



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.NOS.30946,34568 TO 34573, 34976 TO 34982 OF 2015 AND
MP.NOS.1,1,1,1,1,1,1,1,1,1,1,1,1, & 1 OF 2015 AND 2 OF 2015

CHINNAPPAN	... PETITIONER in WP No.34568 of 2015
NEELAVATHI	... PETITIONER in WP No.34569 of 2015
E.GUNASEKARAN	... PETITIONER in WP No.34570 of 2015
RAJENDRAN	... PETITIONER in WP No.34571 of 2015
LINGESWARAN	... PETITIONER in WP No.34572 of 2015
B.SATHISH	... PETITIONER in WP No.34573 of 2015
V. ANANDA PRABHU V. KARTHIK	... PETITIONERS in WP No.34976 of 2015
VELAN GANESAN	... PETITIONERS in WP No.34977 of 2015
KAMATCHI KANCHANA VENKATESAN	... PETITIONERS in WP No.34978 of 2015
V. MANIKANDAN (MINOR) S/O. VASUDEVAN VIGNESHWARAN (MINOR) S/O. VASUDEVAN	... PETITIONERS in WP No.34979 of 2015
KAALIYAMMAL KANNIYAMMAL MANONMANI MARI	... PETITIONERS in WP No.34980 of 2015



MEENAKSHI
PUSHPA
LOGANATHAN
MARIAMMAL
BABU
VALLIAMMAL
DHANALAKSHMI

... PETITIONERS in WP No.34981 of 2015

CHAKRAPANI NAIDU
RAJENDRAN

... PETITIONERS in WP No.34982 of 2015

Vs.

THE SECRETARY TO GOVERNMENT
GOVERNMENT OF TAMIL NADU HIGHWAYS
DEPARTMENT FORT ST. GEORGE CHENNAI 9

THE DISTRICT COLLECTOR
KANCHEEPURAM AND DISTRICT

THE REVENUE DIVISIONAL OFFICER
CHENGALPATTU

M.RADHAKRISHNAN

MANOTHA

LAKSHMI ... RESPONDENT in WP No.30946 of 2015

THE STATE OF TAMIL NADU
REP BY ITS SECRETARY TO GOVERNMENT PWD
DEPARTMENT FORT ST. GEORGE CHENNAI 9

THE DISTRICT COLLECTOR
OFFICE OF DISTRICT COLLECTOR KANCHEEPURAM
DISTRICT KANCHEEPURAM

THE REVENUE DIVISIONAL OFFICER
CHENGALPATTU REVENUE DIVISIONAL OFFICE
KANCHEEPURAM DISTRICT

THE SPECIAL TAHSILDAR LA
UNIT 1 EAST COAST ROAD PROJECT PERIYA
MELAMAIYUR KANCHEEPURAM DISTRICT

... RESPONDENTS IN WP No.34568 TO 34573 OF 2015 &
WP NOS.34976 TO 34982 OF 2015



PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of declaration, declaring that the acquisition in respect of the land belonging to the petitioner and the respondents 4 to 6 in survey No.72/3A33 measuring an extent of 10 cents in Thiruvidadanthai Village, Block I, Thirupporur Taluk, Kancheepuram District has become LAPSED by virtue of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013).

PRAYER:

These Writ Petitions filed under Article 226 of the Constitution of India, to issue a writ of declaration,

WP No.34568 of 2015:-

Declaring the issuance of passed by notice under Section 4 (1) of Land Acquisition Act, 1894 issued by the 1st respondent vide G.O.Ms.No.1547 dt 5.11.1992 and the Section 6 declaration issued by the 1st respondent vide G.O.Ms. No.1662 dt 30.11.1993 and the Consequential Award passed by 4th respondent in Award No.12/1995 dt 29.11.1995 as null and void and deemed to have been lapsed in Door No.7/75 to an extent of 0.05 Cents situated in Survey No.77/47B in Thiruvidadandhai Village, Thiruporur Taluk, Kancheepuram District as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013

WP No.34569 of 2015:-

Declaring that Section 4(1) Notification issued by the 1st respondent in G.O.Ms.No.1547 dt 5.11.1992 and the Section 6 declaration issued by the 1st respondent vide G.O.Ms. No.1662 dt 30.11.1993 under Land Acquisition Act, 1894 as null and void and deemed to have been lapsed in respect of the property of the petitioner in Door No.7/65 to an extent of 0.03 Cents situated in Survey No.72/3A/28B in Thiruvidadandhai Village, Thiruporur Taluk, Kancheepuram District as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013

WP No.34570 of 2015:-

Declaring that Section 4(1) Notification issued by the 1st respondent in G.O.Ms.No.1547 dt 5.11.1992 and the Section 6



declaration issued by the 1st respondent vide G.O.Ms. No.1662 dt 30.11.1993 under Land Acquisition Act, 1894 as null and void and deemed to have been lapsed in respect of the property of the petitioner in Door No.7/74 to an extent of 0.05 Cents situated in Survey No.77/43B in Thiruvidadandai Village, Thiruporur Taluk, Kancheepuram District as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013

WP No.34571 of 2015:-

Declaring that Section 4(1) Notification issued by the 1st respondent in G.O.Ms.No.1547 dt 5.11.1992 and the Section 6 declaration issued by the 1st respondent vide G.O.Ms. No.1662 dt 30.11.1993 under Land Acquisition Act, 1894 as null and void and deemed to have been lapsed in respect of the property of the petitioner in Door No.7/65 to an extent of 0.07 Cents viz., 0.04 Cents and 0.03 Cents comprised in Survey Nos.72/3A27A and No.72/3A27C respectively situate in Thiruvidadandai Village, Thiruporur Taluk, Kancheepuram District as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013

WP No.34572 of 2015:-

Declaring that Section 4(1) Notification issued by the 1st respondent in G.O.Ms.No.1547 dt 5.11.1992 and the Section 6 declaration issued by the 1st respondent vide G.O.Ms. No.1662 dt 30.11.1993 under Land Acquisition Act, 1894 as null and void and deemed to have been lapsed in respect of the property of the petitioner in Door No.7/69 to an extent of 0.03 Cents situated in Survey No.77/40A2 in Thiruvidadandai Village, Thiruporur Taluk, Kancheepuram District as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013

WP No.34573 of 2015:-

Declaring that Section 4(1) Notification issued by the 1st respondent in G.O.Ms.No.1547 dt 5.11.1992 and the Section 6 declaration issued by the 1st respondent vide G.O.Ms. No.1662 dt 30.11.1993 under Land Acquisition Act, 1894 as null and void and deemed to have been lapsed in respect of the property of the petitioners bearing Door No.7/66 to an extent of 0.04 Cents situated in Survey No.77/38B in Thiruvidadandai Village, Thiruporur Taluk, Kancheepuram District as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013



WP No.34976 of 2015:-

Declaring that Section 4(1) Notification issued by the 1st respondent in G.O.Ms.No.1547 dt 5.11.1992 and the Section 6 declaration issued by the 1st respondent vide G.O.Ms. No.1662 dt 30.11.1993 under Land Acquisition Act, 1894 as null and void and deemed to have been lapsed in respect of the property of the petitioners situated in Door No.7/75 to an extent of 0.12 Cents situated in Survey No.77/44B in Thiruvidadandhai Village, Thiruporur Taluk, Kancheepuram District as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013

WP No.34977 of 2015:-

Declaring that Section 4(1) Notification issued by the 1st respondent in G.O.Ms.No.1547 dt 5.11.1992 and the Section 6 declaration issued by the 1st respondent vide G.O.Ms. No.1662 dt 30.11.1993 under Land Acquisition Act, 1894 as null and void and deemed to have been lapsed in respect of the property of the petitioners bearing Door Nos.7/81 and 7/82 to an extent of 0.15 Cents situated in Survey No.77/46B in Thiruvidadandhai Village, Thiruporur Taluk, Kancheepuram District as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013

WP No.34978 of 2015:-

Declaring that Section 4(1) Notification issued by the 1st respondent in G.O.Ms.No.1547 dt 5.11.1992 and the Section 6 declaration issued by the 1st respondent vide G.O.Ms. No.1662 dt 30.11.1993 under Land Acquisition Act, 1894 as null and void and deemed to have been lapsed in respect of the property of the petitioners situated in Door No.7/72 to an extent of 0.11 Cents viz., 0.08 cents in Survey No.72/3A35 and 0.03 cents in Survey No.72/3C3 in Thiruvidadandhai Village, Thiruporur Taluk, Kancheepuram District as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013

WP No.34979 of 2015:-

Declaring that Section 4(1) Notification issued by the 1st respondent in G.O.Ms.No.1547 dt 5.11.1992 and the Section 6 declaration issued by the 1st respondent vide G.O.Ms. No.1662 dt 30.11.1993 under Land Acquisition Act, 1894 as null and void and deemed to have been lapsed in respect of the property of the petitioners situated in Door No.7/71 to an extent of 0.08 Cents situated in Survey No.72/3A34 in Thiruvidadandhai Village, Thiruporur Taluk, Kancheepuram District as per Section 24(2) of



the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013

WP.No.34980 of 2015:-

WEB COPY

Declaring that Section 4(1) Notification issued by the 1st respondent in G.O.Ms.No.1547 dt 5.11.1992 and the Section 6 declaration issued by the 1st respondent vide G.O.Ms. No.1662 dt 30.11.1993 under Land Acquisition Act, 1894 as null and void and deemed to have been lapsed in respect of the property of the petitioners situated in Door No.7/73 to an extent of 0.14 Cents comprised in Survey Nos.72/3A36A, 77/40B2 and 77/42B in Thiruvidadhai Village, Thiruporur Taluk, Kancheepuram District as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013

WP No.34981 of 2015:-

Declaring that Section 4(1) Notification issued by the 1st respondent in G.O.Ms.No.1547 dt 5.11.1992 and the Section 6 declaration issued by the 1st respondent vide G.O.Ms. No.1662 dt 30.11.1993 under Land Acquisition Act, 1894 as null and void and deemed to have been lapsed in respect of the property of the petitioners in Door No.7/83 to an extent of 0.05 Cents situated in Survey No.77/47B in Thiruvidadhai Village, Thiruporur Taluk, Kancheepuram District as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013

WP No.34982 of 2015:-

Declaring that Section 4(1) Notification issued by the 1st respondent in G.O.Ms.No.1547 dt 5.11.1992 and the Section 6 declaration issued by the 1st respondent vide G.O.Ms. No.1662 dt 30.11.1993 under Land Acquisition Act, 1894 as null and void and deemed to have been lapsed in respect of the property of the petitioners bearing Door No.7/65 to an extent of 0.05 Cents situated in Survey No.72/3A26 in Thiruvidadhai Village, Thiruporur Taluk, Kancheepuram District as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013

WP.No.30946 of 2015

For Petitioner : Mr.M.S.Subramanian

For Respondents

For R1 to 3 : Mr.M.R.Gokul Krishnan,
Government Advocate



WEB COPY

WP.Nos.34568 to 34573 & 34976 to 34892 of 2015

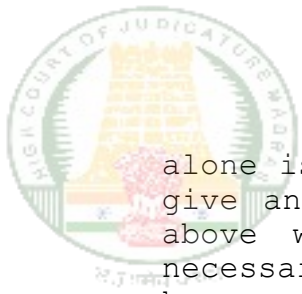
For Petitioners : Mr.M.Raja Sekhar

For Respondents : Mr.M.R.Gokul Krishnan,
Government Advocate

COMMON ORDER

All the writ petitions have been filed challenging the acquisition proceedings (notification under Section 4(1) of the Land Acquisition Act issued vide GO.Ms.No.1547 dated 05.11.1992) on the ground that the subject land was acquired for the purpose of expansion of East Coast Road invoking emergency clause under Section 17 of the Land Acquisition Act, 1894 (hereinafter called as 'the Act'). However, as per Section 17(3-A) of the Act, the respondents ought to have tendered payment of 80% of the compensation to the person interested or entitled thereon. Whereas the petitioners were not paid any compensation even till today. Another ground is that Section 4(1) notification was issued on 05.11.1992 and award was passed on 29.11.1995 in award No.12 of 1995, however no notice was served on the petitioners under Section 4 (1) or under Section 11 of the Act. Compensation also has neither been paid to the land owners or interested persons or deposited in the court. The petitioners are in possession and enjoyment of their respective properties even till today. The petitioners have put up construction and constructed dwelling house and the houses were also assessed to the property tax and they are regularly paying property tax. As per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the award pertaining to the subject property has been made more than five years prior to the commencement of the new Act i.e. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Therefore, the entire acquisition proceedings have lapsed as per Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. Common counter has been filed by the first respondent, which revealed that the Public Works Department in the Government of Tamil Nadu was bifurcated into Public Works Department and Highways Department with effect from 01.08.1996 vide GO.Ms.No.326, Personnel and Administrative Reforms (G) Department, dated 02.09.1996. As such, the subject matter in the impugned Government Order now comes under the administrative control of the Highways Department and the Additional Chief Secretary to Government, Highways and Minor Ports Department



alone is competent to decide the claim of the petitioners and to give any relief to the petitioners based on the outcome of the above writ petitions. Hence, the first respondent is not a necessary party in the above writ petitions and the petitioners have unnecessarily impleaded the first respondent as a party to the above writ petitions. It is further stated that even if the petitioners succeed in the writ petitions, the first respondent will not be in a position to give any relief sought for by the petitioners since the subject matter in the impugned Government Order is now under the administrative control of the Highways Department.

3. While pending the writ petitions, this Court appointed an Advocate Commissioner to conduct inspection with regards to the status of the petitioners' properties to ascertain the distance between the East Coast Road and the petitioners' properties. The Advocate Commissioner filed report and stated that all the petitioners have constructed their houses and obtained electricity service connection and living there. He also mentioned the distance between the subject property of the respective petitioners and the East Coast Road. In almost all the writ petitions, the distance between the subject property and the East Coast Road is not below 15 meters distance. The relevant portion of the reports filed by the advocate commissioner is extracted hereunder:

W.P.No.34569 of 2015

"It was found that the above said property is situated in East by East Coast Road and west by Kirama Natham salai comprising survey No.74. I have ascertained the distance of the petitioner's property it is 45 meters away from the East Coast Road"

W.P.No.34570 of 2015

"the above said property is adjacent to the Kirama Natham salai comprising survey No.74 which is East by East Coast Road. I have ascertained the distance of the petitioner's property it is 30 meters away from the East Coast Road"

W.P.No.34571 of 2015

"It was found that the above said property is situated in East by East Coast Road and west by Kirama Natham salai comprising survey No.74. I have ascertained the distance of the petitioner's property it is 46 meters away from the East Coast Road"



W.P.No.34572 of 2015

"the above said property is adjacent to the Kirama Natham salai comprising survey No.74 which is East by East Coast Road. I have ascertained the distance of the petitioner's property it is 58.4 meters away from the East Coast Road"

W.P.No.34573 of 2015

"the above said property is adjacent to the Kirama Natham salai comprising survey No.74 which is East by East Coast Road. I have ascertained the distance of the petitioner's property it is 93 meters away from the East Coast Road"

W.P.No.34976 of 2015

Distance between East coast road and petitioners properties is 20 meters
S.No.77/44B(petitioners property)
Total extent 17 cents
Acquired extent 12 cents
Concrete house 1131 sq.ft.(extent)

W.P.No.34977 of 2015

Distance between East coast road and petitioners properties is 15 meters
S.No.77/46B(petitioners property)
Total extent 21 cents
Acquired extent 15 cents
Concrete house 378 sq.ft.(extent)

W.P.No.34978 of 2015

Distance between East coast road and petitioners properties
S.No.72/3A35A adjacent to the ECR
S.No.72/3A35A (petitioners property)
Total extent 8 cents
Acquired extent 8 cents
Concrete house 320 sq.ft.(extent)

W.P.No.34979 of 2015

Distance between East coast road and petitioners properties is
S.No.72/3A34 adjacent to the ECR
S.No.72/3A34 (petitioners property)
Total extent 8 cents
Acquired extent 8 cents



WEB COPY

Concrete house 1650 sq.ft.(extent)

W.P.No.34980 of 2015

Distance between East coast road and petitioners properties is

S.No.77/42B - 35 meters

S.No.77/42B(petitioners property)

Total extent 5 cents

Acquired extent 5 cents

Concrete house 1660 sq.ft.(extent)

W.P.No.34981 of 2015

Distance between East coast road and petitioners properties is

10 meters

S.No.77/47B(New subdivision No.77/47A petitioners property)

Total extent 5 cents

Acquired extent 5 cents

Concrete house 900 sq.ft.(extent)

W.P.No.34982 of 2015

Distance between East coast road and petitioners properties is adjacent land to the ECR

S.No.72/3A26(subdivision No.72/3A26 A, 72/3A26, B, 72/3A26C)
(petitioners property)

Total extent 7 cents

Acquired extent 5 cents

W.P.No.34568 of 2015

"the above said property is situated East by the East Coast Road and the property is adjacent to the petitioner's brother's property measuring to an extent of 5 cents it is a front portion of petitioner's property. I have ascertained the distance of the petitioner's property only 18 meters away from the East Coast Road"

4. Therefore, the petitioners are in possession and enjoyment of the respective subject properties. It is also evident from the records produced by the respective petitioners such as family card, electricity consumption card, voter ID and other revenue records to show that the petitioners are in possession and enjoyment of their respective properties. Insofar as the possession is concerned, notices under Section 12(2) of the Land Acquisition Act dated 29.11.1995 were issued only on 26.07.2015 by the third respondent.



WEB COPY

5. On perusal of the said notice, revealed that on receipt of the said notice, within 15 days from the date of receipt of notice, the respective land owners shall appear before the third respondent and produce all the revenue documents such as encumbrance certificate, patta and other title deeds, etc and receive the compensation, failing which the compensation will be deposited in the Court. The award was passed on 29.11.1995. Whereas the notice under Section 12 (2) of the Land Acquisition Act was issued only on 26.07.2015. The respondents also failed to produce any evidence to show that the award amount was deposited immediately after the award in the revenue deposit or court deposit. Notice issued under Section 12(2) of the Land Acquisition Act on 26.07.2015 shows that only to escape from the clutches of provisions under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Therefore, the possession of the subject properties has not been taken from the respective petitioners even till today. There is no evidence to show that the compensation was also paid to the respective petitioners by court deposit or by revenue deposit. In this regard, the learned counsel for the petitioners relied 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



WEB COPY

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.

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).



Consequently, connected miscellaneous petitions are closed. No order as to costs.

WEB COPY

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

lok

Xerox copy of Advocate Commissioner reports enclosed.

To

1. The Secretary to Government,
Government of Tamil Nadu,
Highways Department,
Fort St.George,
Chennai 600 009
2. The Secretary to Government
The State of Tamil Nade
PWD Department
Fort St.George,
Chennai-60 009.
3. The District Collector,
Kancheepuram
4. The Revenue Divisional Officer,
Chengalpattu
5. The Special Tahsildar LA Unit 1
East Coast Road Project
Periya Melamaiyur Kancheepuram District.

+1cc to M/S.Subramanian, Advocate SR.NO.43753
+1cc to Government Pleader SR.NO.43901 & 43902

WP.Nos.30946, 34568 to 34573, 34976 to 34982 of 2015

PL(CO)
PM/30/09/2021