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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2021

CORAM

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

W.P.NO.2283 OF 2015

T.Vanaja

... Petitioner

.Vs.

1. The State Government,
Rep.by its Secretary to Government,
Housing and Urban Department,
Fort St. George,
Chennai - 600 009.
2. The Tamil Nadu Housing Board,
Represented by its Managing Director,
Nandanam, Chennai - 600 035.
3. The District Collector,
Collectorate, Kanchipuram,
Kanchipuram District.

... Respondents

PRAYER:-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing the Respondents to release unutilized land bearing Plot No.12 to an extent of 2000 sq.ft shop comprised in Survey No.369/5 part in Sholinganallur Village, Tambaram Taluk, Kanchipuram District as per new Act Section 24(2) to Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioner : Mr.G.Ranganathan

For R1 and R3 : Mr.Richardson Wilson
Government Advocate

For R2 : Mr.M.Baskar
Standing Counsel



ORDER

The Writ Petition has been filed to direct the respondents to release unutilized land bearing Plot No.12 to an extent of 2000 sq.ft shop comprised in Survey No.369/5 part in Sholinganallur Village, Tambaram Taluk, Kanchipuram District as per new Act Section 24(2) to Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. (herein after called as "the New Act").

2. Heard, Mr.G.Ranganathan, learned counsel appearing for the petitioners, Mr.Richardson Wilson, learned Government Advocate appearing for the respondents 1 & 3 and Mr.M.Baskar, Standing Counsel appearing for the third respondent.

3. 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 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.



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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."

4. 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 subject land was acquired by the Tamil Nadu Housing Board for public purpose. The award has been passed in Award No. 5 of 1993 dated 25.09.1993 itself. The acquisition proceedings have been completed and the subject land was taken over by the government and the possession was handed over to the Tamil Nadu Housing Board on 15.07.2010 and patta also transferred in patta No.2015. Further the compensation amount was kept in the Civil Court deposit as awarded by the Land Acquisition Officer. 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 dictum laid down by the Hon'ble Supreme Court of India, the issues raised by the petitioner 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.

5. In the result, the Writ Petition stands dismissed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Lpp

To

1. The Secretary to Government,
The State Government,
Housing and Urban Department,
Fort St. George,
Chennai-600 009.
2. The Managing Director,
The Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.
3. The District Collector,
Collectorate, Kanchipuram,
Kanchipuram District.

+1cc to Mr.M.Baskar, Advocate, S.R.No.40322
+1cc to the Government Pleader, S.R.No.40057

W.P.NO.2283 OF 2015

NR(CO)
PBS/24/09/2021