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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2021

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THE HONOURABLE Mr. JUSTICE G.K.ILANTHIRAIYAN

WP.No.873 of 2018

and

WMP.Nos.1048 of 2018 & 11445 of 2020

Sitalakshmi Ramakrishnananda

...Petitioner

Vs

1. State of Tamilnadu,
Rep. by its Secretary to Government,
Education Science and Technology Department,
Fort St.George, Chennai 600 009
2. The Special Tahsildar,
Land Acquisition,
Housing Scheme Unit-II,
Bharathiyar University,
Coimbatore
3. The District Collector,
Coimbatore
4. Bharathiyar University,
Represented by its Registrar,
Coimbatore

...Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894 in respect of land to an extent of 1.47 acres comprised in survey No.68/2 and 1.46 acres in survey No.69/1 of Somayampalayam Village, Coimbatore District covered by Notification issued under Section 4(1) of the Land Acquisition Act, 1894 and Section 6 declaration in GO.Ms.No.694 dated 09.04.1983 are deemed to have lapsed.



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For Petitioner : Mr.R.Bharathkumar
For R1 to 3 : Mr.M.R.Gokul Krishnan,
Government Advocate
For R4 : Mr.L.P.Shanmugasundaram

ORDER

This writ petition is filed to issue a Writ of Declaration declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894 in respect of land to an extent of 1.47 acres comprised in survey No.68/2 and 1.46 acres in survey No.69/1 of Somayampalayam Village, Coimbatore District covered by Notification issued under Section 4(1) of the Land Acquisition Act, 1894 and Section 6 declaration in GO.Ms.No.694 dated 09.04.1983 are deemed to have lapsed.

2. The case of the petitioner is that the petitioner owned lands to an extent of 1.47 acres comprised in survey No.68/2 and 1.46 acres comprised in survey No.69/1A situated at Somayampalayam Village, Coimbatore District. The petitioner is in possession and enjoyment of the said property even till today. While being so, the first respondent proposed to acquire the land to an extent of 47.97 acres for the benefit of the fourth respondent herein. Accordingly, the first respondent issued notification under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter called as 'Act') in GO.Ms.No.833 Education, Science and Technology Department dated 04.05.1982. It was published in the Tamilnadu Government Gazette on 02.06.1982. However, the petitioner's name was not found in 4(1) notification issued by the first respondent. Therefore, no notice was served on the petitioner as contemplated under Section 5A of the Act for enquiry. Thereafter, the first respondent had issued Section 6 declaration in GO.Ms.No.694 dated 09.04.1983 and the same was published in the Tamilnadu Government Gazette on 27.04.1983. Though the petitioner informed to the second respondent about his purchase of the said land by letter dated 31.05.1983, the second respondent by his reply dated 15.07.1983 informed the petitioner that his representation would be considered during the award enquiry. Therefore, the petitioner challenged the 4(1) notification and 6 declaration in WP.No.11531 of 1984. In the said writ petition, this Court granted interim stay of all proceedings of acquisition insofar as the petitioner's land. However, it was modified by order dated 12.09.1985 and restricted the interim order only for dispossession of the petitioner from the subject land alone. By order dated 03.08.1994, the writ petition was allowed and the entire acquisition proceedings was quashed by this Court. The



fourth respondent herein who is being the requisition body filed writ appeal before the Hon'ble Division Bench of this Court in WA.No.2287 of 2001 and the same was allowed by order dated 26.04.2010.

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3. The learned counsel for the petitioner submitted that while modifying the interim order granted by this Court, on 12.09.1985 itself this Court directed the respondents to proceed further in respect of the land acquisition proceedings except dispossession of the petitioner from the subject land. Even then, the respondents did not pass any award as contemplated under the Act. He further submitted that in fact while allowing the writ appeal, this Court specifically had given liberty to the respondents to proceed with the subject property with further proceedings. Accordingly, the respondents ought to have passed award on or before 25.04.2012 i.e. within a period of two years from the date of allowing the writ appeal filed by the fourth respondent herein as contemplated under Section 11 A of the Land Acquisition Act. Even till today, the respondents did not pass an award and as such the entire land acquisition proceedings have lapsed. In support of his contention, he relied upon the judgment reported in (2020) 8 SCC 129 in the case of Indore Development Authority Vs. Manoharlal and ors etc., wherein it is held that before we go to various rival submissions, the pivotal question for consideration is the interpretation of Section 24 and aims and objectives of the Act of 2013. Section 24 contemplates that the proceedings initiated under the Act of 1894, are pending as on the date on which Act of 2013 has been enacted and if no award has been passed in the proceedings, then there is no lapse and only determination of compensation has to be made under the Act of 2013.

4. Per contra, the fourth respondent filed counter and submitted that the award was made in Award No.2 of 1985 dated 01.11.1985 as contemplated under Section 11 of the Land Acquisition Act in respect of the lands acquired to an extent of 45.05 acres and the total compensation was awarded to the land owners excluding the petitioner's land. Though writ appeal in WA.No.2287 of 2001 was allowed on 26.04.2010 with the direction to conduct further proceedings in respect of the land of the petitioner, thereafter no follow up action was taken and no award was passed in respect of the petitioner's land.

5. Mr.R.Bharathkumar, the learned counsel for the petitioner, Mr.M.R.Gokul Krishnan, Government Advocate appearing for the respondents 1 to 3, and Mr.L.P.Shanmugasundaram, the learned counsel for the fourth respondent.

6. On perusal of the records, revealed that the petitioner is in possession and enjoyment of the subject land even till



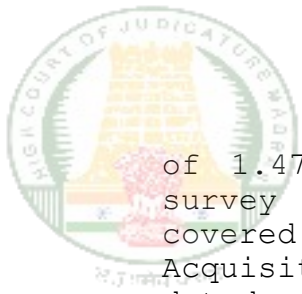
today. Though the writ appeal was allowed by order dated 26.04.2010, admittedly the respondents did not pass award insofar as the petitioner's land is concerned. Therefore, the entire land acquisition proceedings insofar as the petitioner's land is concerned, are deemed to have lapsed in view of Section 11A of the Land Acquisition Act, 1894. It is relevant to extract the provisions under Section 11A of the Land Acquisition Act, 1894 hereunder:

11A. Period shall be which an award within made. - The Collector shall make an award under section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceeding for the acquisition of the land shall lapse:

7. Thus it is clear that the land acquisition officer ought to have passed an award as contemplated under Section 11A of the Act within a period of two years from the date of section 6 declaration i.e. on 09.04.1983 or within a period of two years from the date of order passed in the writ appeal in WA.No.2287 of 2001 dated 26.04.2010 prior to coming into force of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 with effect from 01.01.2014. Whereas in the case on hand, admittedly the respondents did not pass any award insofar as the petitioner's land is concerned even till today. In fact, in the present writ petition, this Court while admitting the writ petition granted interim order, by order dated 12.01.2018 thereby restraining the respondents from in any manner interfere with the petitioner's peaceful possession and enjoyment of the land. Even then, the respondents did not pass any award. The Constitution Bench of 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., held that [Section 24](#) contemplates that the proceedings initiated under the Act of 1894, are pending as on the date on which Act of 2013 has been enacted and if no award has been passed in the proceedings, then there is no lapse and only determination of compensation has to be made under the Act of 2013.

8. Whereas in the case on hand, admittedly no land acquisition proceedings pending insofar as the petitioner's land is concerned. Therefore, the entire land acquisition proceedings in respect of the subject property have lapsed.

9. In view of the above, the writ petition is allowed and declared that the Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894 in respect of land to an extent



of 1.47 acres comprised in survey No.68/2 and 1.46 acres in survey No.69/1 of Somayampalayam Village, Coimbatore District covered by Notification issued under Section 4(1) of the Land Acquisition Act, 1894 and Section 6 declaration in GO.Ms.No.694 dated 09.04.1983 have lapsed. Consequently, connected miscellaneous petitions are closed. No order as to costs.

Sd/-
Assistant Registrar(CS II)

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Sub Assistant Registrar

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To

1. Secretary to Government,
State of Tamilnadu,
Education Science and Technology Department,
Fort St.George, Chennai 600 009.
2. The Special Tahsildar,
Land Acquisition,
Housing Scheme Unit-II,
Bharathiyar University,
Coimbatore.
3. The District Collector,
Coimbatore.
4. Registrar,
Bharathiyar University,
Coimbatore.

+1cc to M/s.R.Bharathkumar, Advocate Sr No.54072
+1cc to the Government Pleader Sr No.54271

WP.No.873 of 2018

PMK (CO)
PR (23/11/2021)