

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :25.02.2020
CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos. 29445 & 29446 of 2015
and W.P.No.10383 of 2017
and M.P.No.1 of 2015

1. P.Sundaram
2. S. Prema Kumari
3. S. Chandrasekar
4. Sandhiya Bai

...Petitioners in all W.Ps.

-vs-

1. State of TamilNaldu,
rep. by The Revenue Secretary,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
2. State of Tamilnadu,
rep. by The Commissioner of
Urban Land Ceiling & Urban Land Tax,
Ezhilagam, Chepauk,
Chennai - 600 005.
3. The Assistant Commissioner,
Urban Land Tax & Urban Land Ceiling,
No.5, Sannathi Street,
Second Floor, Poonamallee,
Chennai - 600 056.
4. The Member Secretary,
Chennai Metropolitan Development
Authority (CMDA),
No.8, Gandhi Irwin Salai,
Egmore, Chennai - 600 008.
5. The National Highways Authority of India,
Rep. by General Manager (P.C) Director,
Corporate Office : G-5 and 6, Sector - 10,
Dwaraka, New Delhi - 110 075.
6. The Tamil Nadu Road Development Co. Ltd.,
Sindur Pantheon Plaza, Second Floor,
No. 346, Pantheon Road,
Egmore Chennai - 600 008.

...Respondents in all W.Ps.

Prayer in W.P.No.29445 of 2015 : Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent and quash the orders in Na.Ka.No.8375/2013/G3 dated 27.06.2014 and directing the respondents to pay compensation for the land i.e. 1 Acre 69 cents, comprised in S.No.103/3B2, Vayalanallur Village, Poonamallee Taluk, Tiruvellore District acquired by the respondents as per the prevailing market value as indicated in the Government Guideline records from the time of taking over possession along with interest at the rate of 12% per annum till the date of payment.

Prayer in W.P.No.29446 of 2015: Petition under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, to directing the respondents particularly the 3rd respondent to demarcate and allot an extent of 31 cents which the petitioners are entitled comprised in S.No.103/3B2, at Vayalanallur Village, Poonamallee Taluk, Thiruvallur District, morefully described in the Schedule of the petition and morefully delineated in the plan attached to the Writ petition and to hand over possession by issuing patta to the petitioners for the S.No.103/3B2, at Vayalanallur Village, measuring an extent of 0.31 cents in Poonamalle Taluk, Thiruvallur District.

Prayer in W.P.No.10383 of 2017: Petition under Article 226 of the Constitution of India praying for issuance of Writ of Declaration, to declare that the whole proceedings initiated by the respondents 2 and 3 under the Tamil Nadu Urban Land Ceiling Act, 1978, commencing from Na.Ka.924 of 1996D, dated 30.04.1997 till the completion of Urban Land Proceedings under Section 12 of the Act is not according to due process of law under the Urban Land Ceiling Act, for the property bearing Survey No.103/3B2 for entire extent of 2 Acres, Vayalanallur Village, Poonamallee Taluk, Thiruvallur District, to be declared as null and void, and consequently, as the urban land Ceiling Act 1978 was repealed on 16.6.1999 by Act 15 of 1999 and abated and thus the petitioners are entitled for compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for the property bearing Survey No.103/3B2 for entire extent of 2 Acres, Vayalanallur Village, Poonamallee Taluk, Thiruvallur District.

For Petitioners : Mr.P.Subba Reddy
[in all W.Ps.]
For Respondents : Mrs.Narmadha Sampath
Additional Advocate General
assisted by Mr.M.D. Ilayaraja
Government Advocate [R1 to R3]
Mr.P.S.Ganesh [R4]
R5 - No appearance

COMMON ORDER

All the three writ petitions have been filed by one Mr.P.Sundaram s/o.Perumal Chettiar. The relief sought for in the writ petitions are as follows:

(i) W.P.No.29445 of 2015 has been filed to quash the proceedings of the Commissioner of Urban Land Ceiling and Urban Land Tax dated 27.06.2014 and for a consequential direction to the respondents to pay compensation for the lands comprised in S.No.103/3B2, Vayalnallur Village, Poonamallee Taluk, Thiruvallur District (hereinafter referred to as 'subject land') acquired by the respondents as per the prevailing market value as indicated in the Government Guidelines from the time of taking over possession along with interest at the rate of 12% per annum.

(ii) W.P.No. 29446 of 2015 has been filed by the petitioner for a writ of mandamus to direct the 3rd respondent, Assistant Commissioner, ULT & ULC, Chennai, to demarcate and allot an extent of 31 cents, which the petitioners are entitled in the subject land by issuing patta to extent of 31 cents.

(iii) W.P.No.10383 of 2017 has been filed for a comprehensive relief praying for issuance of a writ of declaration to declare the entire proceedings initiated by the Urban Land Ceiling Authorities under provisions of the Tamil Nadu Urban Land Ceiling Act, 1978 (hereinafter referred to as 'the Act') commencing from the proceedings dated 30.04.1997 i.e., date on which proceedings under Section 9(5) of the Act was issued till the proceedings under Section 12 of the Act, as null and void on account of failure to follow the procedure stipulated under the Act and consequently apply the provisions of the Tamil Nadu Urban Ceiling Repeal Act, 1999 and declare the urban ceiling proceedings as having abated and to held that the petitioners are entitled to compensation under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement act, 2013 (hereinafter referred to as Act 30 of 2013).

2. Since the relief sought for in W.P.No.10383 of 2017 is comprehensive in nature, the same is taken as the lead case and any decision arrived at in this writ petition would have a direct impact in other writ petitions.

3. Heard Mr.P.Subba Reddy, learned counsel for the petitioners, Mrs. Narmadha Sampath, learned Additional Advocate General, assisted by Mr.M.D. Ilayaraja, learned Government Advocate for the respondents 1 to 3 and Mr.P.S.Ganesh, learned counsel for 4th respondent.

4. The petitioner purchased the subject land measuring an extent of 2 acres of land equivalent to 8100 sq.mts. by a sale deed dated 04.07.1977 registered as document No.2567 of 1977 on the file of Sub-Registrar Office, Poonamallee. The petitioner is stated to have been in continuous possession and enjoyment of the land ever since the date of purchase. The urban land ceiling authorities did not initiate any proceedings under the Act and soon after the new Act, came into force in the year 1978, notice under Section 7(2) of the Act dated 14.02.1996 was issued stating that the petitioner has not filed his returns as required under Section 7(1) of the Act and that the petitioner is the owner of the land for an extent of 8100 sq.mts. of subject land, and it is proposed to proceed further under the provisions of the Act by initiating action under Section 9(5). It appears that the petitioner did not file any objections and consequently the proceedings dated 30.04.1997 was drawn under Section 9(5) of the Act declaring that the petitioner is entitled to hold an extent of 500 sq. mts. and the remaining 7600 sq.mts. was declared as surplus. The petitioner was given liberty to file an appeal under Section 33 of the Act. The petitioner did not prefer any appeal and the urban land ceiling authorities issued final statement under Section 10(1) on 05.02.1998. Thereafter, notification under Section 11(1) was issued on 20.08.1998 and the same was published in the Government Gazette on 23.09.1998. By virtue of the said notification, it was made to be known that the extent of 7600 sq.mts is to be acquired by the State Government and liberty was given to all persons interested in the land to submit their claims within 30 days from the date of publication of the Gazette notification. The petitioner did not raise any objection. Consequently, the authorities proceeded further and issued notification under Section 11(3) of the Act on 26.10.1998 and the same was published in the Government gazette on 25.11.1998. The vesting of the land took place on 01.12.1998 as could be seen from Form-VII issued under Rule 10(3) of the said Rules by referring to Section 11(3) of the Act. The notice under Section 11(5) of the Act was issued on 29.12.1998 and it is stated that possession of the land was taken over on 14.06.1999.

5. The above mentioned facts are not disputed on either side and it is admitted by the petitioner that they have been dispossessed from the entire extent of land, not only the extent, which have been declared as surplus viz., 7600 sq.mts. but the retainable extent of 500 sq.mts, as well, which was acquired for the formation of road by the Chennai Metropolitan Development Authority (for brevity 'CMDA').

6. The question to be decided is whether the procedure under the Act was followed and whether the petitioner is entitled to the benefit of the Repeal Act, 1999.

7. As noted above, the possession of the land stood vested with the Government as on 01.12.1998 and possession was recorded to have been taken over on 14.06.1999. Therefore, the petitioner cannot claim the benefit of the Repeal Act, 1999, by alleging that they have been in possession of the land.

8. The next aspect that has to be seen is whether the petitioner has been paid compensation for the lands, which have been acquired under the provisions of the Urban Ceiling Act.

9. Section 11 of the Act deals with the acquisition of vacant land in excess of ceiling limit. Section 11(3) of the Act would be relevant, which reads as follows:

"11.....

(3) At any time after the publication of the notification under sub-Section (1) the competent authority may, by notification in the Tamil Nadu Government Gazette declare that the excess vacant land referred to in the notification published under sub-section (1) shall, with effect from such date as may be specified in the declaration, be deemed to have been acquired by the State Government and upon the publication of such declaration, such land shall be deemed to have vested absolutely in the State Government free from all encumbrances with effect from the date so specified."

10. In terms of the above provision, on and from the date as specified in the declaration, the land be deemed to have been acquired by the State Government and upon publication of such declaration, such land shall be deemed to have been vested absolutely in the State Government free from all encumbrances with effect from the date so specified. There is no dispute with regard to the declaration or the vesting, but the question would be as to how the land owner has be dealt with upon a declaration being published in terms of the Section 11(3) of the Act. This was provided in Section 12, which reads as follows:

"12. Payment of amount for vacant land acquired _

(1) Where any vacant land is deemed to have been acquired by the State Government under sub-Section(3) of Section 11, the State Government shall pay to the person or persons having any interest therein, -

(a) in a case where there is any income from such vacant land an amount equal to ten times the net average annual income actually derived from such land during the period of five consecutive years immediately preceding the date of publication of the notification issued under sub-

section (1) of Section 11:

Provided that where in respect of such vacant land the amount calculated under this clause is less than the amount calculated under clause (b) the person or persons having interest in the vacant land shall be paid the higher amount calculated under clause (b);

(b) in a case where no income is derived from such vacant land, an amount calculated at a rate_

(i) not exceeding fifty rupees per square metre in the case of vacant land situated in an urban agglomeration falling within category I specified in Schedule I;

(ii) not exceeding twenty-five rupees per square metre in the case of vacant land situated in an urban agglomeration falling within category II specified in that Schedule; and

(iii) not exceeding fifteen rupees per square metre in the case of vacant land situated in an urban agglomeration falling within category III specified in that Schedule.

(2) The net average annual income referred to in clause (a) of sub-section (1) shall be calculated in the manner and in accordance with the principles set out in Schedule II.

(3) For the purpose of clause (b) of Sub-section (1), the State Government shall_

(a) divide, by notification in the Tamil Nadu Government Gazette, every urban agglomeration situated within the State into different zones, having regard to the location and the general use of the land situated in an urban agglomeration, the utility of the land in that urban agglomeration, the utility of the land in that urban agglomeration for the orderly urban development thereof any such other relevant factors as the circumstances of the case may require; and

(b) fix, subject to the maximum rates specified in that clause, the rate per square metre of vacant land in each zone, having regard to the availability of vacant land in the zone, the existing use of vacant land in the zone and such other relevant factors as the circumstances of the case may require.

(4) Different rates may be fixed under clause (b) of sub-section for vacant lands situated in

different zones within each urban agglomeration.

(5) Notwithstanding anything contained in sub-section (1) where any vacant land which is deemed to have been acquired under sub-section (3) of Section 11 is held by any person under a grant, lease or other tenure from the Central Government or any State Government and

(i) the terms of such grant, lease or other tenure do not provide for payment of any amount to such person on the termination of such grant, lease or other tenure and the resumption of such land by the Central Government or the State Government, as the case may be; or

(ii) the terms of such grant, lease or other tenure provide for payment of any amount to such person on such termination and resumption, then

(a) in a case falling under clause (1), no amount shall be payable in respect of such vacant land under sub-section (1); and

(b) in a case falling under clause (ii), the amount payable in respect of such vacant land shall be the amount payable to him under the terms of such grant, lease or other tenure on such termination and resumption or the amount payable to him under sub-section (1), whichever is less.

(6) The competent authority may, by order in writing, determine the amount to be paid in accordance with the provisions of this section as also the person, or, where there are several persons interested in the land, the persons to whom it shall be paid and in what proportion, if any,

(7) Before determining the amount to be paid, every person interested shall be given an opportunity to state his case as to the amount to be paid to him.

(8) The competent authority shall dispose of every case for determination of the amount to be paid as expeditiously as possible and in any case within such period as may be prescribed.

(9) Any claim or liability enforceable against any vacant land which is deemed to have been acquired under sub-section (3) of section II may be enforced only against the amount payable under this section in respect of such land and against any other property of the owner of such land."

11. In terms of Sub-Section (1) of Section 12, where any vacant land is deemed to have been acquired by the State Government under Section 11(3), the State Government shall pay

to the person or persons having any interest therein compensation for the land, which has been acquired. Clauses (a) & (b) in Section 12(1) deals about the quantum of compensation that is payable. Sub-Section (2) of Section 12 deals with the net average annual income referred to in Section 12(1)(a) for the purpose of Clause (b) of Section 12(1) of the Act, the State Government is required to follow the procedures under Sub-Section (1) of Section 12. Sub-section(4) of Section 12 provides that different rates may be fixed under Clause (b) of Section 12 (1). Sub-Section (5) deals with cases where land is held by any person under a grant, lease or other tenure from the Central or any State Government. Sub-Section (6) mandates that the competent authority should determine the amount to be paid in accordance with the provisions of the Section 12 of the Act and also the person or persons to whom it shall be paid and in what proportion. Sub-Section(7) provides an opportunity to every person interested to state his case as to the amount to be paid to him and such opportunity should be granted before determining the amount to be paid. Sub-Section(8) states that the competent authority shall dispose of every case for determination of the amount to be paid as expeditiously as possible and in any case within such period as may be prescribed. It goes without saying that if no period has been prescribed, then the competent authority is expected to dispose of every case within a reasonable period. It is not disputed but admitted that the compensation amount is yet to be paid to the petitioner/owner. Precisely for that reason, the petitioner has approached the Court at the first instance by filing writ petition in W.P.No.6326 of 2014 to consider his representation wherein not only sought for reasonable compensation, but also sought for extending the benefit of the Repeal Act.

12. The writ petition was disposed of, by order dated 02.04.2014 directing the representation to be considered. The Commissioner passed an order on 27.06.2014 rejecting the petitioners' representation. What is relevant to note from the said order is that two vital facts, which have been admitted by the Commissioner viz., that the compensation is yet to be determined and paid for the extent of 7600 sq.mts., which was declared as surplus. The second important fact is that the remaining extent viz., 500 sq.mts., which was held to be retainable extent under the ULC Act has been utilised for formation of road. Thus, the petitioner has been stripped of his entire land holding. The authorities did not fix the compensation and they explained the delay by stating that the Vayalnallur Village was newly added Village and the Government of Tamil Nadu had to take action for fixing the value. Therefore, the proposal was sent to the Government in 2014-2015 and it is only two weeks back, the learned Additional Advocate General reported before this Court that the guideline value has

been fixed and the compensation is arrived at about Rs.66,880/- for the entire land of 7600 sq.mts. The petitioner has refused to receive the compensation and in the opinion of this Court, he rightly refused to receive the same.

13. Then, what would be the effect of non payment of compensation. This Court need not labour much to answer this issue, as it is no longer res-integra and it has been decided in the case of Government of Tamil Nadu Vs. M/s. Mecca Prime Tannery [reported in 2012 (4) L.W. 289]. In the said decision, the Court has specifically held that taking of actual possession of the land and the payment of compensation thereafter, are the crucial factors and if such taking over of possession and payment of compensation are not shown to have been done, all proceedings pending with regard to the lands in question, ought to be taken as abated on coming into force of the Repeal Act, 1999 (Act 20 of 1999).

14. The learned Additional Advocate General cannot dispute the above factual position, but it is her endeavour to convince this Court that the petitioner is not entitled for any remedy in this writ petition mainly on the three grounds.

15. Firstly, on the ground of inordinate delay and laches. Since the writ petition came to be filed in the year 2015-2017, after several years after the land was taken over by the Government i.e., during 1999. Secondly, the intention of the party should be taken into consideration and the Court should see as to whether the petitioner is entitled for a remedy. Thirdly, though the petitioner received all proceedings under the ULC Act, he did not raise any objections and allowed the matters to attain finality and surreptitiously permitted encroachments be take place, which has been specifically noted in the notice under Section 11(5) of the Act. In support of these contentions that the writ petition is liable to be dismissed on the ground of delay and laches. Reliance was placed on the following decisions:

- (i) Pune Municipal Corporation and Anr. Vs. Harakchand Misirmal Solanki and Ors. [reported in 2014 (3) SCC 183];
- (ii) State of Tamil Nadu and Ors. Vs. M/s. Technolab Instruments (Madras) [W.A.No.651 of 2016 dated 06.02.2018]; and
- (iii) Assistant Commissioner, Urban Land Tax and Ors. Vs. D. Nagarajan [W.A.No.1496 of 2017 dated 28.06.2018]

16. In the considered view of this Court, the respondents cannot raise a plea on delay and laches against the petitioner. As mentioned above, the petitioner has been stripped of his entire holding by one proceedings under the Urban Land Ceiling

Act and another by initiating proceedings under the provisions of Land Acquisition Act for formation of road. If the proceedings under the Urban Land Ceiling Act are held to be invalid, it will have a direct impact on the proceedings initiated under the Land Acquisition Act because the acquisition was initiated under the Land Acquisition Act on the presumption that the petitioner is entitled to hold 500 sq.mts, if the Court holds that the proceedings under the Urban ceiling are nullity then the proceedings under the Land Acquisition Act have to be declared as a nullity. Secondly, the petitioner would be entitled to 7600 sq.mts. and the notification under the Land Acquisition Act for a smaller extent could have no impact and the entire land holding by the petitioner changes.

17. The respondents have not disputed the fact that though they took possession of the land in the year 1999, compensation has not been determined till 2020 and it is only about two weeks back, the compensation was computed at about Rs.66,880/-. If this is the case, then the respondents are not entitled to raise a plea that the petitioner is guilty of delay and laches. Even on facts as noticed above, the petitioner has sent representations, which were not disposed of. He filed writ petition before this Court and after the writ petition was disposed of, an order came to be passed by the Commissioner of Urban Land Ceiling and Urban Land Tax on 27.06.2014 rejecting the representation. Even in the said order, it is admitted that the compensation is yet to be determined and the matter is pending before the Government. Therefore, in the considered view of this court, the respondents are estopped from raising a plea of delay and laches against the petitioner, even if there is a slight delay in coming to Court or in submitting representations that will not disentitle the petitioner to the relief, considering the fact that the petitioner is the land loser and his bargaining power against the mighty Government is virtually negligible. Therefore, the first contention raised by the learned Additional Advocate General stands rejected.

18. The second contention was with regard to the intention of the petitioner. This Court fails to understand as to how the intention of the petitioner could be of relevance, when there is a statutory non compliance. Therefore, even if with bad intention and ulterior motive the petitioner did not participate in any of the proceedings under the ULC Act, that will not be passport for the respondent not to follow the mandatory procedure under the ULC Act. The expression in Section 12(1) is "shall", therefore it is mandatory under Section 11 (3) that compensation has to be determined and paid to the land owner. pursuant to declaration and notification. The determination did not take place from 1999 till 2020. Therefore, the respondents cannot make out any case by casting aspersions on the intention of the petitioner.

19. The third contention is that the petitioner allowed encroachments into the lands, which are alleged to be noted while issuing the order under Section 11(5) of the Act. An attempt was made by the learned Additional Advocate General to state that the petitioner himself is an encroacher. This submission is to be out rightly rejected because the petitioner has produced documents to show that he is the lawful owner and the ULC authorities were convinced and accepted his stand and declared that he is entitled to hold only 500 sq.mts. out of 8100 sq.mts. After the proceedings under the ULC had concluded by holding that the petitioner is the owner of the land, no such plea stating that the petitioner is a encroacher can be raised at this juncture. With regard to the encroachment relating to the brick kiln is concerned, it is not in dispute that the lands have been taken over and utilised for a public purposes and therefore, arguing on the ground that when Section 11(5) notice was issued in 1998, a brick kiln was functioned is of absolutely no consequence.

20. The decision in Pune Municipal Corporation cannot help the case of the respondents because the present cases are not a cases where compensation was offered, refused and then deposited, but a case where compensation was never determined till 2020. The decision in the case of M/s. Technolab Instruments pertains to a case of a subsequent purchaser. Therefore, the Court on facts held that the benefit of the Repeal Act will not apply. This decision is also distinguishable on facts, as the Court has found that on account of non compliance of Section 12(1) read with Section 11(3) of the Act, the acquisition proceedings have to be held to have been abated. In the case of D.Nagarajan, the Court rejected the writ petition on the ground that the petitioner therein was aware of the proceedings in the year 2004 itself, but filed the writ petition in the year 2012. Further, facts of the present case are entirely different and this is where compensation was not even determined. Therefore, it is one of the hardest of hard case, which requires a remedy.

21. In the light of the above discussion and also factual and legal position, it is to be held that the entire proceedings under the Urban Land Ceiling Act stands abated and the petitioner is entitled to the benefit of the Repeal Act 1999. The natural consequences that is to flow from the above is that land should revert back to the petitioner. However, considering the facts that the land has been fully utilised for public purposes, it would be unfair to direct the land to be revert back to the possession of the petitioner. Therefore, this Court would be justified in giving liberty to the respondents in

issuing notification for acquiring the land under Act 30 of 2013 within a time frame so that the petitioner would be entitled to reasonable compensation under the new Act. In fact the identical issue was considered in the case of The Managing Director Vs. S.Saranath and Ors. in the Review application No.51 of 2016 in W.P.No.28313 of 2015 dated 09.02.2018. The operative portion of the order reads as follows:

"In a recent decision of the Hon'ble Division Bench of this Court, the Hon'ble Division Bench has analyzed the long end of decisions. The decisions are the point and held as follows:

" ... 23. The ratio deducible from the afore stated judicial pronouncements is that when a provision is clear and unambiguous, leaving no room or scope for vagueness, the word or cannot be understood and interpreted as and. The intention of the Legislature must be given full effect to, unless it creates anomaly. In the case on hand, the word or used in two places in the passage in Rule 24 (2) of the 2013 Act, viz., 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 clearly indicates that after the award is passed 5 years or more, prior to the commencement of the 2013 Act, the proceedings initiated under the Old Act, 1894, shall be deemed to have lapsed. Thus, in any eventuality, either if the compensation is not paid or possession of the land is not taken over, the provisions of Section 24(2) would be attracted. Thus, the word or employed in Section 24(2) of the 2013 Act in the aforesaid two places, has to be read disjunctively and not conjunctively, as pleaded by the learned Additional Advocate General.

24. The manifest intention of the Legislature can be derived from the Statement of Objects and Reasons, read with the plain language of Section 24(2) of the 2013 Act, Clause 18 of the Statement of Objects and Reasons clearly stipulates that the benefits under the new law would be available in all the cases of land acquisition under the Old Act, 1894, where, award has not been made or possession of land has not been taken. In line

with the objective of the enactment, Section 24(2) of the 2013 Act plainly read that where an award under Section 11 has been made 5 years or more prior to the commencement of the 2013 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. Thus, it is eloquent that the word or employed in two places in the passage where an award under the said Section 11 has been made five years or more prior to the commencement of this Act by the physical possession of the land has not been taken or the compensation has not been paid is disjunctive and not conjunctive. On happening of one event, the land owner would be entitled to the benefit under the provisions of Section 24(2) of the 2013 Act."

.....

7. In the light of the above, by applying the decision of the Hon'ble Supreme Court and the Hon'ble Division Bench referred supra, it has to be held that the impugned land acquisition proceedings are deemed to have been lapsed in terms of Section 24(2) of the (Act 30 of 2013). However, in the light of the stand taken by the 5th respondent that the land has already been utilized and the project developed by the 5th respondent is a very important project and the project in public interest, this Court is of the view that even though the land acquisition proceedings are held to be lapsed the land shall not be reverted back to the land owners and continue to be utilized by the 5th respondent and for such purpose the respondents are directed to issue fresh notification for acquisition and such notification shall be only for the purpose of fixing fair and reasonable compensation for the lands in terms of (Act 30 of 2013) and such fresh notification shall be issued by the respondents within a period of one month from the date of receipt of a copy of this order and endeavor to complete the entire proceedings and pay the compensation in terms of (Act 30 of 2013) within a period of three months from the date on which acquisition proceedings are initiated in terms of the above direction. It is made clear that the possession of the land shall not revert to the land owners viz., the petitioners and the 5th respondent is entitled to fully utilize the land for the project.

8. Writ petition is allowed in the above terms. No costs."

22. Having arrived at such a conclusion, it needs to be seen as to the effect of the land acquisition proceedings done for the purpose of formation of road by the CMDA to the extent of 500 sq.mts. Counter affidavit filed by the CMDA does not disclose the date on which the notification under Section 4(1) of the Act was issued, whether any enquiry under Section 5A of the Act was held and when the declaration under Section 6 was issued. The counter only refers to Award No. 1 of 2003 dated 29.08.2003, which states that compensation has been determined. However, CMDA has deducted a sum of Rs.1,24,500/- (Rupees One Lakh Twenty Four Thousand and Five Hundred only) towards the reclamation charges of the land as there was a pit and after deducting, the compensation amount payable to the petitioner is stated to be Rs.20/- (Rupees Twenty only). In the counter affidavit, it has been candidly admitted that the amount of compensation has been retained in revenue deposit. It has been held in several decisions that deposit of the money in a revenue account is not due compliance. That apart, one more aspect, which has to be noted is that the administrative sanction for the Outer Ring Road Phase -II was granted by the Government by G.O.Ms.No.385, Housing & Urban Development Department, dated 16.10.1998. Therefore, for all practical purposes notification under Section 4(3) of the Act should have been issued after October, 1998, if that is so, then CMDA/acquiring authority, should have verified and known about the proceedings initiated under urban land ceiling Act. There is nothing in the counter affidavit to indicate that the acquiring body of CMDA was aware about the ULC proceedings, which by then had reached the stage of issuance of notification under Section 11(3) of the Act.

23. Thus, two limbs of the Government were proceeding unaware of what was happening in the other Department in respect of the same land. One more important fact is that the computation of retainable extent which is stated to be 500sq.mts. is an incorrect computation. In any event, the CMDA has accepted in the counter affidavit that the compensation has been kept in revenue deposit, which is not enough to sustain the acquisition proceedings. That apart, the acquisition of CMDA proceeded on the basis that the petitioner's entitlement is 500sq.mts only i.e., 0.05 hectare.

24. This Court, having held that the urban land ceiling proceedings are entirely vitiated, and are null and void, the petitioner is entitled to the benefit of the Repeal Act, 1999. The natural consequences would be acquisition by CMDA has also to be held to be lapsed.

25. In the light of the above,

(i) W.P.No.10383 of 2017 is allowed and the entire urban land ceiling proceedings initiated by the authorities are held to be null and void and consequently the petitioner is entitled to the benefit of the Repeal Act, 15 of 1999. Consequently, the acquisition proceedings initiated by CMDA also stands quashed. Since the lands have been fully utilised for public purposes, it will be not appropriate to direct the respondents to revert back the land to the petitioner. Therefore, there will be a direction to the appropriate authority to issue a fresh notification for acquisition of the land, in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, within a period of one month from the date of receipt of a copy of this order and endeavour to complete the entire proceedings and pay compensation, in terms of Act 30 of 2013 within a period of three months from the date on which, the notification is issued. It is made clear that possession of the land was not reverted back to the petitioners.

(ii) In the light of the order passed in W.P.No.10383 of 2017, W.P.No.29445 of 2015 is allowed and the order passed by the 2nd respondent dated 27.06.2014 is quashed.

(iii) In the light of the order passed in W.P.No.10383 of 2017, no orders are required to be passed in W.P.No.29446 of 2015 and the same is closed.

No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Revenue Secretary,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.

2. The Commissioner of
Urban Land Ceiling & Urban Land Tax,
Ezhilagam, Chepauk,
Chennai - 600 005.

3. The Assistant Commissioner,
Urban Land Tax & Urban Land Ceiling,
No.5, Sannathi Street,
Second Floor, Poonamallee,
Chennai - 600 056.
 4. The Member Secretary,
Chennai Metropolitan Development
Authority (CMDA),
No.8, Gandhi Irwin Salai,
Egmore, Chennai - 600 008.
 5. The National Highways Authority of India,
Rep. by General Manager (P.C) Director,
Corporate Office : G-5 and 6, Sector- 10,
Dwaraka, New Delhi - 110 075.
 6. The Tamil Nadu Road Development Co. Ltd.,
Sindur Pantheon Plaza, Second Floor,
No. 346, Pantheon Road,
Egmore Chennai - 600 008.
- +1 CC to Mr. P.Wilson Associates, Sr.No.16086
+3 CC to Mr.P.S.Ganesh Advocate, Sr.No.16464, 16465, 16463
+1 CC top Mr.P.Subba Reddy, Advocate SR 16107
+1 CC to Government Pleader SR NO.16746

W.P.Nos.29445 & 29446 of 2015
and W.P.No.10383 of 2017

MRp 29/05/2020

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