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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.16243 OF 2016

AND

W.M.P.NO.14038 OF 2016

V.N.Palanisamy

... Petitioner

..Vs..

1. The State of Tamil Nadu,
Represented by its Secretary,
Housing and Urban Development Department,
Fort St.George, Chennai - 600 009.

2. The Tamil Nadu Housing Board,
Represented by its Managing Director,
Nandanam, Chennai.

3. Land Acquisition Officer and Special Tahsildar (LA),
Housing Scheme No.III,
Coimbatore.

... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of declaration, declaring that the land acquisition proceedings initiated by the respondents under the Land Acquisition Act, 1894 with respect to the lands comprised in Survey Nos.86/1B3 & 1B4, 87 and 88/1 measuring an extent or about 1.15 acres in Veerkeralam Village, Coimbatore Taluk, Coimbatore District, have lapsed as per the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act No.30 of 2013).

For Petitioner : Mr.A.Jenasenan

For Respondents: Mr.M.R.Gokul Krishnan
Government Advocate
(for R-1 and R-3)

: Dr.R.Gowri
Standing Counsel (for R-2)



O R D E R

This petition has been filed seeking to declare that the land acquisition proceedings initiated by the respondents under the Land Acquisition Act, 1894 with respect of the lands comprised in Survey Nos.86/1B3 & 1B4, 87 and 88/1 measuring an extent of about 1.15 acres in Veerakeralam Village, Coimbatore Taluk, Coimbatore District have lapsed as per the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act No.30 of 2013) (hereinafter referred to as 'the New Act', for short).

2. The petitioner challenged the proceedings under the the New Act. The only contention raised by the petitioner is that the possession of the subject properties have not been taken over and also the compensation has also not been deposited or paid.

3. Heard Mr.A.Jenasenan, the learned counsel for the petitioner, Mr.M.R.Gokul Krishnan, learned Government Advocate appearing for the first and third respondents and Dr.Gowri, learned Standing Counsel appearing for the second respondent.

4. On a perusal of the files produced by the respondents, it reveals that possession has already been taken over by the respondents and the compensation of Rs.17,36,506.90 has been deposited as early as on 23.11.1988 itself. That apart, the petitioner's father challenged the acquisition proceedings before this Court in W.P.No.2621 of 1987 and subsequently it was dismissed.

5. That apart, the grounds raised by the petitioner 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



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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 1.1.2014. 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."

6. The Hon'ble Supreme Court of India settled all proposition of law in the above judgment including the grounds raised by the petitioner. That apart, the respondents have already taken over the possession and the compensation of Rs.17,36,506.90 has also been deposited as early as on 23.11.1988 itself. Therefore, the petitioner 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 above dictum laid down by the Hon'ble Supreme Court of India, the issues raised by the petitioner was settled and therefore, the acquisition proceedings had not 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.

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7. In the result, the Writ Petition stands dismissed. However, the petitioner is permitted to withdraw the compensation, if not already withdrawn. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

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To

1. The Secretary,
The State of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George, Chennai - 600 009.
2. The Managing Director,
The Tamil Nadu Housing Board,
Nandanam, Chennai.
3. Land Acquisition Officer and Special Tahsilar (LA),
Housing Scheme No.III,
Coimbatore.

+2cc to Mr.A.Jenasenan, Advocate, S.R.No.45721..

+1cc to the Government Pleader, S.R.No.45808

W.P.No.16243 of 2016

AD(CO)

CS/12/10/2021