

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Delivered on
08.08.2017	18.08.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WA.No.1671/2016 and CMP.No.20736/2016

The Executive Engineer
Tamil Nadu Housing Board
No.493, Anna Salai,
Nandanam, Chennai-600035.

... Appellant / 3rd
respondent in the writ petition

Versus

1.V.N.Mohamed Hussain

... 1st Respondent /
Writ Petitioner

2.The Government of Tamilnadu
rep.by the Secretary to Government
Housing and Urban Development
Department, Fort St George
Chennai 600 009.

3.The Land Acquisition Officer and
Special Tahsildar [L.A] Unit-III
Tamil Nadu Housing Board Scheme
Chennai 600035.

... Respondents
2 & 3 / RR in
the writ petition R1 & R2

Prayer: Writ Appeal filed under Clause 15 of Letters Patent
against the order dated 29.10.2015 made in WP.No.30676/2015
passed by the learned Single Judge.

WP.NO.30676/2015

Writ Petition filed Under Article 226 of the Constitution of
India praying for issue a writ of declaration declaring that the
land Acquisition proceedings in respect of the petitioners land
comprised in Survey No.84/6 A1 A1 A2 Thiruvanmiyur Village

measuring an extent of 29 cents have become lapsed as per Section 24(2) of the Right to Fair Compensation Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013

For Appellant : Mr.V.Ayyadurai, AAG
assisted by
Mr.V.Anandhamurthy

For R1 : Mr.R.Gandhi, Senior Counsel
assisted by Mr.R.G.Narendiran

For R2&R3 : Mr.A.N.Thambidurai, Spl.GP

JUDGMENT

M.SATHYANARAYANAN, J.,

The 3rd respondent in WP.No.30676/2015 filed by the 1st respondent herein / writ petitioner, is the appellant herein.

2 The 1st respondent / writ petitioner filed the above said writ petition praying for issuance of a writ of declaration, declaring that the Land Acquisition proceedings in respect of the land comprised in Survey No.84/6 A1A1A2, Thiruvannamiyur village, admeasuring to an extent of 29 cents, became lapsed as per section 24[2] of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 [in short "the Right to Fair Compensation Act"]. The said writ petition, after contest, came to be allowed vide impugned order dated 29.10.2015 and challenging the legality of the same, the 3rd respondent in the writ petition, came forward to file the present writ appeal.

3 The facts narrated in brief, necessary for the disposal of this writ appeal, are as follows:-

[a] The land belonging to the 1st respondent / writ petitioner and other lands, were acquired for a public purpose, viz., for development of the area at Besant Nagar Phase - II Scheme. A Notification under section 4[1] of the Land Acquisition Act, 1894 [Central Act 1 of 1894] was published in the Gazette on 09.08.1978 and an enquiry under section 5-A of the said Act was conducted on 28.02.1979. Admittedly, the 1st respondent / writ petitioner had purchased the above said land through a registered Sale Deed dated 07.07.1980 subsequent to the Notification issued under section 4[1] of the Act. After, enquiry, declaration under section 6 of the said Act was published in the Tamil Nadu Gazette on 08.08.1981 and having come to know about the ownership of the land in question in

favour of the petitioner, his name was shown as the owner of the land in the said declaration and thereafter, the 1st respondent / writ petitioner was issued with the notices under sections 9[3] and 10 of the said Act for the Award enquiry and the writ petitioner prayed for postponement of the Award enquiry. However, the Award enquiry was on 29.07.1986.

[b] The 1st respondent / writ petitioner had filed WP.No.9303/1986 challenging the acquisition proceedings and vide order dated 26.09.1995, this Court had dismissed the writ petition on the ground that the writ petitioner is a subsequent purchaser and he took the risk of purchasing the land even after the acquisition proceedings had commenced. In the interregnum, the Award was passed on 01.09.1987 and thereafter, the writ petitioner was issued with a notice dated 21.01.1997 under the Central Act 1 of 1894 to surrender the possession and challenging the same, the writ petitioner / 1st respondent herein filed WP.No.307/1997 and a Single Bench of this Court, after going through the records, found that the notice under section 12[2] of the Central Act 1 of 1894, was returned "unserved" and felt that the writ petitioner can be given an opportunity, so as to enable him to put forth his claim for seeking Reference under section 18 of the said Act and accordingly, granted four weeks time from the date of disposal of the writ petition on 21.01.2000. However, this Court has rejected the challenge made to the validity of the Award.

[c] The writ petitioner / 1st respondent aggrieved by the rejection in the light of the above said order, made a challenge by filing WA.No.185/2000. The Hon'ble First Bench of this Court vide judgment dated 02.03.2000 had disposed of the writ appeal by directing the concerned respondent to serve the notice on the 1st respondent / writ petitioner within a period of fifteen days from the date of the judgment and also directed him to file an application for Reference under section 18 of the Act within fifteen days from the date of receipt of the notice under section 12[2] of the Act. Accordingly notice dated 30.03.2000 was issued.

[d] The 1st respondent / writ petitioner once again made a challenge to the said notice by filing WP.No.6823/2000 and during the course of hearing, argument was advanced as to the request made by the 1st respondent / writ petitioner seeking exemption from the purview of the said Act. A Single Bench, while dismissing the said writ petition on 20.11.2000, observed that if he approaches the Government for such a relief, it is for the Government to consider the same on merits. The writ petitioner / 1st respondent herein aggrieved by the dismissal of the said writ petition, filed WA.No.88/2001 and while dismissing the writ appeal on 23.02.2001, the Division Bench of this Court granted a time of fifteen days to make a Reference.

Accordingly, the 1st respondent / writ petitioner sought for a reference and it was numbered as LAOP.No.3/2001 on the file of the Court of VI Assistant City Civil Judge at Chennai. The 1st respondent / writ petitioner, praying for enhancement of the compensation awarded by the Land Acquisition Officer at Rs.21,739.20p. The Reference Court, vide order and decree dated 31.03.2010 has enhanced the compensation to Rs.40,000/- with other statutory entitlements.

[e] The writ petitioner / 1st respondent herein filed WP.No.30676/2015 on the ground that the official respondents did not deposit the Award amount as contemplated under section 24[2] of the Right to Fair Compensation Act, within a period of five years from the date of passing of the Award on 01.09.1987 and the physical possession has also not been taken and as such, the Land Acquisition Proceedings initiated under the Central Act 1 of 1894, deemed to be lapsed. Reliance was also placed upon the judgment rendered by the Hon'ble Supreme Court reported in 2014 [1] CTC 755 [SC] [Pune Municipal Corporation and Another V. Harakchand Misirimal Solanki and Others]. The learned Single Judge, after hearing the rival submissions and on going through the materials, observed that though it has been stated on behalf of the official respondents that the amount has been deposited before the City Civil Court, Chennai, no proof was produced before this Court to show that the enhanced compensation amount has been deposited as per section 31[2] of the said Act and citing the said reason, held that the Land Acquisition Proceedings initiated, shall deemed to have been lapsed. The 3rd respondent in the said writ petition, aggrieved by the impugned order dated 29.10.2015 passed in the said writ petition in allowing it, has filed the present writ appeal.

4 Mr.V.Ayyadurai, learned Additional Advocate General assisted by Mr.V.Anandamurthy, learned Standing counsel appearing for 3rd respondent / appellant herein would submit that admittedly, the 1st respondent / writ petitioner is a subsequent purchaser and the challenge made by him to the acquisition proceedings by filing WP.No.9303/1986, came to be dismissed on 26.09.1995 on the ground that he has no locus standi to challenge the acquisition proceedings and as such, the writ petition itself was not maintainable. It is the further submission of the learned Additional Advocate General that section 24[2] of the Right to Fair Compensation Act, speaks about the deemed lapse of the acquisition proceedings, in the event of the Award under the Old Act passed five years or more prior to the commencement of the New Act or compensation not deposited within five years or the physical possession of the land has not been taken and the materials have been produced to show that the physical possession of the lands had been taken by the Government and as such, section 24[2] of the New Act has no application to the case on hand. It is lastly contended by the

learned Additional Advocate General appearing for the appellant/3rd respondent that the Reference Court, vide order and decree dated 31.03.2010 in LAOP.No.3/2001, had enhanced the compensation from Rs.21,739.20p. to Rs.40,000/- and admittedly, the appellant / 3rd respondent in the writ petition is not a party and as such, it cannot be blamed for not depositing the compensation amount and hence, prays for interference.

5 The learned Additional Advocate General, in support of his submissions, placed reliance upon the following decisions:-

[a] The Judgment dated 22.12.2011 made in WA.Nos.875 and 876 of 2009 [Nallammal and another Vs. The State of Government represented by the Secretary, Housing and Urban Development Department, Fort St George, Chennai 600009] ;

[b] 2016 [16] SCC 258 [Delhi Development Authority V. Sukhbir Singh and others] ;

[c] 2017 [1] CWC 100 [A.Ayyavu [died] 1.Mari 2.Lakshmi 3.Palanisamy 4.Revathy V. The State of Tamil Nadu rep.by its Revenue Secretary, Secretariat, Chennai-9 and others] ; and

[d] 2017 [3] CTC 740 [Government of NCT, Delhi Vs. Manav Dharam Trust and others].

6 Per contra, Mr.R.Gandhi, learned Senior Counsel assisted by Mr.R.G.Narendhiran, learned counsel appearing for the 1st respondent / writ petitioner would submit that no counter has been filed on behalf the official respondents in the writ petition and no materials have also been produced to show as to the deposit of the compensation amount, within five years from the date of the Award and taking into consideration, the factual aspect and settled legal position, the learned Judge has rightly allowed the writ petition and prays for dismissal of this writ appeal with exemplary cost.

7 The learned Senior Counsel appearing for the 1st respondent / writ petitioner, in support of his submissions, placed reliance upon the following decisions:-

- 2014 [1] CTC 755 [Pune Municipal Corporation and Another V. Harakchand Misirimal Solanki and Others].
- 2016 [2] MWN [Civil] 773 [SC] [Vijay Latka and Another V. State of Haryana and Others].
- 2016 [12] SCC 504 [Aligarh Development Authority Vs Megh Singh and Others].
- 2017 [3] CTC 740 [Government of NCT of Delhi Vs. Manav Dharam Trust and Others].

8 This Court has carefully considered the rival submissions and also perused the materials placed before it as well as the decisions relied upon by the respective learned counsel appearing for the parties.

9 The primordial question arises for consideration in this writ appeal is whether the Land Acquisition Proceedings initiated under the Central Act 1 of 1894 [Old Act] in respect of the land or site owned by the 1st respondent / writ petitioner deemed to have been lapsed under section 24[2] of the Right to Fair Compensation Act.

10 It is the specific case of the writ petitioner / 1st respondent herein that though the Award was passed as early as on 01.09.1987, the compensation amount has not been deposited within the period of five years and that the physical possession continues to remain with him. Insofar as the claim for the physical possession remains with the 1st respondent / writ petitioner, the Division Bench of this Court vide Judgment dated 23.02.2001 in WA.No.88/2001 filed by the 1st respondent / writ petitioner challenging the order dated 20.11.2000 in WP.No.6823/2000, has taken note of the observation made by the learned Judge that the possession has already been taken and also taken note of the liberty granted in the Judgment dated 02.03.2000 made in WA.No.185/2000, enabling the writ petitioner to make a Reference under section 18 of the Act and for compensation. In the light of the said Judgment, it is not open to the 1st respondent / writ petitioner to contend that the physical possession of the property continues to be with him and it is also to be noted at this juncture that no further challenge has been made to the judgment dated 23.02.2001 made in WA.NO.88/2001 and thereby, it has become final.

11 The 1st respondent/ writ petitioner in pursuant to the liberty granted to him to make a reference under section 18 of the Central Act 1 of 1894 [Old Act], sought a Reference and it was numbered as LAOP.No.3/2001 on the file of the Court of the VI City Civil Court Judge, at Chennai. The Reference Court vide order and decree dated 31.03.2010 has enhanced the compensation from Rs.21,739.20p. to Rs.40,000/-.

12 During the course of arguments in this writ appeal, the Letter in No.D2/7661/86 dated 27.01.2017 sent by the Special Tahsildar, LA, Unit III, Tamil Nadu Housing Board, Chennai-35, addressed to the Assistant Secretary [Land Acquisition], Tamil Nadu Housing Board, Nandhanam, Chennai-35, has been produced. The contents of the said letter would disclose among other things that the Award amount was deposited in the Revenue Deposit and therefore, a request was made to the PAO [South], to furnish the details of the Challan in order to revalidate the deposit amount and a request was also made for calculation of compensation amount as per the Working Sheet in terms of the Reference Court order dated 31.03.2010 in

LAOP.No.3/2001 with a request to sanction the said amount for the purpose of disbursal of compensation.

13 Let this Court consider the decisions relied on by the learned Additional Advocate General appearing for the appellant / 3rd respondent in the writ petition and the learned Senior Counsel appearing for the 1st respondent / writ petitioner.

14 The learned Additional Advocate General sought to justify the revenue deposit by inviting the attention of this Court to Appendix-I of the Land Acquisition Manual wherein rules have been framed under section 55[1] of the Land Acquisition Central Act 1894 and it is relevant to extract Rule No.6:-

"6 In giving notice of the award under section 12[2] and tendering payment under section 31[1] to such of the persons interested as were not present personally or by their representatives when the award was made, the officer shall require them to appear personally or by representatives by a certain date, to receive payment of the compensation awarded to them intimating also that no interest will be allowed to them if they fail to appear. If they do not appear and do not apply for a reference to the civil court under section 18, the officer shall, after any further endeavour to secure their attendance that may seem desirable, cause the amount due to be paid in the treasury as revenue deposits payable to the persons to whom they are respectively due, and vouched for in the accompanying Form [marked E]. The officer shall also give notice to the payees of such deposits, specifying the treasury in which the deposits have been made. In the Collector's accounts the amounts deposited in the treasury will at once be charged off as Public Works expenditure and when the persons interested under the award ultimately claim payment the amounts will be paid to them in the same manner as ordinary revenue deposits. The officer should, as far as possible, arrange to make the payments due in or near the village to which the payees belong in order that the number of undisbursed sums to be placed in deposit on account of non-attendance may be reduced to a minimum. Whenever payment is claimed through a representative, whether before or after deposit of the amount awarded, such representative must

show legal authority for receiving the compensation on behalf of his principal.

Note:- There is no objection to the payment of the compensation by money order at the expense of the parties concerned if they apply for such form of payment and agree to bear the money order commission. In the case of petty payments no exceeding Rs.50 in each separate case, if the payees do not appear on the day fixed for payment of apply for a reference to the civil courts under section 18, the officer shall issue notices to them informing them that if they do not attend by a certain date the compensation awarded to them will be remitted by money order, the amount of the money order commission being deducted....."

15 It is also the submission of the learned Additional Advocate General that rules are in the nature of subordinate legislation and statutory in character and as such, the revenue deposit is a valid deposit and therefore, section 24 [2] of the Right to Fair Compensation Act, would not come to the aid of the 1st respondent herein / writ petitioner. It is also contended by the learned Additional Advocate General that the claim of the 1st respondent / writ petitioner is hit by delay and laches and on that ground also, he is not entitled to any relief and placed reliance upon the judgment reported in 2017 [1] CWC 100 [A.Ayyavu [died] 1.Mari 2.Lakshmi 3.Palanisamy 4.Revathy V. The State of Tamil Nadu rep.by its Revenue Secretary, Secretariat, Chennai-9 and others].

16 Per contra, Mr.R.Gandhi, learned Senior Counsel appearing for the 1st respondent / writ petitioner has placed reliance upon the leading judgment of the Three Judges Bench of the Hon'ble Supreme Court of India reported in 2014 [1] CTC 755 [SC] [Pune Municipal Corporation and Another V. Harakchand Misirimal Solanki and Others] which has been referred to and followed in its yet another decision reported in 2016 [16] SCC 258 [Delhi Development Authority V. Sukhbir Singh and others].

17 The Hon'ble Supreme Court of India in Pune Municipal Corporation case [cited supra], had gone into the issue regarding the revenue deposit and after taking note of the sections 31, 32, 33 and 34 of the Central Act 1 of 1894 [Old Act], has observed in paragraphs No.19 and 20 as follows:-

"19 Now, this is admitted position that award was made on 31.01.2008. Notices were issued to the landowners to receive the compensation and since they did not receive the compensation, the amount (Rs.27 crores) was

deposited in the government treasury. Can it be said that deposit of the amount of compensation in the government treasury is equivalent to the amount of compensation paid to the landowners/persons interested? We do not think so. In a comparatively recent decision, this Court in Agnello Santimano Fernandes and Ors Vs. State of Goa and Anr, 2011 [11] SCC 506, relying upon the earlier decision in Prem Nath Kapur Vs. National Fertilizers Corpn. Of India Ltd., 1996 [2] SCC 71, has held that the deposit of the amount of the compensation in the state's revenue account is of no avail and the liability of the state to pay interest subsists till the amount has not been deposited in court.

20 From the above, it is clear that the award pertaining to the subject land has been made by the Special Land Acquisition Officer more than five years prior to the commencement of the 2013 Act. It is also admitted position that compensation so awarded has neither been paid to the landowners/persons interested nor deposited in the court. The deposit of compensation amount in the government treasury is of no avail and cannot be held to be equivalent to compensation paid to the landowners/persons interested. We have, therefore, no hesitation in holding that the subject land acquisition proceedings shall be deemed to have lapsed under Section 24(2) of the 2013 Act."

18 In the decision reported in 2016 [16] SCC 258 [cited supra], the Apex Court re-visited the question of correct construction of Section 24[2] of the Right to Fair Compensation Act, 2013, by following the ratio laid down in Pune Municipal Corporation's case and observed in paragraphs No.9 and 13 as follows:-

"9 The scheme of the Land Acquisition Act, in so far as the making of award and the payment of compensation to persons interested, is as follows. On the day fixed, the Collector after the inquiry that is contemplated under Section 11, has to make an award which must contain the necessary ingredients mentioned in Section 11. As soon as the award is made, under Section 12 (2) of the Act, the Collector is to give immediate notice of the award to such of the persons interested as are not present

personally. This provision, when read with Section 31 of the Act, makes it clear that the statutory scheme is that the Collector is to tender payment of compensation awarded by him to the persons who are interested and entitled thereto, according to the award, on the date of making the award itself. It is therefore, clear that under the statutory scheme, the Collector must be armed with the amount of compensation payable to persons interested as soon as the award is made. Such persons have to be paid the sum mentioned in the award, it being well settled that the award is only an offer which may be accepted or rejected by the claimants. If accepted, whether under protest or otherwise, it is the duty of the Collector to make payment as soon as possible after making the award. It is only in a situation where the persons interested refuse consent to receive monies payable, or there be no person competent to alienate the land, or if there be any dispute as to title to receive compensation or its apportionment, is the Collector to deposit the amount of compensation in the reference court. It is only after these steps have been taken that the Collector may take possession of the land, which shall thereupon vest absolutely in the Government free from all encumbrances. The Act further makes it clear, on a reading of Section 34, that where such compensation is neither paid or deposited on or before taking possession of the land, interest is payable at the rate of 9 per cent per annum for one year and 15 per cent per annum thereafter. This is because a person becomes divested of both possession and title to his property without compensation having been paid or deposited, as the case may be. This statutory scheme has been adverted to in some of the decisions of this Court.

9.1 In *New Riviera Coop. Housing Society v. Special Land Acquisition Officer*, (1996) 1 SCC 731 at para 3, this Court held:

"...Once the award has been made and compensation has been deposited or paid under Section 31 of the Act, the Land Acquisition Officer is entitled to take possession and the possession thereby taken stands vested in the State under Section 16 of the Act free from all encumbrances..."

9.2 In *Sunder v. Union of India*, (2001) 7 SCC 211 at para 24, this Court held:

"... What the legislature intended was to make the aggregate amount under Section 23 of the Act to reach the hands of the person as and when the award is passed, at any rate as soon as he is deprived of the possession of his land. Any delay in making payment of the said sum should enable the party to have interest on the said sum until he receives the payment. Splitting up the compensation into different components for the purpose of payment of interest under Section 34 was not in the contemplation of the legislature when that section was framed or enacted."

9.3 In *Bangalore Development Authority v. R. Hanumaiah*, (2005) 12 SCC 508 at para 47, this Court held:

"41...Section 31 contemplates that on making of an award under Section 11 the Collector shall tender amount of compensation awarded by him to the person interested and entitled thereto according to the award and shall pay to them unless prevented by any one or more of the contingencies mentioned in the subsequent clauses. None of those contingencies arose in the present case. Thus, once the amount was tendered and paid the acquisition process was complete. After making the award under Section 11 the Collector can take possession of the land under Section 16 which shall thereupon vest absolutely in the Government free from all encumbrances. In the instant case, after making the payment in terms of the award, possession was taken. The acquisition process stood completed....

.....

13 The picture that therefore emerges on a reading of Section 24(2) is that the State has no business to expropriate from a citizen his property if an award has been made and the necessary steps to complete acquisition have not been taken for a period of five years or more. These steps include the taking of physical possession of land and payment of compensation.

What the legislature is in effect telling the executive is that they ought to have put their house in order and completed the acquisition proceedings within a reasonable time after pronouncement of award. Not having done so even after a leeway of five years is given, would cross the limits of legislative tolerance, after which the whole proceeding would be deemed to have lapsed. It is important to notice that the Section gets attracted if the acquisition proceeding is not completed within five years after pronouncement of the award. This may happen either because physical possession of the land has not been taken or because compensation has not been paid, within the said period of five years. A faint submission to the effect that 'or' should be read as 'and' must be turned down for two reasons. The plain natural meaning of the sub-section does not lead to any absurdity for us to replace language advisedly used by the Legislature. Secondly, the object of the Act, and Section 24 in particular, is that in case an award has been made for five years or more, possession ought to have been taken within this period, or else it is statutorily presumed that the balance between the citizen's right to retain his own property and the right of the State to expropriate it for a public purpose gets so disturbed as to make the acquisition proceedings lapse. Alternatively, if compensation has not been paid within this period, it is also statutorily presumed that the aforesaid balance gets disturbed so as to free such property from acquisition."

19 In the decision reported in 2016 [2] MWN [Civil] 773 [SC] [Vijay Latka and Another V. State of Haryana and Others], the Hon'ble Apex Court, after taking note of the fact of the claim made under section 24[2] of the Right to Fair Compensation Act, 2013, has observed as follows:-

"5 Under section 24[2] of the 2013 Act, where an Award under section 11 of the 1894 Act has been passed and in case Compensation has not been paid to the Landowner or deposited before the Court in terms of the requirements under the 1894 Act, the Acquisition Proceedings get lapsed. In case Compensation has not been paid, the Land Acquisition proceedings in respect of that acquisition will stand lapsed, as if there is no acquisition.

6 The contention of the learned counsel appearing for the respondents is that whoever approached the Haryana Urban Development Authority or the Competent Authority has been paid Compensation and since the Appellants failed to approach the quarters concerned for the Compensation, they cannot be granted any relief. We find this contention difficult to appreciate. When a land is compulsorily acquired, it is for the Requisitioning Authority to make the payment and does not require the Landowner to come and receive the payment.

7 As and when land is taken over by way of acquisition, the landowner has to be compensated with the amount of compensate duly determined under the Act. In case there is any dispute as to who is to be paid the amount, the same is to be deposited in Court in terms of Section 31 of the 1894 Act. In this case before us, the stand of the Requisitioning Authority, namely, Haryana Development Authority is that the money is ready with them and if permissible under the law. It is for the Authorities concerned to pay the money and take the land and in case there is any dispute as to whom the money should be paid, then the same has to be deposited in Court."

20 It is also the submission of the learned Additional Advocate General that admittedly, the 1st respondent / writ petitioner is a subsequent purchaser and as such, he is not entitled to invoke section 24[2] of the Right to Fair Compensation Act, 2013 and also in the light of the dismissal of his earlier writ petition in WP.No.9303/1986 on 26.09.1995.

21 In the decision reported in 2017 [3] CTC 740 [SC] [Government of NCT of Delhi's case] cited supra, the locus standi of the subsequent purchaser to invoke the provisions of section 24[2] of the Right to Fair Compensation Act, 2013, for declaring the land acquisition proceedings deemed to be lapsed, came up for consideration and after taking note of various decisions, the Apex Court, in paragraph No.29, has held that:-

"29 Thus, the Subsequent Purchaser, the Assignee, the Successor-in-interest, the Power of Attorney, etc., are all persons, who are interested in Compensation / Land Owners / affected persons in terms of the 2013 Act and such persons are entitled to file a case for a Declaration that the land Acquisition

Proceedings have lapsed by virtue of operation of section 24[2] of the 2013 Act. It is a Declaration qua the land wherein indisputably they have an interest and they are affected by such acquisition. For such a Declaration, it cannot be said that the respondents / writ petitioners do not have any locus standi."

22 The following propositions emerge from the above cited decisions:-

[i] The deposit of compensation in revenue deposit would not absolve the concerned authorities as to the mandate cast upon them as to the deposit of the compensation, not beyond five years or more prior to the commencement of the 2013 Act and as per the decision in Pune Municipal Corporation case [cited supra], the legal fixation under section 24[2] will come into operation as soon as the condition stated therein, are satisfied.

[ii] The subsequent purchasers are also entitled to seek for a declaration of lapse of proceedings in the light of the above said provision and in the light of the ratio laid down by the Hon'ble Apex Court Government of NCT of Delhi's case [cited supra].

23 Admittedly, the compensation amount of Rs.21,739.20p., awarded by the Land Acquisition Officer vide Award dated 01.09.1987 in Award No.2/1987 was kept in the revenue deposit for over five years and the letter of the Special Tahsildar, Land Acquisition, Unit-III, TNHB, Chennai-35 dated 27.01.2017 addressed to the Assistant Secretary, [Land Acquisition] of the said Board also vouches the said fact. No doubt, the the rules framed under section 55 of the Land Acquisition Act, enable them to make such a deposit in the treasury in the event of the failure of the claimant to appear.

24 The Hon'ble Supreme Court of India in paragraph No.13 of the decision in Delhi Development Authority case [cited supra] has observed that " the State has no business to expropriate from a citizen his property if an award has been made and the necessary steps to complete acquisition have not been taken for a period of five years or more. These steps include the taking of physical possession of land and payment of compensation.....Not having done so even after a leeway of five years is given, would cross the limits of legislative tolerance, after which the whole proceeding would be deemed to have lapsed." It is to be noted at this juncture that though the Reference Court has enhanced the compensation, then only, the appellant / TNHB woken up and addressed the communication dated 27.01.2017 as to the fact of the Award amount deposited in the revenue deposit with a further prayer to re-calculate the

compensation amount in the light of the order of the Reference Court.

25 Admittedly, the amount of compensation awarded by the Land Acquisition Officer, continues to be in the revenue deposit and though it is contended on behalf of the appellant / 3rd respondent in the writ petition that they being the Requisitioning Body is not aware of the said Act on the part of the 2nd respondent in WP.No.30676/2015, this Court is of the view that the said submission / point urged would not come to their aid for the reason that as per the statutory mandate under the provisions of the New Act, obligation is cast upon the authority concerned to deposit the compensation amount awarded in the light of sections 31, 32 and 33 of the Old Act, 1894 and admittedly, it has not been done, which would result in deemed lapse of the Land Acquisition Proceedings. The Learned Judge in the impugned order, had taken note of the factual aspect and legal position and rightly reached the conclusion as to the non-deposit of the enhanced compensation and also the non-availability of proof even with regard to the deposit of the enhanced compensation with the City Civil Court as per section 31[2] of the Right to Fair Compensation Act, 2013.

26 There is no infirmity or perversity attached to the said finding and therefore, this Court is of the considered view that no interference is warranted in the impugned order.

27 In the result, the writ appeal is dismissed and the order dated 29.10.2015 made in WP.No.30676/2015 is hereby confirmed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

AP
To

1. The Executive Engineer
Tamil Nadu Housing Board
No.493, Anna Salai,
Nandanam, Chennai-600035.
2. The Secretary to Government
Government of Tamilnadu
Housing and Urban Development
Department, Fort St George
Chennai 600 009.

3. The Land Acquisition Officer and
Special Tahsildar [L.A] Unit-III
Tamil Nadu Housing Board Scheme
Chennai 600035.

+ 1 cc to Mr.V.Anandhamurthy, Advocate,SR.59619

+ 1 cc to Mr.R.G.Narendiran, Advocate,SR.59202

WA.No.1671/2016

KJ (CO)
NR 15/09/2017



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