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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

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

W.P.No.6261 of 2020 and
WMP.No.7383 of 2020

A.Rani

... Petitioner

Vs

1.State of Tamilnadu,
Rep. by its Secretary to Government,
Social Welfare Department,
Fort St.George,
Chennai-09

2.The District Collector,
Dharmapuri District,
Dharmapuri

3.The Special Tahsildar,
(Land Acquisition),
Adi Dravidar Welfare,
Harur,
Dharmapuri District

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Declaration declaring that the entire land acquisition proceedings initiated and issued by notification under Section 4(1) of the Tamilnadu Land Acquisition Schemes Act vide Na.Ka.No.78568/99/K08 dated 24.01.2001 which was published in District Gazette No.13 dated 01.02.2001 in respect of petitioners land measuring an extent of 0.37.0 hectares in SF.No.199/1C1 (present survey no.199/1C1A) in S.Thathampatti Village, Harur Taluk, Dharmapuri District as lapsed in view of the 'Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30/2013).

For Petitioner : Mr.Arun Prakash
for Mr.A.V.Raja

For Respondents : Mr.A.Selvendran,
Special Government Pleader

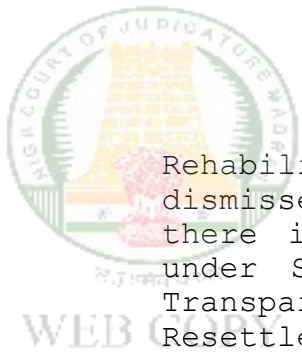


O R D E R

This writ petition is filed to issue a Writ of Declaration declaring that the entire land acquisition proceedings initiated and issued by notification under Section 4(1) of the Tamilnadu Land Acquisition Schemes Act vide Na.Ka.No.78568/99/K08 dated 24.01.2001 which was published in District Gazatte No.13 dated 01.02.2001 in respect of petitioner's land measuring an extent of 0.37.0 hectares in SF.No.199/1C1 (present survey no.199/1C1A) in S.Thathampatti Village, Harur Taluk, Dharmapuri District as lapsed in view of the 'Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30/2013).

2. The petitioner challenged the acquisition proceedings on the ground that possession of the subject land has not been taken over and compensation amount has not been paid so far in respect of the subject land measuring an extent of 0.37.0 hectares in SF.No.199/1C1 (present survey no.199/1C1A) in S.Thathampatti Village, Harur Taluk, Dharmapuri District. The subject land was acquired under the Tamilnadu Acquisition of Land for Harijan Welfare Schemes Act, 1978. Notice under Section 4(1) of the Land Acquisition Act, 1894 was issued on 16.10.2000. The petitioner's husband was duly served with notice under Section 4(1) of the said Act. He raised objections and the said objections were duly rejected by the second respondent and the order came to be published in the District Gazatte No.13 dated 01.02.2001. Thereafter, notice under Section 5(1) of the said Act was issued to the petitioner for determination of compensation. However, no one attended the enquiry and award has been passed on 26.03.2001 in award No.6 of 2000-2001. The entire award compensation of Rs.29,433/- by way of demand draft No.218439 dated 23.03.2001 drawn on State Bank of India Branch, Dharmapuri was deposited before the Sub Court, Dharmapuri. Insofar as the possession of the subject land is concerned, with the police aid and the department officials, physical possession of the subject land was made on 24.04.2001.

2.1 In fact, the petitioner also already filed writ petition in WP.No.7659 of 2001 on the file of this Court and subsequently the said writ petition was dismissed by this Court on 12.01.2010 and the writ appeal preferred by the petitioner was also dismissed in WA.No.351 of 2010 by order dated 25.11.2011. Thereafter, it was also challenged by the petitioner in before the Hon'ble Supreme Court of India in SLP(Civil) CC.No.9720 of 2012 and the same was also dismissed by order dated 04.07.2012. That apart, the petitioner also filed another writ petition before this Court in WP.No.25222 of 2018 challenging the validity of Section 105A of the new Act i.e. The Right to Fair Compensation and Transparency in Land Acquisition,



Rehabilitation and Resettlement Act, 2013 and the same was dismissed by this Court by order dated 08.01.2020. Therefore, there is absolutely no ground to entertain the writ petition under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

3. In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India reported in (2020) 8 SCC 129 in the case of Indore Development Authority Vs. Manoharlal and ors etc., 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 1.1.2014 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. 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



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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 acquisition proceedings have been completed and the subject land was taken over by the government and the same was handed over to the requisition body. Further the requisition body also deposited the compensation 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. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar



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To

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1. Secretary to Government,
State of Tamilnadu,
Social Welfare Department,
Fort St.George,
Chennai-09
2. The District Collector,
Dharmapuri District,
Dharmapuri
3. The Special Tahsildar,
(Land Acquisition),
Adi Dravidar Welfare,
Harur,
Dharmapuri District

+1cc to the Government Pleader, S.R.No.62597

W.P.No.6261 of 2020

SVI (CO)
CT/16/12/2021