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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.28752 to 28756 of 2015
and M.P.Nos.1 to 1 of 2015

S.Chinnathambi	... Petitioner in W.P. No.28752/2015
P.Kaliappan	... Petitioner in W.P. No.28753/2015
P.Selvakumar	... Petitioner in W.P. No.28754/2015
Rasathi @ Chellammal	... Petitioner in W.P. No.28755/2015
Nallappan @ Nallusamy	... Petitioner in W.P. No.28756/2015

-Vs-

1. The Secretary to the Government
Government of Tamil Nadu,
Housing and Urban Development Department
Fort St. George,
Chennai - 600 009.
2. The Chairman Cum Managing Director,
Tamil Nadu Housing Board,
Anna Salai, Nandanam,
Chennai - 600 035.
3. The Special Tahsildar,
Land Acquisition
Neighbourhood Scheme of Salem,
Iyyan Thirumaligai
Salem - 8.

... Respondents in
all Wps.

Prayer in W.P.No.28752 of 2015 :- Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, to declare that the entire land acquisition proceedings initiated under the Land Acquisition Act, 1894, in respect of the lands belonging to the petitioner, comprised in S.No.63/1A measuring an extent of 1.78 acres and in S.No.65/3 measuring an extent of 1.70 acres situated in Kottagoundanpatti Village, Omalur Taluk, Salem



District, as lapsed in view of the Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (Act 30 of 2013).

Prayer in W.P.No.28753 of 2015 :- Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, to declare that the entire land acquisition proceedings initiated under the Land Acquisition Act, 1894, in respect of the lands belonging to the petitioner, comprised in S.No.64/2 measuring an extent of 0.50 acres situated in Kottagoundanpatti Village, Omalur Taluk, Salem District, as lapsed in view of the Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (Act 30 of 2013).

Prayer in W.P.No.28754 of 2015 :- Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, to declare that the entire land acquisition proceedings initiated under the Land Acquisition Act, 1894, in respect of the lands belonging to the petitioner to an extent of 2.10 acres of land comprised in S.Nos.65/3 and 2.70 acres in S.F.No.63/1A in Kottagoundanpatti Village, Omalur Taluk, Salem District, as lapsed in view of the Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (Act 30 of 2013).

Prayer in W.P.No.28755 of 2015 :- Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, to declare that the entire land acquisition proceedings initiated under the Land Acquisition Act, 1894, in respect of the lands belonging to the petitioner comprised in S.No.65/3 measuring an extent of 80 cents situated in Kottagoundanpatti Village, Omalur Taluk, Salem District, as lapsed in view of the Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (Act 30 of 2013).

Prayer in W.P.No.28756 of 2015 :- Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, to declare that the entire land acquisition proceedings initiated under the Land Acquisition Act, 1894, in respect of the lands belonging to the petitioner comprised in S.F.No.65/3, S.F.No.66/2 and S.F.No.63/1 admeasuring an extent of 2.05 acres, 1.34 acres and 1.50 acres respectively, situated in Kottagoundanpatti Village, Omalur Taluk, Salem District, as lapsed in view of the Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (Act 30 of 2013).



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For petitioner
in all WPs : Mr.V.Srikanth

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

For R2 : Mr.M.Baskar
Standing Counsel

COMMON ORDER

The Writ Petitions have been filed to declare that the entire land acquisition proceedings initiated under the Land Acquisition Act, 1894, in respect of the lands belonging to the petitioner in all Writ Petitions situated in Kottagoundanpatti Village, Omalur Taluk, Salem District, as lapsed in view of the Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (herein after called as "the New Act").

2. Heard Mr.V.Srikanth, learned counsel appearing for the petitioner, Mr.Richardson Wilson, learned Government Advocate appearing for the respondents 1 & 3, and Mr.M.Baskar, learned Standing Counsel appearing for the second respondent in all the Writ Petitions.

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.

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.



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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) 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.



Court of India, the issues raised by the petitioners 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 petitions are devoid of merits and liable to be dismissed.

5. In the result, all the Writ Petitions are dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Secretary to the Government,
Government of Tamil Nadu,
Housing and Urban Development Department
Fort St. George,
Chennai - 600 009.
2. The Chairman Cum Managing Director,
Tamil Nadu Housing Board,
Anna Salai, Nandanam,
Chennai - 600 035.
3. The Special Tahsildar,
Land Acquisition
Neighbourhood Scheme of Salem,
Iyyan Thirumaligai
Salem - 8.

+1cc to the Government Pleader, S.R.No.41768

W.P.Nos.28752 to 28756 of 2015
and M.P.Nos.1 to 1 of 2015

AK(CO)
CT(23/09/2021)