



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.2734 OF 2015

AND

M.P.NO.1 OF 2015

1. V.R.Kannan (Deceased)

2. K.Gangadharan

(P2 substituted as LR of the
deceased sole petitioner vide
order dated 23.03.2021 made in
W.M.P.No.25360 of 2017 in
W.P.No.2734 of 2015)

... Petitioners

-Vs-

1. The State of Tamil Nadu,
Represented by the Commissioner and
Secretary to the Government,
Social Welfare (ADW) Department,
Fort St.George,
Chennai - 600 009.

2. The District Collector,
Vellore District,
Vellore.

3. The Special Tahsildar/Land Acquisition Officer,
(ADW),Walajapet Taluk,
Vellore District.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to declare the land acquisition proceedings initiated by the respondents in respect of the proceedings No.6/90/1991 in Na.Ka.No.6030/1978, dated 06.12.1991 as lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.



WEB COPY

For Petitioners : Mr.D.Rajagopal

For Respondents : Mr.Richardson Wilson
Government Advocate.

ORDER

This Writ Petition has been filed for the issuance of a Writ of Mandamus, directing the respondents to declare the land acquisition proceedings initiated by the respondents in respect of the proceedings No. 6/90/1991 in Na.Ka.No.6030/1978, dated 06.12.1991 as lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. Heard Mr.D.Rajagopal, learned counsel appearing for the petitioners and Mr.Richardson Wilson, learned Government Advocate appearing for the respondents.

3. The deceased petitioner and his brothers owned the agricultural land comprised in Survey Nos. 28/4, 28/5 and 28/6, situated at Padiyampakkam Village, Walaja Taluk. In the year 1981, the third respondent initiated land acquisition proceedings to acquire the deceased petitioner's land for the purpose of providing house sites for Adi Dravidars of Padiyampakkam Village, Walaja Taluk. After the declaration under Section 6 of the Land Acquisition Act, 1894 was made, the entire acquisition proceedings were challenged before this Court in W.P.No.13642 of 1990 and the same was dismissed on 01.08.1990.

4. Aggrieved by the same, the petitioner also preferred a writ appeal in W.A.No.402 of 1992 and the same was also dismissed. While dismissing the writ appeal, this Court observed that the petitioner can make an application for withdrawal of acquisition proceedings. Accordingly, the deceased petitioner and his brothers submitted a representation to drop the acquisition proceedings, since the subject land is not suitable for construction of houses for Adi Dravidars. However, the said representation was not considered and subsequently, the deceased petitioner approached this Court by way of several writ petitions. Finally, all the writ petitions were dismissed and the writ appeal was also dismissed in W.A.No.316 of 2011 dated 02.03.2012.

5. After the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, came into force on 01.01.2014, the present writ petition has been filed on the ground that the entire land acquisition proceedings lapsed for non-compliance of the provisions under



Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

6. It is seen from the records that after acquisition proceedings, the award was passed as early as on 06.12.1991. Thereafter, the land owners were issued with notice on 22.04.1992 to collect the compensation amount, but the deceased petitioner and his brothers failed to collect the award amount. Therefore, by an order dated 02.03.1998, the award amount has been deposited in the Revenue Deposit, Sub-Treasury, Walaja Taluk. Insofar as the possession of the property is concerned, the symbolic possession was taken on 24.02.1998 and handed over to the requisition body. Therefore, the petitioner fails to satisfy the twin conditions as contemplated under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

7. That apart, the petitioner already challenged the acquisition proceedings and failed upto the Hon'ble Division Bench of this Court in W.A.No.402 of 1992. In this regard, it is relevant to rely upon the judgment rendered by the Constitution Bench of the Hon'ble Supreme Court of India in the case of Indore Development Authority Vs. Manoharlal and ors etc., reported in (2020) 8 SCC 129, 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.

WEB COPY

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) 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)



WEB COPY

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."

8. In view of the above, the writ petition is devoid of merits. Accordingly, the writ petition stands dismissed. Consequently connected Miscellaneous petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Lpp/mn

To

1. The Commissioner and Secretary
to the Government,
State of Tamil Nadu,
Social Welfare (ADW) Department,
Fort St.George, Chennai - 600 009.



2. The District Collector,
Vellore District,
Vellore.

3. The Special Tahsildar/Land Acquisition Officer,
(ADW), Walajapet Taluk,
Vellore District.

+1cc to Mr.D.Rajagopal, Advocate, S.R.No.54305

W.P.NO.2734 OF 2015 AND
M.P.NO.1 OF 2015

KV(CO)
PBS/17/11/2021