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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NOS.15206 TO 15208 OF 2016

AND

W.M.P.NOS.13254 TO 13256 OF 2016

B.Vidhya	...	Petitioner in W.P.No.15206 of 2016
Vasantha	...	Petitioner in W.P.No.15207 of 2016
Parvathi	...	Petitioner in W.P.No.15208 of 2016

..Vs..

1. The Secretary to Government,
Transport Department,
Fort St.George,
Chennai - 600 009.
.. 1st Respondent in WP.Nos.15206,
15207 & 15208 of 2016
2. The Chairman,
Madras Port Trust,
Chennai - 600 001.
.. 2nd Respondent in WP.Nos.15206,
15208 of 2016
3. The Chairman,
Ennore Port Trust,
Chennai.
.. 2nd Respondent in WP.No.15207 of 2016
.. 3rd Respondent in WP.Nos.15206 & 15208 of 2016
4. The Land Acquisition Officer/
Revenue Divisional Officer,
Ponneri,
Tiruvallur District
.. 3rd Respondent in WP.No.15207 of 2016
.. 4th Respondent in WP.No.15206 & 15208 of 2016



Prayer in W.P.No.15206 of 2016 :

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of declaration declaring that the entire land acquisition proceedings initiated under the Land Acquisition Act, 1894, in respect of the lands belonging to the petitioner comprised in S.No.721, to an extent of acres 0.95 cents situated at Vallur Village, Ponneri Taluk, Tiruvallur District as lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Prayer in W.P.No.15207 of 2016 :

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of declaration declaring that the entire land acquisition proceedings initiated under the Land Acquisition Act, 1894, in respect of the lands belonging to the petitioner comprised in S.No.766, 767 and 768/1 to an extent of 0.55 cents, 0.16 cents and 1.40 acres respectively total extent of 2.11 acres situated at Vallur Village, Ponneri Taluk, Tiruvallur District as lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Prayer in W.P.No.15208 of 2016 :

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of declaration declaring that the entire land acquisition proceedings initiated under the Land Acquisition Act, 1894, in respect of the lands belonging to the petitioner comprised in S.No.735 to an extent of acres 0.65 cents situated at Vallur Village, Ponneri Taluk, Tiruvallur District as lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioner in all W.Ps	: Mr.S.Sivakumar
For R1 & R4 in all W.Ps	: Mr.Richardson Wilson, Government Advocate
For R2	: Mr.J.Sathya Narayana Prasad
For R3 in all W.Ps	: Mr.Krishna Ravichandran

COMMON ORDER

These writ petitions have been filed to issue a writ of declaration, declaring that the land acquisition proceedings in respect of the petitioners' properties as lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013



i.e., Act 30 of 2013 (herein after called as "the New Act").

2. Heard, Mr.S.Sivakumar, the learned counsel for the petitioners, Mr.Richardson Wilson, the learned Government Advocate appearing for the respondents 1 & 4, Mr.J.Sathya Narayana Prasad, the learned counsel appearing for the second respondent and Mr.Krishna Ravichandran, the learned counsel appearing for the third respondent.

3. The grounds raised by the petitioners in these writ petitions have already been settled by the Hon'ble Supreme Court of India in the case of Indore Development Authority Vs. Manoharlal and others etc reported in 2020 8 SCC 129, 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 1.1.2016 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



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(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).

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 1.1.2016. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years.



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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., 1.1.2016. 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.

4. 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 construction of staff quarters for Madras Port Trust from small farmers. The award has been passed in Award No. 1 of 1999 dated 04.06.1999 itself. The acquisition proceedings have been completed and the subject land was taken over by the government and the possession was handed over to Kamarajar Port Ltd., on 08.03.2005 and patta was also stands in the name of the third respondent herein. Further the compensation amount was kept in the Civil Court deposit as awarded by the Land Acquisition Officer. 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, these writ petitions are devoid of merits and liable to be dismissed.

5. In the result, these Writ Petitions stand dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To

1. The Secretary to Government,
Transport Department,
Fort St.George,
Chennai - 600 009.

2. The Chairman,
Madras Port Trust,
Chennai - 600 001.

3. The Chairman,
Ennore Port Trust,
Chennai.

4. The Land Acquisition Officer/
Revenue Divisional Officer,
Ponneri, Tiruvallur District.

+3cc to Mr.S.Sivakumar, Advocate, S.R.No.43194

+3cc to Mr.Krishna Ravichandran, Advocate,
S.R.No.42903, 42897 & 42898

+1cc to the Government Pleader, S.R.No.43094

W.P.Nos.15206 to 15208 of 2016
and W.M.P.Nos.13254 to 13256 of 2016

LN(CO)
CS/24/09/2021