

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.Nos.37498 to 37501, 43809 to 43813 of 2016,
W.P.Nos.1661 to 1665 of 2017, W.P.No.6223 of 2017,
W.P.No.1730 of 2017

and

W.M.P.Nos.32124, 32125, 32127, 32128, 32130, 32131, 32133, 32134,
37615, 37616, 37618, 37619, 37621, 37622, 37623, 37624, 37625,
37627, 37628 of 2016, WMP.Nos.5012 to 5016 of 2017, WMP.Nos.1631
to 1640 of 2017, WMP.Nos.6718, 6719 of 2017 &
WMP.Nos.1696 to 1698 of 2017

1.G.Srinivasan

2.N.S.Surendran

3.B.Viswanathan

4.Nilakant. Narayanan

... Petitioners 1 to 4 in W.P.No.37498 of 2016

5.C.S.Rangavittalan ... Sole Petitioner in W.P.No.37499 of 2016

6.S.Ekambaram

7.E.Sengutuvan

8.Pramila Hari

9.Sankar

... Petitioners 1 to 4 in W.P.No.37500 of 2016

10.S.Venkateshwaran ... Sole Petitioner in W.P.No.37501 of 2016

11.Lalitha ... Sole Petitioner in W.P.No.43809 of 2016

12.K.Velusamy ... Sole Petitioner in W.P.No.43810 of 2016

13.K.Ethirajan ... Sole Petitioner in W.P.No.43811 of 2016

14.K.Ramasundaram ... Sole Petitioner in W.P.No.43812 of 2016

15.D.Shivakumaran ... Sole Petitioner in W.P.No.43813 of 2016

16.Mr.G.Ezhilarasan ... Sole Petitioner in W.P.No.1661 of 2017

17.C.Kasturi ... Sole Petitioner in W.P.No.1662 of 2017

18.P.Gnanasigamany ... Sole Petitioner in W.P.No.1663 of 2017

19.P.Durairaj ... Sole Petitioner in W.P.No.1664 of 2017

20.A.Madhivannan ... Sole Petitioner in W.P.No.1665 of 2017

21.M.Shalini

22.Minor M.Sharan

(Represented by her mother and Natural Guardian Mrs.M.Revathy)

... Petitioners 1 &2 in W.P.No.6223 of 2017

23. Mrs.A.Leena Immaculate

... Sole Petitioner in W.P.No.1730 of 2017

Vs

1. The Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai-600 009.

2. The District Collector,
Kancheepuram District,
Kanchipuram.

3. The Special Tahsildar (Land Acquisition)
Mass Rapid Transit System,
Phase II Extension
Thirumayilai Railway Station,
Mylapore,
Chennai-600 004.

4. The Deputy Chief Engineer-I,
Metropolitan Transport Project (Railway 1),
Southern Railway,
Chennai-4.

... Respondents in all the W.Ps.

Prayer in W.P.Nos.37498 to 37501 of 2016, W.P.No.1730 of 2017 :-
These Writ Petitions filed under Article 226 of the Constitution
of India, praying to issue a Writ of Certiorari to call for the
records pertaining to the impugned award passed by the 2nd & 3rd
respondent in Order No.1/16, dated 20.09.2016, and the
consequent intimation letter issued by the 3rd respondent in
Na.Ka.2/2011/A, dated 20.09.2016 and quash the same.

Prayer in W.P.Nos.43809 to 43813 of 2016:- These Writ Petitions
filed under Article 226 of the Constitution of India, praying to
issue a Writ of Certiorari to call for the entire records in
the impugned award No.1/16, dated 20.09.2016 passed by the third
respondent and the consequent intimation letter in
Na.Ka.2/2011/A, dated 20.09.2016 passed by the third respondent
and quash the same.

Prayer in W.P.Nos.1661 to 1665 of 2017:-These Writ Petitions
filed under Article 226 of the Constitution of India, praying to
issue a Writ of Certiorarified Mandamus to call for the entire
records in connection with the impugned Interim Award No.1/2016
of the third respondent dated 20.09.2016 and quash the same and
consequently direct the respondents to fix the market value at
Rs.9,000/- per sq.ft. along with other statutory benefits like
solatium, additional compensation, interest etc.,

Prayer in W.P.No.6223 of 2017 :- This Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records pertaining to the impugned award passed by the third respondent in No.1/16 dated 20.09.2016 (Na.Ka.2/2011/A, dated 20.09.2016) and quash the same.

For Petitioners :Mr. T.R.Rajagopal, Senior Counsel
(in WP.Nos.37498 to Assisted by Mr.A.E.Ravichandran
37501 of 2016)

For Petitioners :Mr.D.Shivakumaran
(in WP.Nos.43809 to
43813 of 2016)

For Petitioners :Mr.M.Venkatachalapathy, Sr. Counsel
(in WP.No.1661 to Assisted by Mr.Ashwin Premsundar
1665 of 2017)

For Petitioner : Mr.M.Narayanaswamy
(in WP.No.6223 of 2017)

For Petitioners : Mr. T.R.Rajagopal, Senior Counsel
(in WP.No.1730 of 2017) Assisted by Mr.A.E.Ravichandran

For Respondents : Mr.P.H.Arvind Pandian
(in all cases) Additional Advocate General
Assisted by Mr.Akhil Akbar Ali
Government Advocate, [R1 to R3]
Mr.P.T.Ramkumar [for R4]

ORDER

This order has two parts, but the division is more an artificiality since the second part is essentially a continuation of the first. What separates them is an attempt at mediated settlement and the second part became necessary as the mediation is reported to have failed. And, the order will not be complete unless the contents of the Order of this Court dated 04-10-2018, up to the point of issuing specific directions outlining the parameters for settlement talks, also forms part to this Order to provide continuity. Accordingly, Part I contains paragraphs 1 to 10, lifted straight from the Order dated 04-10-2018, and the rest constitutes Part II.

Part I

1.1 What is in challenge in this batch of cases is the land acquisition proceedings for MRTS Phase-II Extension Project from

Velacherry to St.Thomas Mount covering a distance of about 5 km. About 98% of the work covering a distance of 4.5 km. is stated to have been completed, and what remains to be completed is about 0.5 km. which involved acquisition of private lands, and this forms the subject matter of this proceedings.

1.2 This controversy is not unfamiliar to this Court, nor are the petitioners new visitors in its corridors. And, it must be recorded that the anxiety of the petitioners to save their lands from acquisition has met its match in the attitude of the respondents, which ranged anywhere from being lackadaisical to being indifferent, if the sporadic acts of seriousness in taking the project forward is ignored. The result: A dispute that ought to have concluded at least three years ago has become a nursery for litigations. Strong lines they may be for opening an Order, but this Court considers them as essentially just.

2. Factually, the litigants/petitioners here travel on the same track for a substantial distance, and towards the end, they branch out. There are in effect three batch of petitioners, and all their lands are involved in the same acquisition proceedings. And, this is the fourth round of litigation in which they are involved in. In this batch of cases they chiefly challenge the acquisition proceedings on the ground that they have all been statutorily lapsed. The difference between them however, is unrelated to this common ground of challenge but on the point of taking possession of their properties, or they participating in the enquiry preceding the passing of the awards. This may be tabulated:

W.P. Nos.	If possession taken ? = Yes x = No	Participation in the Award enquiry* ? = Yes x = No
W.P. 1661 of 2017 to W.P. 1665 of 2017	?	x
W.P. 43809 of 2016 to W.P. 43813 of 2016	x	?
W.P. 37498 of 2016 to W.P. 37501 of 2016 WP. 6223 of 2017 & WP. 1730 of 2017	x	x

*The reasons for non participation is stated in the narration below

THE SETTING

3. The facts on the basis of which the petitioners project a cause for their respective actions presently is founded on another sequence of facts. They may now be stated:

- The State of Tamil Nadu conceived a plan to de-congest the road traffic in Chennai, and thus came into existence the Mass Rapid Transit System (MRTS). It was originally intended to be done in four phases. The first phase between Chennai Beach to Thirumayilai covering a distance of 8.55 kms. It was commissioned in 1983 and completed in the year 1997. The Phase-II of the project was to cover a distance of 11.75 kms. from Thirumayilai to Velacherry. The original scheme was conceived Vide G.O.Ms.343, Housing and Urban Development [UD3(2)] Department dated 20.12.2006. In due course, the alignment as envisaged in G.O.Ms.343 Housing and Urban Development [UD3(2)] Department, was amended and a fresh notification in G.O.Ms.274, Housing and Urban Development [UD3(2)] Department dated 29.11.2010 came to be issued. And, Vide G.O.Ms.14 Housing and Urban Development Department dated 14.1.2008, administrative sanction too was accorded. This was followed by the Government issuing a notification for the compulsory acquisition of land under the emergent provisions provided in Section 17 (1) read with Section 4(1) of the Land Acquisition Act 1894.
- One Ekambaram (the first petitioner in W.P.37500 of 2016) and 10 others challenged this notification in W.P.No.4794 of 2011. On 03.7.2012, this petition came to be dismissed. Thereafter, the Government came up with a declaration under Section 6 of the Land Acquisition Act, 1894.
- Even as this declaration was issued, the petitioners in W.P.4794 of 2011 had preferred an appeal in W.A.1548 of 2012. This appeal was taken up by this court along with a batch of writ petitions challenging G.O.Ms.No.34, Housing and Urban Development Department (UD3(2), dated 11.02.2011 and G.O.Ms.274, Housing and Urban Development [UD3(2)] Department dated 29.11.2010 and with a consequential direction for implementing the project as per the original G.O.Ms.343, Housing and Urban Development [UD3(2)] Department dated 20.12.2006. On 09.4.2014, this batch of cases came to be dismissed.
- Subsequently, the Land Acquisition Authority issued a notice dated 28.04.2014 under Section 9(3) and 10 of the Land Acquisition Act, 1894 requiring the petitioners to participate in an enquiry for quantifying the compensation

payable and for passing the award. By then, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act, 30/2013) (henceforth will be referred to as "Right to Fair Compensation Act") had come into operation from 01-01-2014. In other words, notices under Sec.9(3) and 9(4) of Land Acquisition Act, 1894, were issued after the repeal of the very Act under which notices were issued. The Land Acquisition Authority's decision to invoke the provisions of Land Acquisition Act, 1894, had its basis in G.O.(Ms.) No.88, Revenue [LA-I(1)] Department, dated 21.02.2014. This was again challenged in W.P.No.27550 to 27553/2014 & connected batch of cases, on the ground that, after the commencement of the Right to fair Compensation Act, it is not permissible for the Land Acquisition Authority to invoke the provisions of the erstwhile Land Acquisition Act, 1894, or to determine the compensation as per its provisions. This Court, in that batch of cases, upheld the contentions of the petitioners. Vide its order dated 05.08.2015, allowed the writ petitions, set aside/quashed all the interim awards dated 15-09-2014, and directed the Land Acquisition Authority to follow the provisions of Right to Fair Compensation Act. This Court held:

" 31. The Special Tahsildar (Land Acquisition), MRTS Phase-II Extension, Chennai - 600 004, has passed the draft/interim award dated 15.09.2014 and while arriving at the quantum of interim compensation, the Special Tahsildar adopted the provisions of the old Act and for that purpose, has relied upon G.O.(Ms) No.88, Revenue [LA-I (1)] dated 21.02.2014, which he/she is under mandate to follow. Para 3(i) of the said Government Order would state among other things that the interim compensation should be determined based on the procedures already in vogue subject to additional compensation being paid as per the Right to Fair Compensation Act (new Act). In the considered opinion of the Court, in terms of Section 114(2) of the new Act, land acquisition proceedings already initiated under the old Act by invoking emergency provision is saved and admittedly, no award under Section 11 of the Act has been passed and the new Act came into force on 01.01.2014. Before taking possession, the Collector including Deputy Collector and any other officer specially designated by the Government to perform the functions of the Collector defined under section 3 (g) of the new Act, is bound to follow Section 40(3) of

the new Act and thereafter, he is under mandate to follow Section 40(5) and other provisions relating to rehabilitation and resettlement."

- The direction of the Court made little impact in the approach of the Land Acquisition Authorities as they issued a fresh notice dated 29.01.2016, again under Section 9(3) and 10 of the Land Acquisition Act, 1894, individually to all the petitioners. This had led to the filing W.P.Nos.5450 to 5453 of 2016, by a set of litigants, who were either parties to W.A.No.1548 of 2012 batch of cases, or to W.P.No.27550 to 27553 of 2014 batch of cases, or both. The petitioners also gave their representations to the respondents on the same. Needless to mention, these petitions came to be disposed of by an Order of this Court dated 16.03.2016 permitting the respondents to withdraw the impugned notice challenged therein within a period of ten days and to issue fresh notice.
- Thereafter, on 10-08-2016, a fresh notice was issued fixing the date of enquiry for determining compensation at 4.30 p.m. on 30-08-2016 at Kancheepuram. On 18-08-2016, some of the petitioners in the present batch of petitions gave a representation to the Land Acquisition Authority, wherein they took an objection to the venue, and have requested that it be shifted to Chennai, from where the Land Acquisition authority has been hither to operating. Even as the petitioners were expecting some response to this request, they received a communication informing them of passing of the Award 1/2016 on 20-09-2016.
- An aspect that requires some emphasis here is that, in the earlier interim award dated 15-09-2014, which came to be quashed by the order of this Court on 05-08-2015 in the W.P.Nos.27550 to 27553 of 2014 & connected batch of cases (on the ground that the notices issued for passing the award were given under the repealed Act), the compensation awarded was higher. In those awards, compensation was determined on a market value fixed at Rs.2,273 per sq. ft., whereas in the awards now passed on 20-09-2016, the market price of the property acquired was fixed at Rs.1,912 per sq.ft.

4. The arguments for the petitioners are founded on two core points:

- As per Sec.25 of the Right to Fair Compensation Act, an award should be passed within twelve months from the date of declaration of Sec.19 of the Act, and if this time-limit is not kept, then the entire acquisition proceedings would lapse. This Court, Vide its order dated 09-04-2014 in W.A.1548 of 2012 and connected batch of cases had

dismissed the objection raised by the petitioners herein, and had upheld the acquisition. In the context of Sec.25 of the Right to Fair Compensation Act, terminus quo for computing the limitation of twelve months must be reckoned at least from this date. However, the authorities faulted, or rather blundered twice in serving notices under the old Act, before they issued a valid notice on 10-08-2016. The land Acquisition Authority seems to have set his own clock to perform his statutory duty after blindfolding himself to the time-schedule that the statute provides, but that cannot deny the petitioners of the advantage that has accrued to them by such default of the authority. If the Acquisition proceedings have lapsed, they have just lapsed, and that cannot be revived, as limitation for passing the award stops not to accommodate administrative lapses.

- Secondly, there are two awards passed in these acquisition proceedings, of which one was dated 15-09-2014, which, though came to be quashed on a point of law, yet so far as the valuation of the property for the purpose of quantifying the compensation amount is concerned, the market price fixed there was higher than the one now fixed in the Awards dated 20-09-2016. And, both these awards were passed post commencement of the Right to Fair Compensation Act. This shows that the compensation has been arbitrarily determined now.

5.1 In defence, Mr.P.H.Arvind Pandian, learned Additional Advocate General, emphasised the importance of the project and that inasmuch as the award has been passed, the remedy open to the landowners is to resort to the one provided under Sec.64 of the Right to Fair Compensation Act. He argued that Sec.24(1)(a) of the the Right to fair Compensation Act, is the sole repository of the procedure for determining the compensation payable where awards have not been passed under the Old Act, and this provision does not stipulate a specific time-line for passing an award such as the one stipulated in Sec.25 of the said Act. Concomitantly, all the provisions of the Right to Fair Compensation Act cannot be read into Sec.24(1)(a). Necessarily, Sec.25 of the Right to Fair Compensation Act will have applicability only to those cases where Sec.19 of the Act applies, since the declaration contemplated in the second mentioned provision will also include declaration on rehabilitation and resettlement, which is alien to the declaration under Sec.6 of the Old Act. Alternatively, he argued that the pendency of successive writ proceedings should not be ignored, which in a sense have halted the proceedings, and time for limitation must therefore be reckoned only from the date of disposal of the last batch of writ petitions on 16.03.2016.

5.2 So far as the discrepancy in fixing the market value is concerned, the learned Additional Advocate General would submit that at the time when the earlier award was passed, necessary Rules have not been framed, but the same have now been made Vide G.O.Ms.298, Revenue & Disaster Management (LA-I(1)), dated 20-09-2017, and fairly stated that the petitioners would be entitled to be benefited in terms of it.

6. This Court views the entire scenario with considerable anguish and exacerbation. Here is a beneficial project in which thousands crores of public money is invested. And, how have the respondents understood their responsibility? True, there is an initial hurdle when the petitioners herein had approached this court, challenging the very acquisition, but that was removed, when this Court disposed of W.A.1548 of 2012 batch on 09-04-2014. Effectively, the path was cleared on that day, and the respondents had ample opportunities to foreclose an argument founded on Sec.25 of the Right to Fair Compensation Act, as per which an acquisition proceeding would lapse if an award has not been passed within twelve months from the date of the commencement of the proceedings. The authorities faltered, not once but twice, in resorting to the provisions of (by then) the repealed Act of the Land Acquisition Act, 1894. Did they not know that the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, had come into operation on 01-01-2014? Did they not know that Sec.24(1)(a) of the said Act provides that in all cases where awards have not been passed under the old Act, awards should be passed under the Right to Fair Compensation Act? It is now not so much about whether they knew it or not, for the operation of the statute does not depend on the knowledge of the authorities about the statute. They ought to know, and therefore, they should know. There is in display an utter lack of professionalism in ignoring a critical factor that directly affects the discharge of statutory responsibility, namely the commencement of the Right to Fair Compensation Act. What puzzles this Court is, why, despite this Court's direction to issue notices under the Right to Fair Compensation Act in its order in the W.P.27550 to 27553 of 2014 & connected batch, notices were again wrongly issued under the Old Act. It should not be forgotten, which this Court was informed during the arguments, that there would be an annual cost escalation of about 5% to 6% for every year's delay in concluding the project? Who pays this differential cost occurred due to such escalation? Aren't We, the People of this country pay? And, are we not called upon to pay for the lapses of the unprofessional authorities?

7. The arguments advanced on the core point leads this Court to an interpretative quagmire, and not towards an ultimate solution where peace may come to inhabit. Any interpretation of law, invariably becomes an invitation to further litigations, which does not augur well for the legal system. No matter, how many times the petitioners might have approached the Courts to litigate, no matter the number of times the authorities may have passed awards, ultimately the legal system is only attending to the issues arising out of a single land acquisition, involving the same property and the same set of litigants. Should not the legal system be relieved of the same subject, appearing in multiple forms in different points of time? Should not the countrymen be redeemed of their hopelessness of expecting return on their investment?

8. It became evident that many among the petitioners have reconciled to the idea that the acquisition proceedings cannot be averted or avoided, even if they were to taste success in the ongoing proceedings. This implied that the contentious point could only be the quantum of compensation. This was aided by the fact that the same respondent has passed two different awards at two different points of time, but based on two different market prices. And the respondents have made a fair statement that reducing the market value of the property from the earlier Rs.2,273/- per sq.ft. to the present Rs.1,912/- per sq.ft. requires a re-look, but were seen agreeable to grant to the petitioners such benefits that they would be statutorily entitled.

9. This Court therefore enquired the learned Additional Advocate General, if it would be feasible for evolving a method within the frame work of the Right to Fair Compensation Act, for addressing what this Court considers as an extraordinary situation. After all, the first option the statute itself recommends is a negotiated settlement on the compensation payable. This Court, in the best of interest of the parties, and in the larger interest of the public, which is waiting for the return on their investments in the project and is possibly getting tired of the Court proceedings, suggested that the parties might negotiate and arrive at a consensually determinable compensation amount. It organised a couple of meetings between them to build mutual confidence and prepare grounds for the said process, and all parties, more particularly the respondents, showed adequate enthusiasm.

10. The learned Advocate General submitted that the respondents after a careful study of the situation, but without conceding their contentions on the merit of the case, have constituted a

three member Committee comprising of (a) The Member Secretary, CMDA, (b) The Chief Engineer/Construction/Central/Chennai Egmore, Southern Railway, and (c) The District Collector, Chennai District, for holding negotiation. This Court was informed by the learned Additional Advocate General that the amount as per the award now stands, has been deposited, that there has been a request to the petitioners to accept the same for the present, without reference to the actual compensation to be negotiated and determined, and to surrender possession of the property, since there is an abject urgency to expedite the completion of the project. He also indicated that this is a sort of pre-condition for the negotiation as the Govt. wanted the petitioners to appreciate the significance of the project. On verification by this Court, the petitioners in W.P.Nos.1661 to 1665 of 2017, whose property have already been taken possession of, have agreed to participate in the negotiations. The petitioners in W.P.43809 to 43813 of 2016, possession of whose property is yet to be taken, too have agreed to surrender possession and participate in the negotiation without forfeiting any of their rights to obtain compensation higher than the one now in deposit or their contentions in their writ petitions. One of the petitioners in the former batch required the authorities to consider acquiring his entire property, but this too can be a point that may well be negotiated. The petitioners in the remaining batch of writ petitions (W.P.37498 to 37501 of 2016, W.P.6223 of 2017 and WP.1730 of 2017) however, expressed their intentions not to participate in the proposed negotiations.

PART II

11. On 04-10-2018, the direction for negotiated settlement was passed with a direction to post the case on 12-12-2018. On 12-12-2018, this Court was informed that the attempt at negotiated settlement on the compensation payable has failed.

12. The issues would now be approached on the foundation of those facts on which petitioners have found their cause of action. There are in essence two issues: (a) Has the acquisition lapsed for not passing the award within one year under the Right to Fair Compensation Act; (b) Were the petitioners in all the petitions except in W.P.43809 of 2016 to 43813 of 2016 denied a fair right of hearing before passing the award?

13. To revisit the fact briefly, it must be said that, had W.A.1548 of 2012 been disposed of before the commencement of the Right to Rehabilitation Act, there is a great possibility the award would have been passed only under the old Act. Now, it is the pendency of the writ proceedings or rather the writ appeals challenging the declaration under Sec.6 of the Land Acquisition Act, 1894, has created a circumstance for the

petitioners to take advantage of the Right to Fair Compensation Act. However, has it led to a situation where the petitioners could now plead that the acquisition itself has lapsed?

14. Let the basic premise be understood: Sec.24 of the Right to Fair Compensation Act is a transitory provision that aims to provide continuity to the acquisition proceedings initiated under the Land Acquisition Act, 1894, but in a limited circumstances which the Parliament has considered necessary. The provision reads:

24. Land acquisition process under Act 1 of 1894 shall be deemed to have lapsed in certain cases :

(1) Notwithstanding anything contained in this Act, in any case of land acquisition, land proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), -

(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation, rehabilitation and resettlement shall apply; or

(b) where an award under said section 11 has been made, then, such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act, but the physical possession of the land has not been taken or the compensation has not been paid, the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act.

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under Section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act."

In the backdrop of Sec.24, there are three situations, where an acquisition proceedings can lapse. First, under Sec.11-A of the Land Acquisition Act, 1894, where an award was not passed within two years from the date of the declaration under Sec.6 of the said Act. Second, under Sec.25, of the Right to Fair Compensation Act, where an award is not passed within a year from the date of declaration under Sec.19 of the said Act. The third situation is under Sec.24(2) of the Right to Fair Compensation Act, where the awards have been passed more than five years next before the commencement of the Right to Fair Compensation Act, but neither the award amount has been deposited, nor possession of the property acquired is taken, .

15.1 The case at hand does not fall under the third of the three situations indicated above, and it is obvious. Will it be attracted by the second situation: Under Sec.25 of the Act? It cannot be, for three reasons:

(i) The acquisition proceedings have not commenced under the Right to Fair Compensation Act in order Sec.25 thereof could have an automated application. The Parliament in its collective wisdom has made Sec.25 applicable specifically with reference to the date of declaration under Sec.19. It has not even suggestively indicated that the court can fix a date at random to reckon the terminus quo for the clock to start ticking under Sec.25.

(ii) There is nothing in the Right to Fair Compensation Act, either expressly, or impliedly to indicate that in cases falling under Sec.24(1)(a) of the Act, Section 25 will apply.

(iii) The Right to Fair Compensation Act is silent as to the effect of time lost in litigation challenging any acquisition under the old Act.

Any period of limitation statutorily prescribed operates to clock-precision, and Court merely interprets where there arises an ambiguity. It, at no time intervenes to insert a clause in the statute for limitation to operate. That is not the job of the court. And, in all the circumstances where no time is prescribed for performing a statutory function, the rule of the thumb is that the same should be done within a reasonable time. And, the very content of the phrase 'reasonable time', is a variable, and no lapsing of an action can be pleaded when the time itself is variable.

15.2 This leaves the first of the three situation - lapsing of the acquisition proceedings for not passing the award within two years from the date of Sec.6 declaration in the Right to Fair Compensation regime for consideration. While the reasoning to

reject this point is the same as those stated in paragraph 14.1 above, the idea which the petitioners now canvass is set on a wrong premise, as it has chosen to ignore Sec.114 of the Right to Fair Compensation Act. The provision reads:

114. Repeal and Saving :

(1) The Land Acquisition Act, 1894 (1 of 1894) is hereby repealed.

(2) Save as otherwise provided in this Act, the repeal under sub-section (1) shall not be held to prejudice or affect the legal application of Section 6 of the General Clauses Act, 1897 (10 of 1897) with regard to the effect of repeals.

While repealing the Old Act, the Right to Fair Compensation Act has chosen to save only those proceedings under the Old Act that fall under Sec.24(1) of the Act, taken alongside the cases covered by the Proviso to sec.24 (In cases falling under the Proviso to Sec.24, the validity of the acquisition proceedings and the award passed under the old Act are not disturbed), and there is hardly any trace of a legislative intent to keep alive Sec.11-A of the Act after the repeal of the very enactment in which it appears under Sec.114 of the Right to Fair Compensation Act. Nor has the Right to Fair Compensation Act shown any indication to read Sec.11-A in itself, and that too by arbitrarily fixing terminus quo to the date of disposal of a pending litigation.

16. A conjoint reading Section 24 along with Sec.114 of the Right to Fair Compensation Act makes evident that the Parliament has intended to keep alive only the right to have an award passed under the Right to Fair Compensation Act in cases falling under Sec.24, but then it stops there. It does not proceed to stipulate the time limit within which an award in such cases should be passed. If two years period as provided in sec.11-A of the Old Act has to be read in the new Act, it would be an egregious attempt to keep alive a provision that the Right to Fair Compensation Act has repealed with no signs to save it under Sec.114.

17. While reading a statute, Courts have been forewarned not to read that which are not there in the statute. Seek clarity of statutory purpose and scope from within the words and phrases that the legislature has employed, Courts are constantly reminded. Court's proactive role in statutory interpretation is thus limited to ironing out the creases when statutory expressions, with their ordinary meaning, run tangential to the legislative object and produces absurd consequences. A legislative vacant space, if any, left in the statute is not always meant for the Courts to fill it up with its sense of

idealism, howsoever impressive they might be, but for it to utilise in exigences without striking discordance with the legislative scheme and purpose.

18. The three scenario in which acquisition proceedings can lapse operate in specific spheres, and by an interpretative exercise court should not read something that the Parliament has not intended. When acquisition lapses it nullifies all that have been hitherto done statutorily, and it cannot be lightly done. Unless the legislature has provided for lapsing of acquisition either expressly or by strong implication, Court should refrain from holding those that are statutorily done as lapsed. Court should not slip into any belief that it has the luxurious discretion left in it to do it.

19. In all situations, where a statutory time limit is not provided for performing a statutory act, as stated earlier, the rule of the thumb that Court readily looks to is 'the reasonable time'. This interpretative-filler seeps into statutory vacant space on time. Therefore, the issue now before this Court must be rephrased as to whether the awards now impugned have been passed within a reasonable time since the disposal of W.A.1598 of 2012 on 09-04-2014? In between, courts have stepped in W.P.27550 to 274553 of 2014 batch and W.P.5450 to 5453 of 2016, but the issue before the Court was on the correctness of the provision under which notice for passing the awards were issued. Notwithstanding the result of those proceedings, or any judicial delay in disposing them, it brings to focus the continuous keenness of the Land Acquisition authority to pass the awards. This Court is satisfied, that if the proceedings in W.P.27550 to 274553 of 2014 batch and W.P.5450 to 5453 of 2016, are kept aside, the awards are passed within a reasonable time. And, if an alternative view is taken that the awards are not passed within a reasonable time, still this Court, for the reasons already stated, cannot hold that the acquisition proceedings have lapsed.

20. This takes this Court to consider the last question, if right of hearing is not granted to all the petitioners except those in W.P.Nos.43809 of 2016 to 43813 of 2016. This, the Court considers as their own making. The Act does not grant the land owners any right to insist where the venue for holding the enquiry for passing the awards should be. If they fall into a false sense of belief that they have a right to stipulate a venue, the Court cannot aid them and sustain it. They have been granted an opportunity to participate in the enquiry, and they deny themselves the same by insisting on the choice of the venue of hearing, but that is the choice they unilaterally make. They have gambled on the statute, but this time, their optimism, perhaps founded on their earlier successes, appears to have deserted them, as their attitude reflects an over-ambitious

pursuit. Plainly, they appear to be keen to hold the entire project to ransom, and create causes out of their ingenuity to defeat the public purpose behind the project. Now, if they feel aggrieved by the inadequacy of the compensation now awarded, they are free to pursue the remedy available to them under Sec.64 of the Right to Fair Compensation Act.

21. In the result, this Court finds no merit in any of the above petitions filed by the petitioners and accordingly, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

ds

To:

1. The Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai-600 009.

2. The District Collector,
Kancheepuram District,
Kanchipuram.

3. The Special Tahsildar (Land Acquisition)
Mass Rapid Transit System,
Phase II Extension
Thirumayilai Railway Station,
Mylapore,
Chennai-600 004.

4. The Deputy Chief Engineer-I,
Metropolitan Transport Project (Railway 1),
Southern Railway, Chennai-4.

+1 CC to Govt. Pleader sr 89907.

+5 Ccs to Mr.D. Shivakumaran, Advocate sr 89854.

+5 Ccs to Mr.Sriram, Advocate sr 89635.

+1 CC to Mr.M. Narayanasamy, Advocate sr 89807.

+2 Ccs to Mr.P.T. Ramkumar, Advocate sr 89650.

+4 Ccs to Mr.A.E. Ravichandran, Advocate sr 89604.

W.P.Nos.37498 to 37501, 43809 to 43813 of 2016,

W.P.Nos.1661 to 1665 of 2017,

W.P.No.6223 of 2017 & W.P.No.1730 of 2017

RJI (CO)

SP(29/01/2019)