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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.18528 of 2015

and

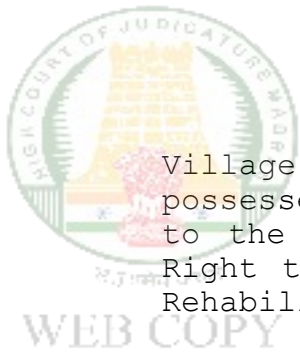
M.P.No.1 of 2015

1. C.Suseela
2. C.Sabapathy
3. C.Venkatesan
4. C.Velayutham
5. C.Vinayagam ... Petitioners/Petitioners

-Vs-

1. The State of Tamilnadu,
Rep. by Secretary to Government,
Housing & Urban Development,
Fort St. George, Chennai - 9.
2. The Chairman,
Tamilnadu Housing Board,
Nandanam, Chennai.
3. The Special Commissioner &
Commissioner for Land Administration,
Chepauk, Chennai -600 005.
4. The District Collector,
Kancheepuram District,
Kancheepuram.
5. The District Revenue Officer (L.A),
Tamilnadu State Housing Board,
Chennai - 600 035. ... Respondents/Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, declaring that the entire land acquisition proceedings initiated under the Land Acquisition Act 1894, in respect of the lands of an extent of (i) punja S.No.586/2 - 0.42 cents (ii) punja S.No.592/5 - 0.37 cents House (iii) punja S.No.593/5 - 1.37 cents, total 2.16 cents situated at Sevilimedu



Village in Kancheepuram Taluk and District originally and possessed by the petitioners' father late Chinnayan, belonging to the petitioners as lapsed in view of the Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (Act 30/2013).

For Petitioners : Mr.M.Sudhakar

For Respondents

For R1, R3 to R5 : Mr.Richardson Wilson
Government Advocate.

ORDER

The Writ Petition has been filed to declare that the entire land acquisition proceedings initiated under the Land Acquisition Act 1894, in respect of the lands of an extent of (i) punja S.No.586/2 - 0.42 cents (ii) punja S.No.592/5 - 0.37 cents (iii) punja S.No.593/5 - 1.37 cents, total 2.16 cents situated at Sevilimedu Village in Kancheepuram Taluk and District originally and possessed by the petitioners' father late Chinnayan, belonging to the petitioners as lapsed in view of the Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (Act 30/2013) (herein after called as " the New Act").

2. Heard Mr.M.Sudhakar, learned counsel appearing for the petitioners and Mr.Richardson Wilson, learned Government Advocate appearing for the respondents 1, 3 to 5.

3. The grounds raised by the petitioners in this Writ Petition 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



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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 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 the settled position of law, the writ petition is devoid of merits and liable to be dismissed.

5. However, the learned counsel appearing for the petitioners submitted that the petitioners were not paid any compensation for the land acquired. Considering the said submission, the respondents are directed to disburse the compensation amount in accordance with law, forthwith, if not already disbursed.

6. In the result, the Writ Petition stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

Rts

To

1. The Secretary to Government,
State of Tamilnadu,
Housing & Urban Development,
Fort St. George, Chennai - 9.
2. The Chairman,
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Nandanam, Chennai.
3. The Special Commissioner &
Commissioner for Land Administration,
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4. The District Collector,
Kancheepuram District,
Kancheepuram.
5. The District Revenue Officer (L.A),
Tamilnadu State Housing Board,
Chennai - 600 035.

+1cc to Mr.M.Sudhakar, Advocate, S.R.No.41687
+1cc to the Government Pleader, S.R.No.41767

W.P.No.18528 of 2015
and M.P.No.1 of 2015

SRA(CO)
GN(14/09/2021)