



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.10119 & 10120 of 2018
and W.M.P.Nos.12081 & 12082 of 2018

K.Ramakarishnan

...Petitioner in W.P.
No.10119 of 2018

M.P.Ramalingam

...Petitioner in W.P.
No.10120 of 2018

-Vs-

1. The Government of Tamil Nadu,
Rep, by its Commissioner and
Secretary to Government,
Social Welfare Department,
Fort St.George,
Chennai-9.
2. The District Collector,
Salem District,
Salem.
3. The District Revenue Officer,
Salem District,
Salem.
4. The Special Tahsildar,
Adi Dravidar Welfare Office,
Attur.

...Respondents in both W.Ps

Prayer in W.P.No.10119 of 2018:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Declaration, declaring that the acquisition proceedings with respect to land in Survey No. 153/5 measuring an extent of 1.54 acres at Manjini Village, Attur Taluk, Salem District being the subject matter of Notification under Section 4(1) of the Land Acquisition Act, 1894 made in the declaration under Section 6 of the Land Acquisition Act in G.O.Ms.No.1477 Social Welfare Department dated 09.06.1986 and Award passed in No.4/1986-87 dated 02.01.1987 as lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and consequently forbear the respondents and their subordinates from



any manner interfering with the petitioner's peaceful possession and enjoyment of the aforesaid properties.

Prayer in W.P.No.10120 of 2018:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Declaration, declaring that the acquisition proceedings with respect to land in Sruvey No. 153/6, an extent of 1.13 acres and Survey No. 153/8, an extent of 0.48 acres in Manjini Village, Attur Taluk, Salem District being the subject matter of Notification under Section 4(1) of the Land Acquisition Act, 1894 made in the declaration under Section 6 of the Land Acquisition Act in G.O.Ms.No.1477 Social Welfare Department dated 09.06.1986 and Award passed in No.4/1986-87 dated 02.01.1987 as lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and consequently forbear the respondents and their subordinates from any manner interfering with the petitioner's peaceful possession and enjoyment of the aforesaid properties.

For Petitioners
in both W.Ps. : Mr.S.Parthasarathy,
Senior Counsel
for P.Sivakumar

For Respondents
in both W.Ps. : Mr.Richardson Wilson
Government Advocate.

COMMON ORDER

These Writ Petitions have been filed to declare that the acquisition proceedings in respect of the petitioners' land situated at Manjini Village, Attur Taluk, Salem District, being the subject matter of Notification under Section 4(1) of the Land Acquisition Act, 1894 made in the declaration under Section 6 of the Land Acquisition Act in G.O.Ms.No.1477 Social Welfare Department dated 09.06.1986 and Award passed in No.4/1986-87 dated 02.01.1987 as lapsed, in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (herein after called as "the new Act") and consequently forbear the respondents and their subordinates from any manner interfering with the petitioners' peaceful possession and enjoyment of their properties.

2. Heard Mr.S.Parthasarathy, learned senior counsel appearing for the petitioners and Mr.Richardson Wilson, learned Government Advocate appearing for the respondents in both the



Writ Petitions.

3. These Writ Petitions have been filed challenging the acquisition proceedings on the two grounds that, the possession has not been taken and the compensation was not paid as such, the proceedings have been lapsed in view of the Section 24(2) of the new Act. According to the petitioners, the land was not utilized for the purpose for which the land was acquired as such, the petitioners filed application for reconveyance of their respective land under Section 48(b) of the old Act. While pending the said applications, the petitioners approached this Court in W.P.Nos.20325 & 20326 of 2003 and this Court by an order dated 23.07.2003, directed the respondents to consider their applications and dispose of the same on merits and in accordance with law. However, the fourth respondent called upon the petitioners to appear before the enquiry on 05.03.2018. On receipt of the same, the petitioners filed these Writ Petitions challenging the very acquisition proceedings under Section 24(2) of the new Act.

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



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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 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).



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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.

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 subject land was acquired for the purpose of Adi-draavidar welfare scheme. The acquisition proceedings have been completed and the award has been passed in Award No.4/86-87 on 02.01.1987. Further the requisition body also deposited the compensation amount, as awarded by the Land Acquisition Officer, before the Principal Subordinate Court, Salem on 06.01.1987 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, both the Writ Petitions are devoid of merits and liable to be dismissed.

6. However, the learned counsel appearing for the petitioners submitted that, as directed by this Court in W.P.Nos.20325 & 20326 of 2003 by an order dated 23.07.2003, the respondents did not consider the petitioners' representation. Considering the



said submission, the second respondent is directed to consider the petitioners' application for reconveyance of their respective lands, on merits and in accordance with law, after affording opportunity of hearing to the petitioners, within a period of twelve weeks from the date of the receipt of a copy of this Order, if not already disposed of.

7. In the result, both the Writ Petitions stand dismissed with above directions. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner and Secretary to Government,
The Government of Tamil Nadu,
Social Welfare Department,
Fort St.George,
Chennai-9.
2. The District Collector,
Salem District,
Salem.
3. The District Revenue Officer,
Salem District,
Salem.
4. The Special Tahsildar,
Adi Dravidar Welfare Office,
Attur.

+2cc to M/s.P.Sivakumar, Advocate, S.R.No.46315, 46316

+2cc to the Government Pleader, S.R.No.46469, 46470

W.P.Nos.10119 & 10120 of 2018 and
W.M.P.Nos.12081 & 12082 of 2018

AJS(CO)
RGA(06/10/2021)