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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:31.08.2021

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THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.21220 OF 2012

AND

M.P.NO.2 OF 2012

AND

M.P.NO.2 OF 2014

1.S.Arumugam
2.B.Velayudham
3.Chandran Achari

... Petitioners

Vs

1. State of Tamil Nadu
Rep. by its Principal Secretary
Department of Revenue,
Fort St. George, Chennai - 600 009.

2. The Department of Housing and Urban
Development, State of Tamil Nadu,
Rep. by Secretary to the Government,
Fort St. George, Chennai - 600 009.

3. The District Collector,
Kanchipuram District,
Kanchipuram.

4. The District Revenue Officer,
Kanchipuram District,
Kanchipuram.

5. The Tamil Nadu Housing Board,
Rep. by its Chairman,
493, Anna Salai,
Nandanam, Chennai 600 035.

6. The Special Tahsildar (LA)
Zone V, Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.

... Respondents



PRAYER:-

Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Declaration declaring that the land acquisition proceedings in respect of the land comprised in S.No.415/2, 415/3 and 421/2A2 situated in Sholinganallur Village, Tambaram Taluk, Kancheepuram District as having lapsed as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and consequently direct the 4th and 6th respondents to cancel the patta issued in favour of the 1st and 2nd respondents herein for the lands situated in S.No.415/2, 415/3 and 421/2A2, in Sholinganallur Village, Tambaram Taluk, Kancheepuram and restore the petitioners' names herein in the revenue records pertaining to land comprised in S.No.415/2, 415/3 and 421/2A2 situated in Sholinganallur Village, Tambaram Taluk, Kancheepuram District.

For Petitioners	:	No Appearance
For Respondents R1 to 4 & 6	:	Mr.Richardson Wilson, Government Advocate
For Respondent 5	:	Mr.M.Baskar, Standing Counsel.

O R D E R

This writ petition is filed to issue a Writ of Declaration declaring that the land acquisition proceedings in respect of the land comprised in S.No.415/2, 415/3 and 421/2A2 situated in Sholinganallur Village, Tambaram Taluk, Kancheepuram District as having lapsed as per 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 direct the 4th and 6th respondents to cancel the patta issued in favour of the 1st and 2nd respondents herein for the lands situated in S.No.415/2, 415/3 and 421/2A2, in Sholinganallur Village, Tambaram Taluk, Kancheepuram and restore the petitioners' names herein in the revenue records pertaining to land comprised in S.No.415/2, 415/3 and 421/2A2 situated in Sholinganallur Village, Tambaram Taluk, Kancheepuram District.

2. The case of the petitioners is that initially the petitioners challenged the order passed by the second respondent dated 09.05.2012 thereby rejected the request of the petitioners have re-conveyance for the land in Survey Nos.415/2, 415/3, 421/2A2 admeasuring 2.05 acres situated in Sholinganallur Village, Tambaram Taluk, Kancheepuram District. However, after



the New Act came into force the petitioners amended the prayer and thereby challenging the very same acquisition proceedings itself. As if the entire land acquisition proceedings lapsed as per Section 24(2) of the New Act with consequential prayer to direct the respondents 4 and 6 herein to cancel the patta and issued in favour of the respondents 1 and 2 and issued patta in their favour.

3. The grounds raised by the petitioners are that on the ground of non payment of compensation to the petitioners till date as required in law, despite the fact that the award for acquisition of land was made on 23.04.1997 itself, vide Award No.1 of 1997. The deposit of the compensation amount into the Government Treasury cannot be equated to payment having been made by the petitioners as mandated under the Land Acquisition Act, 1894. The actual physical possession of the lands, the subject matter of the acquisition proceedings, continues to remain the petitioners herein till date, despite the award having been made as early as in the year 1997. Therefore, the entire acquisition proceedings have been lapsed under Section 24 (2) of the New Act.

4. On perusal of the counter filed by the respondents revealed that after completion of all formalities as required under the Land Acquisition Act, 1894. The Land Acquisition Officer passed award in Award No.1 of 1997 dated 23.04.1997. Thereafter, the possession of the property was taken from the petitioners and handed over to the Tamil Nadu Housing Board namely the 5th respondent herein on 11.05.2006 in respect of the property comprised in Survey No.415/2A to an extent of 0.85 Acres and on 16.08.2004 in respect of the property comprised in Survey No.415/3A to an extent of 0.72 acres.

5. Insofar as the compensation is concerned the petitioners have appeared for award inquiry and the award has been passed on 23.04.1997. The compensation amount for the subject property is ordered to be kept under Civil Court Deposit under Sections 30 and 31(2) of the Land Acquisition Act, 1894. Therefore, the conditions as contemplated under Section 24(2) of the New Act are not proved by the petitioners.

6. The third petitioner herein also challenged the acquisition proceedings in W.P.No.14607 of 1996 and the same was dismissed on 10.02.2004. Aggrieved by the same, he also filed writ appeal in W.A.No.1775 of 2004 and the same was also dismissed by this Court by an order dated 31.07.2006.

7. In fact, the subsequent purchaser in respect of the portional land also challenged acquisition proceedings in W.P.No.21798 of 2017 on the same ground contemplated under



Section 24(2) of the New Act and the same is pending before this Court.

8. Heard Mr. Richardson Wilson, learned Government Advocate for the respondents 1 to 4 and 6 and Mr. M. Baskar, learned standing counsel for respondent 5 and no one appeared on behalf of the petitioners.

9. The above grounds raised by the petitioners 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:

366.1. 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.

366.2. 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.

366.3. 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.

366.4. 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



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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.

366.5. 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 318 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.

366.6. 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).

366.7. 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).

366.8. 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



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court has to be excluded in the computation of five years.

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 319 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."

10. 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.1 of 1997 on 23.04.1997 itself. The acquisition proceedings have been completed and the subject land was taken over by the government and the same was handed over to the Tamil Nadu Housing Board on 11.05.2006. The compensation amount is kept under civil Court deposit under Section 30 and 31 (2) of the Land Acquisition Act. 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 petition is devoid of merits and liable to be dismissed.

11. Accordingly, this writ petition is dismissed. No order as to costs. Consequently, the connected miscellaneous petitions are dismissed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To

1. The Principal Secretary
Department of Revenue,
Fort St. George, Chennai - 600 009.
2. The Department of Housing and Urban
Development, State of Tamil Nadu,
Rep. by Secretary to the Government,
Fort St. George, Chennai - 600 009.
3. The District Collector,
Kanchipuram District,
Kanchipuram.
4. The District Revenue Officer,
Kanchipuram District,
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5. The Tamil Nadu Housing Board,
Rep. by its Chairman,
493, Anna Salai,
Nandanam, Chennai 600 035.
6. The Special Tahsildar (LA)
Zone V, Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.

+1cc to Mr.M.Baskar, Advocate, S.R.No.44142
+1cc to the Government Pleader, S.R.No.43933

W.P.No.21220 of 2012
and M.P.No.2 of 2012

JP-II (CO)
PM/28/09/2021