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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.10388 of 2015

Chandra

... Petitioner

-Vs-

1. The Government of Tamil Nadu,
Rep by its Secretary to Government
Housing and Urban Development Department,
Fort St. George, Chennai.
2. The Tamil Nadu Housing Board,
Rep. by its Chairman and
Managing Director,
Nandanam, Mout Road,
Chennai.
3. The District Collector,
Krishnagiri District.
4. The Special Tahsildar,
Land Acquisition,
Housing Scheme,
Hosur - 635 109.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, declaring that the entire land acquisition proceedings initiated pursuant to the Section 4(1) notification dated 22.03.1991 in respect of lands situated at S.No.865-1, Hosur Taluk No.102, Hosur Village, Krishnagiri District belonging to the petitioner, as lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013.

For Petitioner : Mr.V.Raghavachari

For Respondents

For R1,R3&R4 : Mr.Richardson Wilson
Government Advocate.

For R2 : Dr.R.Gowri



ORDER

The Writ Petition has been filed to declare that the entire land acquisition proceedings initiated pursuant to the Section 4(1) notification dated 22.03.1991 in respect of lands situated at S.No.865-1, Hosur Taluk No.102, Hosur Village, Krishnagiri District belonging to the petitioner, as lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013. (herein after called as " the New Act")

2. Heard Mr.V.Raghavachari, learned counsel appearing for the petitioner, Mr.Richardson Wilson, learned Government Advocate appearing for the respondents 1,3 & 4 and Dr.R.Gowri, learned counsel appearing for the second respondent.

3. The grounds raised by the petitioner in this Writ Petition have already been settled by the Hon'ble Supreme Court of India in the judgment reported in (2020) 8 SCC 129 in the case of Indore Development Authority Vs. Manoharlal and ors etc., which held as follows :-

"366. In view of the aforesaid discussion, we answer the questions as under:

1. Under the provisions of Section 24(1) (a) in case the award is not made as on 1.1.2014 the date of commencement of Act of 2013, there is no lapse of proceedings. Compensation has to be determined under the provisions of Act of 2013.

2. In case the award has been passed within the window period of five years excluding the period covered by an interim order of the court, then proceedings shall continue as provided under Section 24(1)(b) of the Act of 2013 under the Act of 1894 as if it has not been repealed.

3. 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.

4. The expression 'paid' in the main



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part of Section 24(2) of the Act of 2013 does not include a deposit of compensation in court. The consequence of non-deposit is provided in proviso to Section 24(2) in case it has not been deposited with respect to majority of land holdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the Act of 1894 shall be entitled to compensation in accordance with the provisions of the Act of 2013. In case the obligation under Section 31 of the Land Acquisition Act of 1894 has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the Act of 2013 has to be paid to the "landowners" as on the date of notification for land acquisition under Section 4 of the Act of 1894.

5. In case a person has been tendered the compensation as provided under Section 31(1) of the Act of 1894, it is not open to him to claim that acquisition has lapsed under Section 24(2) due to non-payment or non-deposit of compensation in court. The obligation to pay is complete by tendering the amount under Section 31(1). Land owners who had refused to accept compensation or who sought reference for higher compensation, cannot claim that the acquisition proceedings had lapsed under Section 24(2) of the Act of 2013.

6. The proviso to Section 24(2) of the Act of 2013 is to be treated as part of Section 24(2) not part of Section 24(1)(b).

7. The mode of taking possession under the Act of 1894 and as contemplated under Section 24(2) is by drawing of inquest report/ memorandum. Once award has been passed on taking possession under Section 16 of the Act of 1894, the land vests in State there is no divesting provided under Section 24(2) of the Act of 2013, as once possession has been taken there is no lapse under Section 24(2).

8. The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five



To

1. The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Chennai.
2. The Chairman and Managing Director,
Tamil Nadu Housing Board,
Nandanam, Mount Road,
Chennai.
3. The District Collector,
Krishnagiri District.
4. The Special Tahsildar,
Land Acquisition,
Housing Scheme,
Hosur - 635 109.

+1 cc to Government Pleader Sr.No. 41762

+1cc to Mr.V.Raghavachari, Advocate SR.No. 41684

W.P.No.10388 of 2015

SSD(CO)

A.SK(20.09.2021)