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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.17143, 17144 & 21182 of 2016
and
W.M.P.Nos.14593, 14594 & 18114 of 2016

A.Robert Jayakumar
rep.,by his Power Agent

Mr.N.Ravichandran,
No.6/51-B, Alagesan Nagar,
Chengalpet Town,
Kancheepuram District.
... Petitioner in W.P.No.17143/2016

A.Villiams ... Petitioner in W.P.No.17144/2016

1. Francis Santhakumar
2. Eliyas Christopher Vijayakumar
3. Unice Vedamani
4. Hilda Joy
5. Vimala Gnanabaranam
6. Flaurance Regina
   All represented by their
   Power Agent N.Ravichandran
   No.6/51-B, Alagesan Nagar,
   Chengalpet Town,
   Kancheepuram District.
... Petitioners in W.P.No.21182/2016

-Vs-

1. The Government of Tamil Nadu,
   Rep by its Secretary,
   Housing & Urban Development Department,
   Fort St George, Chennai - 600 009.

2. The Member Secretary,
   Chennai Metropolitan Development Authority,
   No.1, Gandhi Irwin Road,
   Chennai - 600 008.

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3. The Special Tahsildhar (L.A-III),
Maraimalai Nagar Scheme,
Maraimalai Nagar, Kattankolathur,
Kancheepuram District.

... Respondents in all Wps.

Prayer in W.P.No.17143 of 2016 :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, declaring that all the proceedings initiated and subsequent to Section 4(1) of the Act 1 of 1894 issued in G.O.Ms.No.1198 published in the Tamil Nadu Gezette dated 07.07.1979 issued by the first respondent have lapsed as against the petitioner's lands in S.No.240A/1B of an extent of 21 cents, property of an extent of 43 cents in S.No.240A/1E and property of an extent of 38 cents in S.No.240A/1J situated at Sengundram Village, Chengelpet Taluk, Kancheepuram District, totaling acre 1.02 cents in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 1/2014).

Prayer in W.P.No.17144 of 2016 :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, declaring that all the proceedings initiated and subsequent to Section 4(1) of the Act 1 of 1894 issued in G.O.Ms.No.1198 published in the Tamil Nadu Gezette dated 07.07.1979 issued by the first respondent have lapsed as against the petitioner's lands in S.No.240A/1D of any extent of 51 cents, property of an extent of 40 cents in S.No.240A/1F and property of an extent of 34 cents in S.No.240A/1H situated at Sengundram Village, Chengelpet Taluk, Kancheepuram District, totaling acre 1.25 cents in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 1/2014).

Prayer in W.P.No.21182 of 2016 :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, declaring that all the proceedings initiated and subsequent to Section 4(1) of the Act 1 of 1894 issued in G.O.Ms.No.1198 published in the Tamil Nadu Gezette dated 07.07.1979 issued by the first respondent have lapsed as against the petitioner's lands in S.No.240A/1Q measuring an extent of 33 cents and the lands in survey number 248A/1G measuring an extent of 20 cents in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 1/2014).

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For Petitioners
in all WPs. : Mr.N.R.Rajagopalan

For Respondents
in all WPs.
For R1 & R3 : Mr.Richardson Wilson
Government Advocate.

For R2 : Ms.Veena Suresh
Standing Counsel

COMMON ORDER

The Writ Petitions have been filed to declare that all the proceedings initiated and subsequent to Section 4(1) of the Act 1 of 1894 issued in G.O.Ms.No.1198 published in the Tamil Nadu Gezette dated 07.07.1979 issued by the first respondent have lapsed as against the petitioners' lands situated at Sengundram Village, Chengelpet Taluk, Kancheepuram District, in view of 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").

2. Heard Mr.N.R.Rajagopalan, learned counsel appearing for the petitioners, Mr.Richardson Wilson, learned Government Advocate appearing for the respondents 1 & 3 and Ms.Veena Suresh, learned Standing Counsel appearing for the second respondent.

3. The grounds raised by the petitioner in these Writ Petitions 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.

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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 (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)

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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 1.1.2014. 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

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proposition of law in the above judgment including the grounds raised by the petitioner. That apart, the subject lands were acquired and the award has been passed in Award No.3 of 1986 on 10.09.1986 itself. The acquisition proceedings have been completed and the subject lands were taken over by the government and the possession was handed over to the Chennai Metropolitan Development Authority. Further the compensation awarded to the above lands has ordered to be kept under Civil Court Deposit under Section 31(2) of the Land Acquisition Act. 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. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary
   Government of Tamil Nadu,
   Housing & Urban Development Department,
   Fort St George, Chennai - 600 009.

2. The Member Secretary,
   Chennai Metropolitan Development Authority,
   No.1, Gandhi Irwin Road,
   Chennai - 600 008.

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3. The Special Tahsildhar (L.A-III),
Maraimalai Nagar Scheme,
Maraimalai Nagar, Kattankolathur,
Kancheepuram District.

+1cc to the Government Pleader, S.R.No.41770

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SU(23/09/2021)

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