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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NOS.12756 & 12757 OF 2015

AND

M.P.NOS.1 & 1 OF 2015

W.P.NO.12756 OF 2015

S.Ganesan

... Petitioner

.Vs.

1. The Secretary to the Government of Tamil Nadu,
Housing & Urban Development Secretariat,
Chennai - 600 009.

2. The Member Secretary,
Chennai Metropolitan,
Development Authority,
Chennai - 600 008.

3. The Land Acquisition Officer and
Special Deputy Collector (LA),
CMDA, Egmore,
Chennai - 8.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of declaration declaring the land acquisition proceedings in G.O.Ms.No.429 Housing and Urban Development Department dated 14.05.1990 and GO.Ms.No.837 dated 17.05.1991 and Award No.2 of 1993 dated 19.05.1993 with respect of petitioner's land comprised in S.No.58/01 Part, New No.58/17, of an extent of 1843 sq.ft. Koyambedu Village, Egmore, Nungambakka Taluk, Chennai as lapsed in view provision under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.



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For Petitioner : Mr.M.S.Soundara Rajan

For Respondents

For R1 & 3 : Mr.M.R.Gokul Krishnan,
Government Advocate

For R2 : M/s.P.Veena Suresh,
Standing Counsel

W.P.NO.12757 OF 2015

S.Subaramanian

... Petitioner

.Vs.

1. The Secretary to the Government of Tamil Nadu,
Housing & Urban Development Secretariat,
Chennai - 600 009.

2. The Member Secretary,
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Development Authority,
Chennai - 600 008.

3. The Land Acquisition Officer and
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CMDA, Egmore, Chennai - 8.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India to issue a writ of declaration declaring the land acquisition proceedings in G.O.Ms.No.429 Housing and Urban Development Department dated 14.05.1990 and GO.Ms.No.837 dated 17.05.1991 and Award No.2 of 1993 dated 19.05.1993 with respect of petitioner's land comprised in S.No.58/01 Part, New No.58/17, of an extent of 1943 sq.ft. Koyambedu Village, Egmore, Nungambakka Taluk, Chennai as lapsed in view provision under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioner : Mr.M.S.Soundara Rajan

For Respondents

For R1 & 3 : Mr.M.R.Gokul Krishnan,
Government Advocate

For R2 : M/s.P.Veena Suresh,
Standing Counsel



COMMON ORDER

The writ petition in WP.No.12756 of 2015 has been filed to issue a writ of declaration declaring the land acquisition proceedings in G.O.Ms.No.429 Housing and Urban Development Department dated 14.05.1990 and GO.Ms.No.837 dated 17.05.1991 and Award No.2 of 1993 dated 19.05.1993 with respect of petitioner's land comprised in S.No.58/01 Part, New No.58/17, of an extent of 1843 sq.ft. Koyambedu Village, Egmore, Nungambakka Taluk, Chennai as lapsed in view provision under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; the writ petition in WP.No.12757 of 2015 has been filed to issue a writ of declaration declaring the land acquisition proceedings in G.O.Ms.No.429 Housing and Urban Development Department dated 14.05.1990 and GO.Ms.No.837 dated 17.05.1991 and Award No.2 of 1993 dated 19.05.1993 with respect of petitioner's land comprised in S.No.58/01 Part, New No.58/17, of an extent of 1943 sq.ft. Koyambedu Village, Egmore, Nungambakka Taluk, Chennai as lapsed in view provision under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. Heard, Mr.M.S.Soundara Rajan, learned counsel appearing for the petitioners, Mr.M.R.Gokul Krishnan, Government Advocate appearing for the respondents 1 & 3 and M/s.P.Veena Suresh, Standing Counsel appearing for the second respondent.

3. The petitioners have filed these writ petitions raising two grounds i.e. possession has not taken and also compensation was not paid. On perusal of records, shows that the acquisition proceedings for the purpose of forming a truck terminal for Koyambedu Wholesale Market Complex was initiated and Section 4 (1) notification was issued on 14.05.1990 under the Land Acquisition Act (hereinafter called as 'the Act'). Thereafter, enquiry was conducted as contemplated under Section 5(A) and issued declaration under Section 6 of the Act on 17.05.1991. The said declaration under Section 6 of the Act was already challenged before this court in WP.No.10097 of 1991 and the same was dismissed by order dated 19.06.2001. Aggrieved by the same, writ appeal was filed and the same was also dismissed by this Court on 10.10.2002. Thereafter, notice was served for award enquiry and award has been passed on 19.05.1993 in award No.2 of 1993. Thereafter, the petitioners sent representations to re-convey the said land and the same were rejected and aggrieved by the same, the petitioners filed writ petitions before this court in WP.Nos.34815 & 34816 of 2005 and the same were subsequently dismissed. Therefore, once the petitioners challenged the acquisition proceedings, they cannot again challenge in the writ



petitions on the ground of non payment of compensation as well as possession. That apart, the learned counsel for the respondents submitted that as per the award, award amount has been deposited in the civil deposit and also possession has been taken over from the petitioners.

4. The grounds raised by the petitioners in these Writ petitions 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 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





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9. Section 24(2) of the Act of 2013 does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the Act of 2013, i.e., 1.1.2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition."

5. The Hon'ble Supreme Court of India settled all proposition of law in the above judgment including the grounds raised by the petitioners. That apart, the acquisition proceedings have been completed and the subject land was taken over by the Government and the same was handed over to the requisitioning body. Further the requisitioning body also deposited the compensation as awarded by the Land Acquisition Officer. Therefore, the petitioners failed to satisfy the twin requirements under Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, i.e. the physical possession of the land was not taken and the compensation has not been paid/tendered/deposited in accordance with law. In view of the dictum laid down by the Hon'ble Supreme Court of India, the issues raised by the petitioners were settled and therefore, the acquisition proceedings have not been lapsed by operation of law under Section 24 (2) of the new Act i.e., Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. In view of the settled position of law, the writ petitions are devoid of merits and liable to be dismissed.

6. In the result, the Writ Petitions stand dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to the Government of Tamil Nadu,
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2. The Member Secretary,
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Development Authority,
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3. The Land Acquisition Officer and
Special Deputy Collector (LA),
CMDA, Egmore,
Chennai - 8.

+2ccs to Mr.M.S.Soundara Rajan, Advocate, S.R.Nos.43954 & 43955
+2ccs to M/s.P.Veena Suresh, Advocate, S.R.Nos.43893 & 43894
+1cc to the Government Pleader, S.R.No.43900

W.P.NOS.12756 & 12757 OF 2015

SSI (CO)
PBS/24/09/2021