



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.23047 of 2019
and
W.M.P.No.22735 of 2019

1. M.Anandhan
2. M.Bhuvaneswari
3. M.Jagadesan
4. G.Parimala

...Petitioners

-Vs-

1. The State of TamilNadu,
Rep. By the Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai-9.
2. The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandhanam,
Chennai-600 035.
3. The Special Tahsildar-II,
(Land Acquisition)
Tamil Nadu Housing Board Scheme,
Nandanam,
Chennai-35.

...Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 and 2 to pay compensation for the land in Survey No.64/1, Sevvapet Village, Thiruvallur Taluk and District to an extent of 0.71 Acres in which preliminary works are being initiated now as per the New Act namely "The Right to Fair compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013" and also to reconvey the remaining extent of 0.67 Acres situated in Survey No.62/1, Sevvapet Village, Thiruvallur Taluk and District or in the alternative at least to pay compensation for the lands to an extent of 0.67 Ares situated in Survey No.62/1, Sevvapet Village, Thiruvallur Taluk and District as per the New Act.



WEB COPY

For Petitioners: Mr.A.R.Suresh

For R1 and R3 : Mr.G.Ameendius
Government Advocate.

For R2 : Mr.M.Baskar
Standing Counsel

ORDER

This Writ Petition has been filed for the issuance of Writ of Mandamus, directing the respondents 1 and 2 to pay compensation for the land in Survey No.64/1, Sevvapet Village, Thiruvallur Taluk and District to an extent of 0.71 Acres in which preliminary works are being initiated now as per the New Act namely "The Right to Fair compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013" and also to re-convey the remaining extent of 0.67 Acres situated in Survey No.62/1, Sevvapet Village, Thiruvallur Taluk and District or in the alternative at least to pay compensation for the lands to an extent of 0.67 Ares situated in Survey No.62/1, Sevvapet Village, Thiruvallur Taluk and District as per the New Act.

2.Heard Mr.A.R.Suresh, learned counsel appearing for the petitioners, Mr.G.Ameendius, learned Government Advocate appearing for the respondents 1 and 3 and Mr.M.Baskar, learned Standing Counsel appearing for the second respondent.

3.The first respondent proposed to acquire certain lands in Sevvapet Village, including the land owned by the petitioners comprised in Survey No.62/1 to an extent of 71 cents and the land comprised in Survey No.64/1 to an extent of 67 cents in total 1.38 acres vide the Tamil Nadu Government Gazette Extraordinary Notification No.529 dated 20.08.1987 for the formation of Sevvapettai Railway Station Scheme. The Third respondent had issued proceedings in Form No.7 as contemplated under Section 9(3) and 10 of the Land Acquisition Act, 1894, dated 09.01.1989. The first petitioner appeared before the third respondent on 02.02.1989 and submitted a representation. Though some of the lands were exempted from the acquisition, the objections raised by the petitioners were not considered and as such the petitioners approached this Court challenging the acquisition proceedings in W.P.No.6751 of 1990. Because of the pendency of the writ petition, neither the compensation amount was deposited in the Court nor any reference was made to the Court for the determination of the quantum of compensation. However, the said writ petition was dismissed on 04.04.1996. Therefore, the petitioners made representation to re-convey the subject land. Since, no action was taken on the representation



submitted by the petitioners, the petitioners approached this Court in W.P.No.2929 of 2003 and this Court directed the respondents to consider their representation by an order dated 30.01.2003. By an order dated 23.05.2003, the first respondent rejected the request made by the petitioners. Though, the petitioners did not challenge the rejection of re-conveyance request, the petitioners repeatedly made representations to consider their request, since, the petitioners are in possession and enjoyment of the subject property.

4.The learned counsel for the petitioners would submit that the compensation amount admittedly deposited only on 29.02.2012. As per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the petitioners are entitled for compensation under the 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, in respect of the subject property which were acquired by the respondents.

5.In support of his contentions, he relied upon the judgment reported in (2020) 8 SCC 129 in the case of Indore Development Authority Vs. Manoharlal and ors etc.,

6.The second respondent filed counter and revealed that the proposal for acquisition of patta lands to an extent of 147.16 acres in Sevvapettai Village, for the formation of Sevvapettai Railway Station Scheme was initiated in the year 1981. The notification under Section 4(1) of the Land Acquisition Act, 1894 was approved by the Government in G.O.No.605, dated 02.08.1984 and published on 22.08.1984. After completion of the acquisition proceedings, the award was passed by the Land Acquisition Officer in Award No.8 of 1989 on 19.08.1989. After acquisition of the subject land and Award dated 19.08.1989, the notice as contemplated under Section 12(2) of the Land Acquisition Act, 1894 was served to the previous land owner thereby called upon them to receive compensation at Rs.42,304/- (Rupees Forty Two Thousand Three Hundred and Four only).

7.Thereafter, the entire revenue records were mutated in the name of the Tamil Nadu Housing Board and patta was also issued in Patta No.2259. Therefore, the compensation amount in respect of the subject land is kept under the Revenue Deposit and the petitioners are at liberty to receive the compensation from the Land Acquisition Officer on production of Documentary evidences. In fact, the entire land which was acquired including the land comprised by the DTCP vide LP/DTCP No.426/1992 and Sevvapet Ph-1 NH scheme, consisting of 511 dwelling units under the categories LIG, MIG and HIG have been constructed and allotted to the general public. Further, the

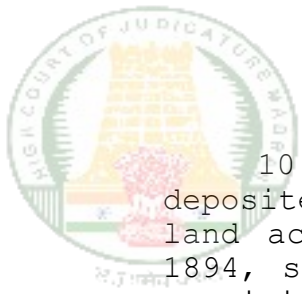


sale deeds were also executed in their favour. In respect of the subject lands are concerned, the same was earmarked as land bank area in the said approval layout for providing shelter to the houseless poor and it got approved by DTCP in two parts layout vide LP/DTCP No.118/2014 and 23/2016 for construction of 11 MIG houses and 13 open plots developed there on the lands were also allotted to the public and there is no land lying ideal without any utilization.

8. Therefore, the question of re-conveyance does not arise. In fact, already the petitioners' request was rejected and they failed to challenge the same. Insofar as the compensation in respect of the subject property is concerned, it was deposited under the Revenue Deposit on 29.02.2012 only, though, the award was passed on 19.08.1989. The respondents also produced the receipt for the deposit of compensation amount by the Challan No.712, dated 29.02.2012.

9. In this regard, the learned counsel for the petitioners relied upon the judgment reported in (2020) 8 SCC 129 in the case of Indore Development Authority Vs. Manoharlal and ors etc., is extracted here under:-

"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."



10. Accordingly, if the compensation has not been deposited, the land owners as on the date of notification for land acquisition under Section 4 of the Land Acquisition Act, 1894, shall be entitled for compensation in accordance with the provisions of the 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Therefore, the petitioners are entitled for compensation under the 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, for the subject land acquired from the petitioners.

11. In view of the above, the third respondent is directed to award compensation under the 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for the subject property comprised in Survey No.64/1, to an extent of 0.71 Acres, Sevvapet Village, Thiruvallur Taluk and District and the land comprised in Survey No.62/1 to an extent of 0.67 acres situated at Sevvapet Village, Thiruvallur Taluk and District, within a period of six weeks from the date of receipt of a copy of this order.

12. On the disbursal of the compensation amount, the petitioners are directed to handover the physical possession of the subject property forthwith.

13. With the above directions, this writ petition is disposed of. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

mn

To

1. The Secretary to Government,
The State of TamilNadu,
Housing and Urban Development Department,
Fort St.George,
Chennai-9.



WEB COPY

2. The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandhanam,
Chennai-600 035.

3. The Special Tahsildar-II,
(Land Acquisition)
Tamil Nadu Housing Board Scheme
Nandanam,
Chennai-35

+1cc to Mr.A.R.Suresh, Advocate, S.R.No.65140

+1cc to the Government Pleader, S.R.No.65856

W.P.No.23047 of 2019
and W.M.P.No.22735 of 2019

KG (CO)
RGA (28/12/2021)