

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No. 11357 of 2019
and
WMP Nos.11679 and 11680 of 2019

1. P.Karthikeyan

2. M.K.Raman

...Petitioners

.Vs.

1. Union of India
Rep by the Chief Secretary to Government
Government of Puducherry.

2. The Secretary to Government
(Town and Country Planning)
Government of Puducherry
Pondicherry.

3. The Senior Town Planner
Government of Puducherry
Pondicherry.

4. The Deputy Collector (Revenue)
Land Acquisition
Government of Puducherry
Pondicherry.

5. The Commissioner
Oulgaret Municipality
Jawahar Nagar, Pondicherry.

...Respondents

This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration declaring the land acquisition proceedings Notification No.8302/72-Housing dated 09.05.1973 and 04.05.1974 and Award No.4/1980 dated 01.03.1980 of lands bearing Re-Survey No.40/2 corresponding Cadastre No.996 measuring to an extent of 00-Hectar- 46-Ares and 80 Centiares at Lawspet Village, Oulgaret Municipality Pondicherry are deemed to have lapsed under Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013.

For Petitioners : Mr.P.Arun Kumar

For Respondents 1 to 4: Mr.A.V.Ramalingam,
Additional Government Pleader
(Pondicherry)

For Respondent-5 : Mrs.Sabnam

ORDER

This Writ Petition has been filed to declare that the acquisition proceedings has lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (herein after called as 'Act').

2. The specific case of the petitioners is that 4(1) notification was issued on 09.05.1973. Section 6 declaration was made on 04.05.1974. Thereafter, the award enquiry was conducted after issuing notice to the land owners and the award was passed on 01.03.1980. The further case of the petitioners is that the award as well as the enhanced compensation amount was received by the legal heirs of the notified owners. However, possession was not taken. Therefore, the petitioners are entitled for the relief under Section 24(2) of the Act.

3. Heard Mr.P.Arun Kumar, learned counsel appearing for the petitioners and Mr.A.V.Ramalingam, learned Additional Government Pleader appearing for the respondents 1 to 4 and Mrs.Sabnam, learned counsel appearing for the fifth respondent.

4. The grounds raised by the learned counsel for the petitioners in the present Writ Petition has been dealt with by the Hon'ble Supreme Court in Indore Development Authority V. Manoharlal and others reported in 2020 SCC Online SC 316. The Hon'ble Supreme Court in paragraph-402 (3) has categorically held as follows:-

"The word 'or' used in Section 24(2) between possession and compensation has to be read as 'nor' or as 'and'. The deemed lapse of land acquisition proceedings under Section 24(2) of the Act of 2013 takes place where due to inaction of authorities for five years or more prior to commencement of the said Act, the possession of land has not been taken nor compensation has been paid. In other words, in case possession has been taken, compensation has not been paid then there is no lapse. Similarly, if compensation has been paid, possession has not been taken then there is no lapse."

5. The Hon'ble Supreme Court has held that the word 'or' should be read as 'nor' or as 'and'. Therefore, both the requirements namely payment of compensation as well as taking of possession of property must be satisfied for the purpose of drawing the benefit under Section 24(2) of the Act.

6. In the present case, even as per the admitted claim of the petitioners, compensation was paid and only possession was not taken. Therefore, the petitioners are not entitled for the benefits under Section 24(2) of the Act, by virtue of the judgment of the Hon'ble Supreme Court.

7. In the result, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Chief Secretary to Government
Union of India
Government of Puducherry.
2. The Secretary to Government
(Town and Country Planning)
Government of Puducherry, Pondicherry.
3. The Senior Town Planner
Government of Puducherry, Pondicherry.
4. The Deputy Collector (Revenue)
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5. The Commissioner
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+1cc to the Government Pleader, Sr.No.30107

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