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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

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THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.16016 of 2015

and

MP.No.1 of 2015

- 1.C.Ranganathan
- 2.M.Shanmugam
- 3.Venkatesa Mudaliar
- 4.M.Perumal Mudaliar
- 5.Madurai Naicker
- 6.M.Lakshmi Ammal
- 7.M.Rajeswari
- 8.G.Vedachala Mudaliar
- 9.Munusamy Naicker
- 10.Murugesu Naicker
- 11.Jayaraman
- 12.A.V.Arumugam
- 13.Anthony
- 14.R.Muniyandi
- 15.K.Venkataperumal
- 16.Arumugam
- 17.Chellamuthu Naicker
- 18.K.Munusamy
- 19.S.Mari Naicker
- 20.Lillybai
- 21.Rose Mary

... Petitioners

Vs

1. The Collector,
Kancheerpum District,
Kancheepuram
2. The Special Tahsildar(Land Acquisition),
Krishna Water Supply Project (Division-I),
Madurantakkam,
Kancheepuram District

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Declaration declaring the Award No.9 of 1991 dated 20.09.1991 on the file of the second respondent herein as lapsed under the Section 24 of 'The Right to Fair Compensation and Transparency in Land



Acquisition, Rehabilitation and Resettlement Act, 2013' and consequently direct the respondents herein to pay the compensation to the petitioners herein towards the acquired lands in accordance with the provisions of 'The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013'.

For Petitioners : Mr.A.Devnarenderan

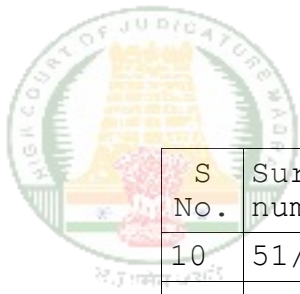
For Respondents : Mr.A.Selvendran,
Special Government Pleader

O R D E R

This writ petition is filed to issue a Writ of Declaration declaring the Award No.9 of 1991 dated 20.09.1991 on the file of the second respondent herein as lapsed under the Section 24 of 'The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013' and consequently direct the respondents herein to pay the compensation to the petitioners herein towards the acquired lands in accordance with the provisions of 'The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013'.

2. The petitioners challenged the acquisition proceedings under the new Act i.e. 'The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013' for the reason that the petitioners were not paid compensation so far. The petitioners are owner of the lands comprised in survey Nos. as follows:

S No.	Survey number	Extent of land (in hectares)	Name of owner / petitioner
1	6/2B	0.22.5	C.Ranganathan
2	14/3 B2	0.10.0	M.Shanmugam
3	19/1B	0.07.0	Venkatesa Mudaliar
4	30/1B2 32/2B2	0.02.0 0.05.0	M.Perumal Mudaliar
5	30/2A2A	0.06.0	Madurai Naicker
6	30/2B2	0.11.0	M.Lakshmi Ammal
7	32/1C2B 32/1D	0.16.0 0.05.5	M.Rajeswari
8	32/1C3	0.05.5	G.Vedachala Mudaliar
9	51/1A2B1	0.02.0	Munusamy Naicker



S No.	Survey number	Extent of land (in hectares)	Name of owner / petitioner
10	51/1A2C1	0.01.5	Murugesu Naicker
11	51/1B1A	0.06.0	Jayaraman
12	51/1B3A 251/8A 251/8B 251/8D	0.03.0 0.09.0 0.06.0 0.07.0	A.V.Arumugam
13	242/6A 3B	0.09.0	Anthony
4	242/6B2	0.10.0	R.Munniyandhi
15	242/12	0.10.5	K.Venkata Perumal
16	250/1A2 250/2A2	0.06.0 0.05.0	Arumugam
17	250/1B1	0.12.0	M.Chellamuthu Naicker
18	252/1D/3B	0.01.0	K.Munusamy
19	251/9A	0.03.0	S.MariNaicker
20	242/6A2B	0.08.0	Lillybai
21			Rose Mary

2.1 The said lands were acquired for the purpose of providing High Level Channel Scheme for irrigation linking 26 tanks in Madurantakkam and Cheyyur Taluk of Kancheepuram District. In pursuant to the same, notification was issued under Section 4(1) of the Land Acquisition Act, 1894 in GO.Ms.No.1413 Public Works Department dated 05.09.1988 proposing to acquire the lands admeasuring 7.03.0 hectres. Enquiry under Section 5A of the said Act was conducted on 22.11.1988 and award was passed in Award no.9 of 1991 dated 20.09.1991 thereby determining the compensation at the rate of Rs.45/- per cent. On objection, it was referred under Section 18 of the said Act in LAOP and enhanced the compensation to Rs.700/- per cent. The judgment and decree was also challenged by the second respondent before this Court by way of appeal suits and the appeal suits were dismissed and even then, the petitioners were not paid compensation and no amount has been deposited even till today. Insofar as possession is concerned, already taken over and the entire scheme has been completed. Now it is functioning as High Level Channel Scheme for irrigation linking 26 tanks in Madurantakkam and Cheyyur Taluk of Kancheepuram District. That apart, this writ petition has been filed after period of twenty five years from the date of award. However, the learned counsel for the petitioners submitted that so far the respondents have not deposited any compensation.



3. In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India reported in (2020) 8 SCC 129 in the case of Indore Development Authority Vs. Manoharlal and ors etc., wherein it is 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 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



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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 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.



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To

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1. The Collector,
Kancheerpum District,
Kancheepuram
2. The Special Tahsildar(Land Acquisition),
Krishna Water Supply Project (Division-I),
Madurantakkam,
Kancheepuram District.

+1cc to Mr.A.Saravanan, Advocate, S.R.No.62693
+1cc to the Government Pleader, S.R.No.62598

W.P.No.16016 of 2015

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NSK 16/12/2021