



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.12090 of 2016

and

W.M.P.No.10459 of 2016

- 1.E.Manickam
- 2.E.Velusamy
- 3.A.Chandrasekaran
- 4.Amudhavalli
- 5.Loganayagi
- 6.Vijayarani
- 7.A.Murugesan

... Petitioners

Vs

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai - 600 009.
2. The Managing Director,
Tamil Nadu Housing Board, Nandanam,
Anna Salai, Chennai - 600 035.
3. The Administrative Officer / Executive Engineer,
Tamil Nadu Housing Board, Ayyanthirumaligai,
Salem - 7.
4. The Special Tahsildar,
Land Acquisition Neighbourhood Scheme,
O/o. Tamil Nadu Housing Board,
Ayyanthirumaligai, Salem - 7.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari to call for the entire records relating to the impugned G.O.Ms.No.755 Housing and Urban Development Department, dated 04.09.1981 issued by the 1st respondent and consequential under Section 6 Declaration published in G.O.Ms.No.608, Housing and Urban Development Department, dated 03.08.1984 issued by the 1st respondent and quash the same, since, as per Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013), the entire acquisition proceedings become lapsed.



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For Petitioners : Mr.C.Prakasam
For Respondents : Mr.Richardson Wilson,
1 and 4 Government Advocate
For Respondents : Mr.I.Sathish standing counsel
2 and 3

O R D E R

This Writ Petition is filed seeking to issue a Writ of Certiorari to call for the entire records relating to the impugned G.O.Ms.No.755 Housing and Urban Development Department, dated 04.09.1981 issued by the 1st respondent and consequential under Section 6 Declaration published in G.O.Ms.No.608, Housing and Urban Development Department, dated 03.08.1984 issued by the 1st respondent and quash the same, since, as per Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013), the entire acquisition proceedings become lapsed.

2. The petitioners challenged the Acquisition proceedings on the ground that the compensation was not paid to the petitioners, the physical possession of the subject property was not taken and as such, the entire proceedings are vitiated and as contemplated under Section 24(2) of the Act.

3. A perusal of the counter revealed that the draft Declaration under Section 6 of the Land Acquisition Act 1894 was approved in G.O.Ms.No.608 Housing and Urban Development Department dated 03.08.1984 and the same was published on 16.08.1984. Some of the land owners filed a writ petition before this Court challenging the acquisition proceedings totalling to an extent of 7.14 acres, which is covered by order of stay. For the balance extent of 30.07 acres, Section 6 of the Land Acquisition Act was approved. Further, the Notices under Sections 9(1) and 10 and 9(3) and 10 were issued to the land owners and an enquiry was conducted on 12.09.1986 at the Panchayat Office, Periyagollapatti. Then, the award was passed in Award No.11/1986-1987 dated 19.09.1986 by the Land Acquisition Special Tahsildar, Neighbourhood Scheme, Salem. As per the award, this land in S.No.100/1B measuring an extent of 1.22 acres was registered in the name of Elumalai Gounder under patta No.287.

4. After passing the award and award proceedings, the compensation amount of Rs.1,34,431/- for S.No.100/1B measuring an extent of 1.22 acres was deposited in the Subordinate Court, Salem under Sections 30 and 31(2) of the Land Acquisition Act in L.A.O.P.No.174 of 1988. The possession of the acquired land was taken over by the Land Acquisition Special Tahsildar, Salem on 26.02.2009 and it was handed over to the Tamil Nadu Housing



Board, Salem Housing Unit, Salem. The pattas in the acquired lands were also transferred in the name of Tamil Nadu Housing Board, Salem Housing Unit its Executive Engineer and Administrative Officer under patta No.446 by the Revenue Department, Salem.

5. That apart, the petitioners already filed writ petition in W.P.No. 12773 of 1986 challenging the acquisition proceedings and the same was dismissed by this Court by an order dated 20.11.1997. Aggrieved by the same, the petitioners also filed writ appeal in W.A.No.1741 of 1988 and the same was also dismissed by an judgment dated 05.11.2008. After commencement of the new Act, the present writ petition has been filed under Section 24(2) of the New Act.

6. In this regard, the Hon'ble Supreme Court of India reported in (2020) 8 SCC 129 (Indore Development Authority -vs- Manoharlal and Others), held as follows :

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

366.1. 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.

366.2. 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.

366.3. 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



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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).

366.8. 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 years or more before the Act of 2013 came into force, in a proceeding for land acquisition pending with concerned authority as on 1.1.2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years.

366.9. 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 319 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."

7. The points raised in this writ petition were already answered by the Hon'ble Supreme Court of India. In view of the same, this writ petition is dismissed as devoid of merits.

8. With the above observations, this writ petition stands dismissed. Consequently, connected miscellaneous petition is dismissed. No order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Housing and Urban Development
Department, Fort St. George, Chennai - 600 009.
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Tamil Nadu Housing Board, Nandanam,
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Ayyanthirumaligai, Salem - 7.

+1cc to Mr.I.Sathish, Advocate, S.R.No.40225
+1cc to the Government Pleader, S.R.No.40371

W.P.No.12090 of 2016
and W.M.P.No.10459 of 2016

GPL (CO)
CT(27/09/2021)