



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.18002 to 18007 of 2012, 5191 to 5196 of 2013,
5228 to 5233 of 2013, 6122 to 6126 of 2013,
12180 to 12184 of 2013, 19647 of 2013
and
M.P.No.1 of 2013

U.LEELAVATHI	...PETITIONER in WP No.18002 of 2012
H.S.DURGA PRASAD	...PETITIONER in WP No.18003 of 2012
PREMA PRASAD	...PETITIONER in WP No.18004 of 2012
J.LAKSHMI	...PETITIONER in WP No.18005 of 2012
CHANDRIKA	...PETITIONER in WP No.18006 of 2012
S.VAJRAVELU	...PETITIONER in WP No.18007 of 2012
GEETHA SATHYANARAYANAN	...PETITIONER in WP No.5191 of 2013
A.SETHU MADHAVAN	...PETITIONER in WP No.5192 of 2013
SINDHU SURENDRAN	...PETITIONER in WP No.5193 of 2013
SAROJINI PATTABI	...PETITIONER in WP No.5194 of 2013
C.SATHIANARAYANAN	...PETITIONER in WP No.5195 of 2013
V.HARRIMAN	...PETITIONER in WP No.5196 of 2013
S.WALTER LAWRENCE	...PETITIONER in WP No.5228 of 2013
RAJESWARI	...PETITIONER in WP No.5229 of 2013
V.LAKSHMI	...PETITIONER in WP No.5230 of 2013
HELEN SATYA	...PETITIONER in WP No.5231 of 2013
TK.RAJESWARI	...PETITIONER in WP No.5232 of 2013
K.DEVI	...PETITIONER in WP No.5233 of 2013



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I.MARIA SOOSAI

...PETITIONER in WP No.6122 of 2013

H.DHANUSHKUMAR

...PETITIONER in WP No.6123 of 2013

B.J.SAROJA

...PETITIONER in WP No.6124 of 2013

S.PADMAVATHI

...PETITIONER in WP No.6125 of 2013

SARALA DEVI

...PETITIONER in WP No.6126 of 2013

N.SRINIVAS

...PETITIONER in WP No.12180 of 2013

B.MOHANKUMAR

...PETITIONER in WP No.12181 of 2013

BH.PADMA @ BABY LAKSHMI

...PETITIONER in WP No.12182 of 2013

B.H.THARUNKUMAR

...PETITIONER in WP No.12183 of 2013

T.S.KAILASH

...PETITIONER in WP No.12184 of 2013

R.LATHA

...PETITIONER in WP No.19647 of 2013

-Vs-

1. THE GOVERNMENT OF TAMIL NADU,
REP. BY SECRETARY TO GOVERNMENT
TOURISM DEPARTMENT,
FORT ST. GEORGE, SECRETARIAT,
CHENNAI-9.

2. THE DISTRICT COLLECTOR,
KANCHEEPURAM DISTRICT,
KANCHEEPURAM.

3. THE TAMIL NADU TOURISM
DEVELOPMENT CORPORATION LTD,
NO.2, WALLAJA ROAD, TRIPLICANE,
CHENNAI-2.
REP. BY ITS MANAGING DIRECTOR

...RESPONDENTS in WP No.18002, 18003,
18004, 18005, 18006, 18007 of 2012,
5191 to 5196, 12180 to
12184 & 19647 of 2013

1. THE GOVT. OF TAMIL NADU
REP. BY SECRETARY TO GOVT.
TOURISM DEPARTMENT
SECRETARIAT. FORT ST. GEORGE,
CHENNAI-9.



2. THE DISTRICT COLLECTOR
KANCHEEPURAM DISTRICT, KANCHEEPURAM.

...RESPONDENT in WP No.5228 to 5233,
6122 to 6126 of 2013

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Prayer in WP No.18002 of 2012: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, Calling for the records of the 1st respondent in Letter No.3383/ T1/2012-1 dated 27.6.2012 and quash the same and direct the 1st respondent herein to re-convey the land of an extent of 4,800 sq.ft. in Plot Nos.46 and 80 comprised in Survey No.46/3A in No.156, Mamallapuram, (Devaneri Village), Chengalpet Taluk, Kancheepuram District to the petitioner under Sec.48-B of the Land Acquisition Act, 1894

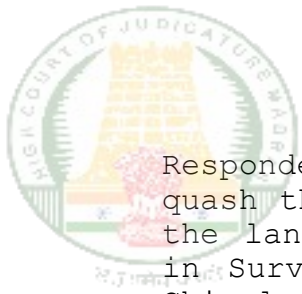
Prayer in WP No.18003 of 2012: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, Calling for the records of the 1st respondent in Letter No.3383/ T1/2012-1 dated 27.6.2012 and quash the same and direct the 1st respondent herein to re-convey the land of an extent of 2,400 sq.ft. in Plot No.136 comprised in Survey No.46/3B in No.156, Mamallapuram, (Devaneri Village), Chengalpet Taluk, Kancheepuram District to the petitioner under Sec.48-B of the Land Acquisition Act, 1894

Prayer in WP No.18004, 18005, 18006 & 18007 of 2012:Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, Declaring the Land Acquisittiiion Proceedings culminating in the award bearing No.11 of 86 dated 23.09.1986 in respect of the land in Survey No.46/3B in No.156, Mamallapuram (Devaneri Village) Chengalpet, Taluk, Kancheepuram District, as lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013.

(Prayer Amended Vide Order dated 01.11.2021 made in MP.Nos.1/2014)

Prayer in WP No.5191 of 2013: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, Calling for the records of the 1st Respondent in Letter No. 4826/T1/2012-1 dated 20.9.2012 and quash the same and direct the 1st Respondent herein to re-convey the land of an extent of 7,200 sq.ft. in Plot No.117, 118 and 184 comprised in Survey No.46/3B in No.156, Mamallapuram (Davaneri) Village, Chingleput Taluk, Kancheepuram District to the Petitioner under Sec.48B of the Land Acquisition Act, 1894

Prayer in WP No.5192 of 2013: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, Calling for the records of the 1st



Respondent in Letter No. 4826/T1/2012-1 dated 20.9.2012 and quash the same and direct the 1st Respondent herein to re-convey the land of an extent of 2,400 sq.ft. in Plot No.175 comprised in Survey No.46/3B in No.156, Mamallapuram (Davaneri) Village, Chingleput Taluk, Kancheepuram District to the Petitioner under Sec.48B of the Land Acquisition Act, 1894

Prayer in WP No.5193 of 2013: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, Calling for the records of the 1st Respondent in Letter No. 4826/T1/2012-1 dated 20.9.2012 and quash the same and direct the 1st Respondent herein to re-convey the land of an extent of 9,600 sq.ft. in Plot Nos. 207, 208, 209 and 210 comprised in Survey No.46/3B in No.156, Mamallapuram (Davaneri) Village, Chingleput Taluk, Kancheepuram District to the Petitioner under Sec.48B of the Land Acquisition Act, 1894

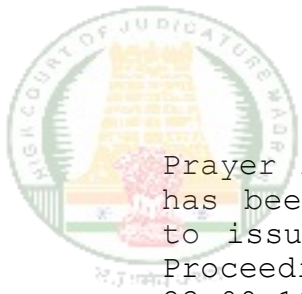
Prayer in WP No.5194 of 2013:Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, Declaring the Land Acquisition Proceedings culminating in the award bearing No.11 of 86 date 23.09.1986 in respect of the land in Survey No.46/3B in No.156, Mamallapuram (Devaneri Village) Chengalpet Taluk, Kancheepuram District, as lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013.

(Prayer Amended Vide Order dated 01.11.2021 made in MP.Nos.1/2014)

Prayer in WP No.5195 & 5196 of 2013: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, Calling for the records of the 1st Respondent in Letter No. 4826/T1/2012-1 dated 20.9.2012 and quash the same and direct the 1st Respondent herein to re-convey the land of an extent of 4,800 sq.ft. in Plot No.137 and 138 comprised in Survey No.46/3B in No.156, Mamallapuram (Davaneri) Village, Chingleput Taluk, Kancheepuram District to the Petitioner under Sec.48B of the Land Acquisition Act, 1894

Prayer in WP No.5228,5229,5230,6122,6123,6126, 12180,12183 of 2013: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, Declaring the Land Acquisition Proceedings culminating in the award bearing No.11 of 86 date 23.09.1986 in respect of the land in Survey No.46/3B in No.156, Mamallapuram (Devaneri Village) Chengalpet Taluk, Kancheepuram District, as lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013.

(Prayer Amended Vide Order dated 01.11.2021 made in MP.Nos.1/2014)



Prayer in WP No.5231,5232, 5233,6124, 6125 of 2013:Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, Declaring the Land Acquisition Proceedings culminating in the award bearing No.11 of 86 date 23.09.1986 in respect of the land in Survey No.46/3A in No.156, Mamallapuram (Devaneri Village) Chengalpet Taluk, Kancheepuram District, as lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013.

(Prayer Amended Vide Order dated 01.11.2021 made in MP.Nos.1/2014)

Prayer in WP No.12181 of 2013:Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, Calling for the records relating to the 1st Respondent in Letter No.4826/T1/2012-1 dated 20.09.2012 and quash the same and direct the 1st Respondent herein to re-convey the land measuring an extent of 4,800 sq.ft. in Plot No.199 & 200 comprised in Survey No.46/3B, in No.156, Mamallapuram (Devaneri Village) Chengalpet Taluk, Kancheepuram District to the Petitioner herein under Sec.48-B of the Land Acquisition Act, 1894.

Prayer in WP No.12182 of 2013:Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, Calling for the records relating to the 1st Respondent in Letter No.4826/T1/2012-1 dated 20.09.2012 and quash the same and direct the 1st Respondent herein to re-convey the land measuring an extent of 2,400 sq.ft. in Plot No.171 comprised in Survey No.46/3B, in No.156, Mamallapuram (Devaneri Village) Chengalpet Taluk, Kancheepuram District to the Petitioner herein under Sec.48-B of the Land Acquisition Act, 1894.

Prayer in WP No.12184 of 2013: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, Calling for the records relating to the 1st Respondent in Letter No.4826/T1/2012-1 dated 20.09.2012 and quash the same and direct the 1st Respondent herein to re-convey the land measuring an extent of 2,400 sq.ft. in Plot No.29 comprised in Survey No.46/3B, in No.156, Mamallapuram (Devaneri Village) Chengalpet Taluk, Kancheepuram District to the Petitioner herein under Sec.48-B of the Land Acquisition Act, 1894.

Prayer in WP No.19647 of 2013: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the 1st respondent in Letter No. 7549/T1/2013-1 dt 28.6.2013 and quash the same and direct the 1st respondent herein to re-convey



the land measuring an extent of 2 Grounds in Plot No.168 to 170 in Survey No. 46/3B, in No. 156, Mamallapuram (Devaneri Village) Chengleput Taluk, Kancheepuram District to the petitioner herein under sec. 48-B of the Land Acquisition Act, 1894

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For Petitioner : Mr.ARL.Sundaresan, Senior counsel
in all WP's for M/s.AL.Ganthimathi

For Respondents
in W.P.18002 to 18007 of 2012,
5191 to 5196 of 2013,
5228 to 5233 of 2013,
12180 to 12184 of 2013,
19647 of 2013
for 1 & 2 : Mr.R.Neelakandan, AAG
Assisted by Mr.Richardson Wilson,
Government Advocate

For Respondent 3
in W.P.18002 to 18007 of 2012,
5191 to 5196 of 2013,
5228 to 5233 of 2013,
12180 to 12184 of 2013,
19647 of 2013 : Mr.R.Bala Ramesh

For Respondents : Mr.Richardson Wilson,
in W.P.6122 to 6126 Government Advocate
of 2013

C O M M O N O R D E R

All the writ petitioners were owned their respective land situated at Mamallapuram (Devaneri Village), Chengleput, Kancheepuram District. While being so, the total extent of land admeasuring 15.02 acres comprised in Survey No.46/1A etc., inclusive of the land which belongs to all the petitioners herein were sought to be acquired by the Government of Tamil Nadu by issuance of Notification under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter called as "Act") vide G.O.Ms.No.4828 Public (Tourism Department) dated 06.12.1974. In pursuant to the 4(1) Notification, Declaration under Section 6 of the Act was also issued by the Government in G.O.Ms.No.2560 Public (Tourism -1 Department) dated 19.12.1977. Thereafter, on 23.09.1986 the award was passed in Award No.11 of 1986.

2.The petitioners in all the writ petitions are the subsequent purchasers after passing the award. Insofar as the 5 writ petitioners have received compensation as per the award



passed in Award No.11 of 1986 dated 23.09.1986. Insofar as the other writ petitioners are concerned, they have not received compensation. Therefore, all the writ petitioners submitted their representations to reconvey their respective land. However, their representations were not considered and as such, the 5 writ petitions filed before this Court for direction. All the writ petitions were disposed of by this Court and thereby directed the first respondent herein to consider their representations under Section 48B of the Act for reconvey. All the requests were rejected by the impugned orders and aggrieved by the same the present writ petitions are filed.

3. While pending the writ petitions, the petitioners filed writ miscellaneous petitions to amend the prayer and also seeking permission to raise additional grounds as contemplated under Section 24(2) of the Right to Fair Compensation And Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013 (hereinafter called as "New Act"). As per the amended prayer they sought for declaration declaring that the land acquisition proceedings culminated in Award No.11 of 1986 dated 23.09.1986 in respect of their respective land as lapsed under Section 24(2) of the New Act, and all the petitions are allowed.

4. Mr. ARL. Sundaresan, the learned Senior Counsel for the petitioner submitted that the impugned order passed by the first respondent are not Germaine or material for considering the application for reconveyance of land under Section 48B of the Act. The provision under Section 48B of the Act is the requirement of the land for the purpose for which it was acquired or for any other public purpose. There is absolutely no consideration or finding by the first respondent while considering their representations to reconvey the respective land.

5. The subject lands have not been used by the Tamil Nadu Tourism Development Corporation Limited for any purpose. Even till today, all the subject land is lying vacant and as such the impugned order is liable to be quashed. Insofar as the possession is concerned, the subject land have not been taken possession from the petitioners respective possession and enjoyment. The respondents caused only symbolic possession that too only leaving the land delivery receipt and mentioned the date of taken over and handed over. This procedure is not in accordance with 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.,.

6. Accordingly, the panchnama has to be prepared while taking the possession. The drawing of panchnama is the mode of



taking possession of land acquisition cases, thereupon the land based in the State and any re-entry or reopening the possession thereafter is unlawful in view for confirming benefits under Section 24(2) of the New Act. Insofar as the compensation is concerned some of the land owners have received compensation and in respect of others have not received compensation. The respondents also failed to produce any records to show that the petitioners have received compensation and the possession has been taken over from the petitioners.

7. He further submitted that when the possession has not been taken over from the respective petitioners in respect of their respective land. Therefore, the acquisition proceedings is not yet concluded and it is pending. Therefore, the petitioners are entitled to challenge the acquisition proceedings under Section 24(2) of the New Act. In support of his contention, he also relied upon the same Judgment reported in (2020) 8 SCC 129 in the case of Indore Development Authority Vs. Manoharlal and ors etc., held as follows:

"340. Before proceeding further, in our opinion, Section 24 contemplates pending proceedings and not the concluded ones in which possession has been taken, and compensation has been paid or deposited. Section 24 does not provide an arm or tool to question the legality of proceedings, which have been undertaken under the Act of 1894 and stood concluded before five years or more. It is only in cases where possession has not been taken, nor compensation is paid, that there is a lapse. In case possession has been taken, and compensation has not been deposited with respect to majority of landholdings, the beneficial provision of the statute provides that all beneficiaries shall be paid compensation as admissible under the Act of 2013. The beneficiaries, i.e., landowners contemplated under the proviso to Section 24 (2), are the ones who were so recorded as beneficiaries as on the date of issuance of notification under Section 4 of the Act of 1894. 227 (2006) 3 SCC 286 The provision is not meant to be invoked on the basis of void transactions, and by the persons who have purchased on the basis of power of attorney or otherwise, they cannot claim the benefit under Section 24 as is apparent from proviso to Section 24(2) and the decision in Shiv Kumar and Ors. v. Union of India and Ors 228.



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341. This Court is cognizant that Section 24 is used for submitting various claims, by way of filing applications in the pending proceedings either before the High Court or this Court. There are cases in which in the first round of litigation where the challenge to acquisition proceedings has failed, validity has been upheld, and possession has been taken after passing of the award. It is contended that drawing of panchnama was not the permissible mode to take possession, and actual physical possession remains with such landowners/purchasers/power of attorney holders as such benefit of Section 24 should be given to them notwithstanding the fact that they have withdrawn the compensation also."

"274. It was submitted on behalf of landowners that under Section 24 the expression used is not possession but physical possession. In our opinion, under the Act of 1894 when possession is taken after award is passed under section 16 or under section 17 before the passing of the award, land absolutely vests in the State on drawing of Panchnama of taking possession, which is the mode of taking possession. Thereafter, any re-entry in possession or retaining the possession is wholly illegal and trespasser's possession inures for the benefit of the owner and even in the case of open land, possession is deemed to be that of the owner. When the land is vacant and is lying open, it is presumed to be that of the owner by this Court as held in *Kashi Bai v. Sudha Rani Ghose*¹⁸⁰. Mere re-entry on Government land once it is acquired and vests absolutely in the State (under the Act of 1894) does not confer, any right to it and Section 24(2) does not have the effect of divesting the land once it vests in the State."

8. In which, the Hon'ble Supreme Court of India held that under Section 24(2) of the New Act, it was submitted on behalf of landowners that under Section 24 the expression used is not possession but physical possession. In our opinion, under the Act of 1894 when possession is taken after award is passed under Section 16 or under Section 17 before the passing of the award,



land absolutely vests in the State on drawing of Panchnama of taking possession, which is the mode of taking possession. Thereafter, any re-entry in possession or retaining the possession is wholly illegal and trespasser's possession inures for the benefit of the owner and even in the case of open land, possession is deemed to be that of the owner. When the land is vacant and is lying open, it is presumed to be that of the owner by this Court as held in Kashi Bai v. Sudha Rani Ghose¹⁸⁰. Mere re-entry on Government land once it is acquired and vests absolutely in the State (under the Act of 1894) does not confer, any right to it and Section 24(2) does not have the effect of divesting the land once it vests in the State.

9. He further submitted that under Section 26 of the Act, when the Collector has made an award under Section 11, he may take possession of the land, which shall thereupon (vest absolutely in the Government), free from all encumbrances. However, if the possession has not been taken over, it is contemplated under the Act, that the subject land never vest with the Government. Thereafter, the entire acquisition proceedings have lapsed as contemplated under Section 24(2) of the New Act.

10. Per contra, the respondents filed counter and the learned Additional Advocate General submitted that the subject lands were acquired by the Government of Tamil Nadu by issuance of notification under Section 4(1) of the Act vide G.O.Ms.No.4828 dated 06.12.1974 for the purpose of preservation of Environmental and aesthetic character and declaration under Section 6 of the Act was also issued by the Government in G.O.Ms.No.2560 dated 19.12.1977. Thereafter, the compensation amount sanctioned in G.O.Ms.No.311 dated 08.07.1986 and in G.O.Ms.No.613 dated 03.09.1986.

11. The entire land has been taken over by the Revenue Department in the year 1988. Thereafter, handed over to the Tamil Nadu Tourism Development Corporation (hereinafter called as "TTDC"). The TTDC had taken the following steps for utilization of the land:-

- i) Establishment of open air museum and open air auditorium with Government of India Assistance.
- ii) Establishment of Mini Golf Course under Public Private participation (PPP) Mode.
- iii) Establishment of Youth Hostel of International standard.
- iv) Establishment of Water Sports under (PPP) Mode.

12. Therefore the TTDC has taken efforts to attract investment from private sector for establishment of viable



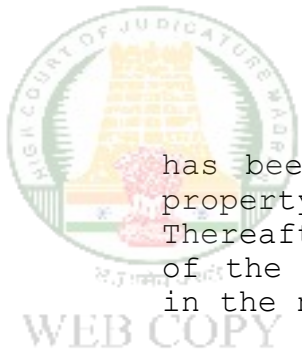
Tourism Project as indicated above. The State Government have already issued orders vide G.O.Ms.No.102 dated 11.06.2012 for establishment of Tamil Nadu Maritime Heritage Museum at Mamallapuram with the de-commissioned VAGLI Submarine as center piece and to establish the Maritime Heritage Museum with all facilities such as Maritime Heritage, Marine Technology, Audio Visual Studio, Souvenir Shop, Food Court, Aquarium etc. The TTDC has been designated as Nodal Agent for execution of this project to an extent of 15.2 acres of land comprised in Survey No.46 was initially identified for establishment of Maritime Heritage Museum. However, taking into account the restrictions of CRZ and other logistic bottle-necks and the requirements of land for this project.

13. The Hon'ble Minister for Finance in the floor of the State Assembly has announced that the State Government would establish an Oceanarium (Under Water World Aquarium) of international standard at a cost of Rs.250 Crores on PPP Model. As it is sea-based project, the 15 acres of land under Survey No.46 1A, 1B, 3A and 3B at Mamallapuram has been identified for establishment of this prestigious Project, which will be the first of its kind in India.

14. The learned Additional Advocate General also produced the resolution based in the 270th Board Meeting of the Tamil Nadu Development Corporation. Thereafter, the proposal for fixation of lease rent for 5.29.5 hectares of land at Mamallapuram belonging to TTDC was placed before the Board in its 270th meeting held on 12.11.2015. The Board after discussion passed the resolution that to approve the proposal of lease to an extent of 5.29.5 hectares of land at Mamallapuram belonging to TTDC at an annual lease rent of Rs.1 crore per annum with 5% escalation year on year throughout the concession period of 33 years for the project of Oceanarium to be established by Fisheries Department, subject to Government Approval.

15. The said communication to TTDC with regards to Establishment of World Class Oceanarium at Mamallapuram on PPP basis and with regards the same the fourth tender is in process and requested to financial proposal scheduled on 10.01.2019. Again by the communication dated 05.09.2020 sent to the Principal Secretary to Government, Animal Husbandry, Dairying and Fisheries Department requested to the Government implementing project through TTDC.

16. He further submitted that therefore, the entire project as on and it has to be completed with the aid of State Government as well as the Central Government. Insofar as the possession of the respective land is concerned the possession



has been taken over and handed over in respect of the subject property as early as on 05.04.1988 and handed over to the TTDC. Thereafter, the entire revenue records were mutated in the name of the TTDC and in the above said projects have been developed in the name of the TTDC.

17. Insofar as the compensation is concerned almost all the writ petitioners have duly received their respective compensation for their respective land. In fact, some of the writ petitioners have subsequently purchased their respective property and they do not know whether the original land owner received compensation or not. Once the subject land has been taken over and handed over to the requisition body the acquisition proceedings have not lapsed as contemplated under Section 24(2) of the New Act.

18. He further submitted that all the writ petitioners originally filed writ petitions challenging the order of rejection, thereby rejecting the requisition for reconveyance under Section 48B of the Act. However, while pending the writ petitions all the writ petitioners have filed petition to amend the prayer, thereby challenged the acquisition proceedings under Section 24(2) of the New Act. Therefore, after a period of 34 years now the petitioners have challenged the acquisition proceedings initiated under Section 4(1) of the Act dated 06.12.1974. All the petitioners had been accepted the acquisition proceedings and also received the compensation for their respective land and now they challenged the acquisition proceedings.

19. He further submitted that once the subject land vested with the Government, the land owners cannot challenge the acquisition proceedings on the ground that the subject land are not used for the public purpose or used for other purpose. In support of his contention, he relied upon the Judgment reported in (2005) 1 SCC 558 Government of A.P. and another -vs- Syed Akbar, in which the Hon'ble Supreme Court of India held that the land acquired for public purpose, unutilised land, reassignment or reconveyance of Land to erstwhile owner held was not permissible in view of the law settled by the Supreme Court of India. In this regard High Court was not justified in directing the authorities to handover the unused portion of the land to the erstwhile owner after the public purpose was achieved, unused land can be used for another public purpose.

20. He also relied upon the Judgment reported in (2012) 12 SCC 133 V.Chandrasekaran and another -vs- Administrative Officer and another held that Land once acquired, cannot be restored to the tenure holders / persons interested, even if it is not used for the purpose for which it was so acquired, or for any other



purpose either. Once the land is acquired and it vests in the State, free from all encumbrances, it is not the concern of the landowner, whether the land is being used for the purpose for which it was acquired or for any other purpose.

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21. Heard, Mr. ARL. Sundaresan, Senior counsel for M/s. AL. Ganthimathi, learned counsel for the petitioner and Mr. R. Neelakandan, Additional Advocate General Assisted by Mr. Richardson Wilson, learned Government Advocate for the respondents 1 and 2 and Mr. R. Bala Ramesh, learned standing counsel for the third respondent.

22. All the petitioners have challenged the order impugned in this writ petitions, thereby rejected their claim for reconveyance under Section 48B of the Act. The subject lands were acquired by the Government of Tamil Nadu by issuance of Notification under Section 4(1) of the Act by G.O. Ms. No. 4828 dated 06.12.1974 for the purpose of preservation of Environmental and aesthetic character. Thereafter, the declaration was made under Section 6 of the Act by the Government in G.O. Ms. No. 2560 dated 19.12.1977. After complying all the procedures as contemplated under the Act the award has been passed on 23.09.1986 in Award No. 11 of 1986. According to the petitioners, the respondents have acquired the subject land for an alleged public purpose, the said land has not been utilized for any purpose, the land remain waste from 1986 till the filing of the all the writ petitions.

23. It is not used by Government much less for which it was sought to be acquired for the alleged public purpose. Thus, it is clear that the possession of the subject land had been already taken over and it has not been utilized for any purpose and it has been allowed to remain waste from the year 1986. Therefore, after the period of 34 years now the petitioner cannot say that the possession of the land has not been taken over and all the petitioners are in possession and enjoyment of their subject land.

24. On perusal of the records revealed that under the land delivery receipt the subject land to an extent of 5.97.5 hectares was handed over to the TTDC under the Award No. 11 of 1986 dated 23.09.1986 and the said land had been taken over by the TTDC on 05.04.1988. Thereafter, the State Government had issued G.O. Ms. No. 102, Tourism and Culture Department dated 11.06.2012 for establishment of Tamil Nadu Maritime Heritage Museum at Mamallapuram with the de-commissioned VAGLI Submarine as center piece and to establish the Maritime Heritage Museum with all facilities. Thereafter, the TTDC has been designated as Nodal Agent for execution of this project.



25. That apart to an extent of 15.2 acres of land comprised in Survey No.46 was initially identified for establishment of Maritime Heritage Museum as per the restrictions of CRZ and other logistic bottle-necks and the requirements of the land for this project has been identified to implement the head project. Immediately, after taken over the possession of the subject property the TTDC had taken the following steps for utilization of land.

i) Establishment of open air museum and open air auditorium with Government of India Assistance.

ii) Establishment of Mini Golf Course under Public Private participation (PPP) Mode.

iii) Establishment of Youth Hostel of International standard.

iv) Establishment of Water Sports under (PPP) Mode.

26. It is also seen that the Hon'ble Minister for Finance had announced that the State Government would establish an Oceanarium (Under Water World Aquarium) of International Standard at a cost of Rs.250 Crores on PPP Model. The land admeasuring 15 acres comprised in Survey No.46 1A, 1B, 3A and 3B at Mamallapuram has been identified for establishment of this prestigious project. The State Government have also sanctioned a sum of Rs.2 crores as initial capital for establishment of Adventure Water Sports in Tamil Nadu. The TTDC and Sports Development Authority have taken steps to identify reputed Organizations of Adventure Water Sports for establishment of Adventure Water Sports in Tamil Nadu. Therefore, it is not possible to reconvey the land after a lapse of several years, since it is being necessary for public purpose.

27. Insofar as the compensation is concerned, even according to the petitioners, some of them have already received compensation and in respect of the some of the writ petitioners admittedly are subsequent purchasers. As rightly pointed out by the Additional Advocate General when all the petitioners made representations to reconveyance of their respective subject land, they do not whisper about non payment of compensation as well as the non taking possession from their possession by the respondents.

28. On perusal of the respective representations of the petitioners, their sole grievance is that from the year 1986 to till date the property has not been utilized by the Government for the alleged public purpose, for which it was sought to be acquired. The land which has been acquired it just allow to remain waste from 1986 to till date for the period of 25 years. Therefore, they had submitted representations for reconveyance of their respective subject land. Further, if at all the petitioners are in possession and enjoyment of their respective



property, they would have utilized for their purposes. Thus, it is clear that the entire possession of the subject land had been already taken over and handed over to the TTDC for its respective projects. In this regard, the learned Additional Advocate General relied upon the Judgment reported in (2012) 12 SCC 133 V.Chandrasekaran and another -vs- Administrative Officer and another held as follows:-

"25. It is a settled legal proposition, that once the land is vested in the State, free from all encumbrances, it cannot be divested and proceedings under the Act would not lapse, even if an award is not made within the statutorily stipulated period. (Vide: Avadh Behari Yadav v. State of Bihar & Ors., (1995) 6 SCC 31; U.P. Jal Nigam v. Kalra Properties (P) Ltd. (Supra); Allahabad Development Authority v. Nasiruzzaman & Ors., (1996) 6 SCC 424, M. Ramalinga Thevar v. State of Tamil Nadu & Ors., (2000) 4 SCC 322; and Government of Andhra Pradesh v. Syed Akbar & Ors., AIR 2005 SC 492).

26. The said land, once acquired, cannot be restored to the tenure holders/persons-interested, even if it is not used for the purpose for which it was so acquired, or for any other purpose either. The proceedings cannot be withdrawn/abandoned under the provisions of Section 48 of the Act, or under Section 21 of the General Clauses Act, once the possession of the land has been taken and the land vests in the State, free from all encumbrances. (Vide: State of Madhya Pradesh v. V.P. Sharma, AIR 1966 SC 1593; Lt. Governor of Himachal Pradesh & Anr. v. Shri Avinash Sharma, AIR 1970 SC 1576; Satendra Prasad Jain v. State of U.P. & Ors., AIR 1993 SC 2517; Rajasthan Housing Board & Ors. v. Shri Kishan & Ors., (1993) 2 SCC 84 and Dedicated Freight Corridor Corporation of India v. Subodh Singh & Ors., (2011) 11 SCC 100).

27. The meaning of the word 'vesting', has been considered by this Court time and again. In Fruit and Vegetable Merchants Union v. The Delhi Improvement Trust, AIR 1957 SC 344, this Court held that the meaning of word 'vesting' varies as per the context of the Statute, under which the property vests. So far as the vesting under Sections



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16 and 17 of the Act is concerned, the Court held as under:-

"19. In the cases contemplated by Sections 16 and 17, the property acquired becomes the property of Government without any condition or ; limitations either as to title or possession. The legislature has made it clear that vesting of the property is not for any limited purpose or limited duration."

28. In Gulam Mustafa & Ors. v. State of Maharashtra & Ors., AIR 1977 SC 448, in a similar situation, this Court held as under:-

"5. Once the original acquisition is valid and title has vested in the Municipality, how it uses the excess land is no concern of the original owner and cannot be the basis for invalidating the acquisition. There is no principle of law by which a valid compulsory acquisition stands voided because long later the requiring Authority diverts it to a public purpose other than the one stated in thedeclaration."

29. Similarly, in State of Kerala & Anr. v. M. Bhaskaran Pillai & Anr., (1997) 5 SCC 432, this Court held as under:

"4. It is settled law that if the land is acquired for a public purpose, after the public purpose was achieved, the rest of the land could be used for any other public purpose. In case there is no other public purpose for which the land is needed, then instead of disposal by way of sale to the erstwhile owner, the land should be put to public auction and the amount fetched in the public auction can be better utilised for the public purpose envisaged in the Directive Principles of the Constitution.

(See also: C. Padma & Ors. v. Deputy Secretary to the Government of Tamil Nadu & Ors., (1997) 2 SCC 627; Bhagat Singh v. State of U.P. & Ors., AIR 1999



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SC 436; Niladri Narayan Chandradhuria v. State of West Bengal, AIR 2002 SC 2532; Northern Indian Glass Industries v. Jaswant Singh & Ors., (2003) 1 SCC 335; and Leelawanti & Ors. v. State of Haryana & Ors., (2012) 1 SCC 66).

30. In Government of Andhra Pradesh & Anr. v. Syed Akbar (Supra), this Court considered this very issue and held that, once the land has vested in the State, it can neither be divested, by virtue of Section 48 of the Act, nor can it be reconveyed to the persons- interested/tenure holders, and that therefore, the question of restitution of possession to the tenure holder, does not arise. (See also: Pratap v. State of Rajasthan, AIR 1996 SC 1296; Chandragaudaj Ramgonda Patil v. State of Maharashtra, (1996) 6 SCC 405; State of Kerala & Ors. v. M. Bhaskaran Pillai & Anr., AIR 1997 SC 2703; Printers (Mysore) . Ltd. v. M.A. Rasheed & Ors. (2004) 4 SCC 460; Bangalore Development Authority v. R. Hanumaiah, (2005) 12 SCC 508; and Delhi Airtech Services (P) Ltd. & Anr. v. State of U.P. & Anr. (2011) 9 SCC 354)."

29. Thus, it is clear that once the possession of the land has been vested in the State, free from all encumbrances. It is not the concern of the land owner, whether the land is being used for the purpose for which it was acquired or for any other purpose. It cannot be the basis for invalidating the acquisition. Once the land acquired, it cannot be restored to the Land owner / persons interested, even if it is not used for the purpose for which it was acquired or for any other purpose either.

30. In the case on hand, admittedly the possession had been already taken over and handed over to the TTDC and as such the subject land vested in the State, free from all encumbrances. Therefore, the first respondent rightly rejected the claim of reconveyance of the petitioners for their respective subject land. Insofar as the grounds raised under Section 24(2) of the New Act as stated supra the entire compensation has been already received by the petitioners except some of the petitioners. Insofar as the possession is concerned as stated supra already the possession has been taken over and handed over to the TTDC and the project is so on.

31. Therefore, the entire acquisition proceedings had been



concluded and it cannot be revived back. In this regard the learned Senior counsel for the petitioners submitted that while taking possession of the subject land the respondents failed to draw any panchnama and as such the land acquisition proceedings has not been concluded and some of the writ petitioners have not been received compensation even till today. In support of his contention he relied upon the Judgment reported in (2020) 8 SCC 129 in the case of Indore Development Authority Vs. Manoharlal and ors etc., which held as follows:-

"279. The court is alive to the fact that there are a large number of cases where, after acquisition land has been handed over to various corporations, local authorities, acquiring bodies, etc. After depositing compensation (for the acquisition) those bodies and authorities have been handed possession of lands. They, in turn, after development of such acquired lands have handed over properties; third party interests have intervened and now declaration is sought under the cover of section 24(2) to invalidate all such actions. As held by us, section 24 does not intend to cover such cases at all and such gross misuse of the provisions of law must stop. Title once vested, cannot be obliterated, without an express legal provision; in any case, even if the landowners' argument that after possession too, in case of non-payment of compensation, the acquisition would lapse, were for arguments' sake, be accepted, these third party owners would be deprived of their lands, lawfully acquired by them, without compensation of any sort. Thus, we have no hesitation to overrule the decisions in Velaxan Kumar (supra) and Narmada Bachao Andolan (supra), with regard to mode of taking possession. We hold that drawing of Panchnama of taking possession is the mode of taking possession in land acquisition cases, thereupon land vests in the State and any re-entry or retaining the possession thereafter is unlawful and does not inure for conferring benefits under section 24 (2) of the Act of 2013.

340. Before proceeding further, in our opinion, Section 24 contemplates pending proceedings and not the concluded ones in which possession has been taken, and



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compensation has been paid or deposited. Section 24 does not provide an arm or tool to question the legality of proceedings, which have been undertaken under the Act of 1894 and stood concluded before five years or more. It is only in cases where possession has not been taken, nor compensation is paid, that there is a lapse. In case possession has been taken, and compensation has not been deposited with respect to majority of landholdings, the beneficial provision of the statute provides that all beneficiaries shall be paid compensation as admissible under the Act of 2013. The beneficiaries, i.e., landowners contemplated under the proviso to Section 24 (2), are the ones who were so recorded as beneficiaries as on the date of issuance of notification under Section 4 of the Act of 1894. 227 (2006) 3 SCC 286 The provision is not meant to be invoked on the basis of void transactions, and by the persons who have purchased on the basis of power of attorney or otherwise, they cannot claim the benefit under Section 24 as is apparent from proviso to Section 24(2) and the decision in Shiv Kumar and Ors. v. Union of India and Ors 228."

32. As stated supra, the entire acquisition proceedings have been concluded and it cannot be reopen on the ground of the possession had not been taken over in the manner known to law. In this regard it is relevant to rely upon the same Judgment reported in (2020) 8 SCC 129 in the case of Indore Development Authority Vs. Manoharlal and ors etc., which held as follows:-

"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 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."

33. 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 award has been passed in Award No.11 of 1986 on 23.09.1986 itself. Therefore, the petitioners failed to satisfy the twin requirements under Section 24 (2) of the New Act, 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.

34.The learned Senior counsel submitted that without prejudice to the contention raised by the petitioners, the petitioners those who are not received compensation, they are entitled for compensation under the New Act. Considering the said submission, if any of the petitioners have not been paid compensation, they are entitled to get compensation under the New Act.

35.Accordingly, these writ petitions are dismissed. No order as to costs. Consequently, the connected M.P.No.1 of 2013 is dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government Tourism Department,
Fort St. George, Secretariat,
Chennai 600 009.
2. The District Collector,
Kancheepuram District,
Kancheepuram.
3. The Managing Director,
Tamilnadu Tourism Development Corporation Limited,
No.2 Wallaja Road,
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+28cc to M/s.R.Bala Ramesh, Advocate, S.R.No.56918 to 56928
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56948 to 56952
56954 to 56957

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+1cc to M/s.A.L.Gandhimathi, Advocate, S.R.No.57062

W.P.Nos.18002 to 18007 of 2012,
5191 to 5196 of 2013,
5228 to 5233 of 2013,
6122 to 6126 of 2013,
12180 to 12184 of 2013,
19647 of 2013
and M.P.No.1 of 2013

RP (CO)
RGA (04/05/2022)