrative Officer,
Tamil Nadu Housing Board, Anbu Nagar,
Tirunelveli-627 011.
5. The Assistant Registrar (Writs)
Madurai Bench of Madras
High Court, Madurai.

+4 Ccs to Mr.V. Raghavachari, Advocate sr
89462,89463,89465.89466.
+3 Ccs to Mr.B. Vijay, Advocate sr 89679.
+4 Ccs to Mr.V. Anandhamurthy, Advocate sr 89828.
+1 CC to Mr.J. Antony Jesus, Advocate sr 90056.
+1 CC to Govt. Pleader sr 89923.

W.A.No.924 of 2012 and M.P.No.1 of 2012,
W.A.No.2330 of 2013 and M.P.No.1 of 2013,
W.P. (MD)No.4712 of 2014 and M.P. (MD)No.1 of 2014,
W.P.No.6619 of 2013 and M.P.No.1 of 2013,
W.P.No.7340 of 2013 and M.P.No.1 of 2013,
W.P.No.12418 of 2013 and M.P.No.1 of 2013

RV(CO)
SP(08/02/2018)



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