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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.4775 to 4778 of 2015

and

M.P.Nos.1,1,1 & 1 of 2015

and

WMP Nos.21259 to 21261 of 2016 & 24772 of 2016

Lakshmikanthammal	...Petitioner in W.P.No.4775 of 2015
Suguna	...Petitioner in W.P.No.4776 of 2015
D.Dillibai	...Petitioner in W.P.No.4777 of 2015
Kalavathy	...Petitioner in W.P.No. 4778 of 2015

Vs

1. The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai - 600 009.

2. The District Collector,
Kancheepuram District,
Kancheepuram.

3. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 600 008.

4. The Sub Collector / Revenue Divisional Authority,
Chengalpet Sub Collector's Office,
Chengalpet.

5. The Special Tahsildar (Land Acquisition),
Maraimalai Nagar Scheme,
Kattankolathur, Kancheepuram District.

...Respondents in all W.Ps



Prayer in W.P.No.4775 of 2015 :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration declaring that acquisition of lands in respect of the petitioner herein of an extent of 6 cents at survey No.151/2A, 151/2B and 151/3A of Keelkaranai Village, Kancheepuram District, pursuant to Section 4(1) Notification of the Land Acquisition Act dated 16.10.1974 and Section 6 declaration dated 14.10.1977 by the first respondent herein and the award No.3 of 1979 dated 06.08.1979 and award No.11 of 1988 dated 10.02.1989 passed by the fifth respondent herein stands lapsed in view of Section 24 Clause 2 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Prayer in W.P.No.4776 of 2015 :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration declaring that acquisition of lands in respect of the petitioner herein of an extent of 30 cents at survey No.151/2A, 151/2B and 151/3A of Keelkaranai Village, Kancheepuram District, pursuant to Section 4(1) Notification of the Land Acquisition Act dated 16.10.1974 and Section 6 declaration dated 14.10.1977 by the first respondent herein and the award No.3 of 1979 dated 06.08.1979 and award No.11 of 1989 dated 10.02.1989 passed by the fifth respondent herein stands lapsed in view of Section 24 Clause 2 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Prayer in W.P.No.4777 of 2015 :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration declaring that acquisition of lands in respect of the petitioner herein of an extent of 30 cents at survey No.151/2A, 151/2B and 151/3A of Keelkaranai Village, Kancheepuram District, pursuant to Section 4(1) Notification of the Land Acquisition Act dated 16.10.1974 and Section 6 declaration dated 14.10.1977 by the first respondent herein and the award No.3 of 1979 dated 06.08.1979 and award No.11 of 1988 dated 10.02.1989 passed by the fifth respondent herein stands lapsed in view of Section 24 Clause 2 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Prayer in W.P.No.4778 of 2015 :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration declaring that acquisition of lands in respect of the petitioner herein of an extent of 30



cents at survey No.151/2A, 151/2B and 151/3A of Keelkaranai Village, Kancheepuram District, pursuant to Section 4(1) Notification of the Land Acquisition Act dated 16.10.1974 and Section 6 declaration dated 14.10.1977 by the first respondent herein and the award No.3 of 1979 dated 06.08.1979 and award No.11 of 1988 dated 10.02.1989 passed by the fifth respondent herein stands lapsed in view of Section 24 Clause 2 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

In all W.Ps

For Petitioners : Mr.AR.L.Sundaresan
for Ms.AL.Gandhimathi

For R1, R2, R4 & R5: Mr.C. Kathiravan
Special Government Pleader

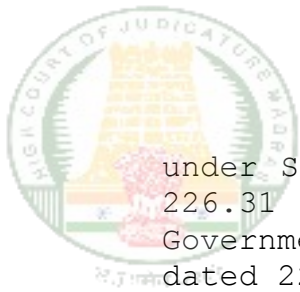
For R3 : Ms.P.Veena Suresh
Standing Counsel

COMMON ORDER

These Writ Petitions have been filed for the issuance of Writ of Declaration declaring that acquisition of lands in respect of the petitioners herein comprised in survey No.151/2A, 151/2B and 151/3A of Keelkaranai Village, Kancheepuram District, pursuant to Section 4(1) Notification of the Land Acquisition Act dated 16.10.1974 and Section 6 declaration dated 14.10.1977 by the first respondent herein and the award No.3 of 1979 dated 06.08.1979 and award No.11 of 1988 dated 10.02.1989 passed by the fifth respondent herein stands lapsed in view of Section 24 Clause 2 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. Heard, Mr.ARL.Sundaresan, learned counsel appearing for the petitioners, Mr.C.Kathiravan, learned Special Government Pleader appearing for the respondents 1, 2, 4 & 5 and Ms.P.Veena Suresh, learned Standing Counsel appearing for the third respondent.

3. All the petitioners are the legal heirs of one A.Ramados, son of late Adikesavelu Naidu. He owned land comprised in survey Nos.151/2A, 151/2B and 151/3A situated at Keelkaranai Village, Kanchipuram District. The subject land along with other lands were acquired for the formation of 'New Town' known as 'Maraimalai Nagar'. Accordingly, notification



under Section 4(1) of the Land Acquisition Act for an extent of 226.31 acres in 77, Keelakaranai Village was approved by the Government of Tamil Nadu in G.O.Rt.No.1938, RD & LA Department, dated 22.05.1974 and published as notification dated 16.10.1974.

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4. Out of 226.31 acres notified, the third respondent required 106.53 acres towards Phase I Programme. It involves more than 266 Sub-Divisions and more than 250 interested persons. After conducting the enquiry under Section 5A of the Act and after duly considering the objections of the interested persons in the enquiry dated 11.10.1977, approved the draft declaration made under Section 6 of the Act for the public purpose, to wit, the development of New Satellite Town known as 'Maraimalai Nagar'. The Section 6 declaration was published on 14.10.1977. In pursuance of the said directions and after duly giving notice to all the interested persons in the manner prescribed under the said Act and Rules, award was passed in Award No.3 of 1979 dated 06.08.1979. The compensation award amount was passed in Award No.11 of 1988 dated 10.02.1988.

5. The said A.Ramadoss challenged the acquisition proceedings seeking re-conveyance in W.P.No.965 of 2010 and the same was disposed of by an order dated 28.01.2010, directing the respondents to consider the petitioners representation dated 20.01.2010. After the award, the Special Officer, Primary Land Development Bank, Chengalpet, by a letter dated 17.04.1979 has reported that a sum of Rs.6,515/- is still outstanding as on date towards the loan order No.189/72-73. As such, the compensation amount of Rs.1,449 due for survey No.151/3A admeasuring 0.42 cents which is encumbered in order to be paid to the Special Officer, Chengalpet Primary Land Development Bank towards the loan. The Tahsildar, by a letter dated 07.06.1979 has reported that a sum of Rs.1303.60 is still due towards loan No.9/67-68 from the said A.Ramadoss. Therefore, the said amount is ordered to be credited towards pumping installation loan. The balance amount of Rs.2077.40 is ordered to be paid to him. Accordingly, the said amount has been deposited in the Sub Court, Chengalpet. Insofar as the compensation of the subject land is concerned, the property was devolved on the Government and the requisition body.

6. Now, the petitioners have challenged the acquisition proceeding after a lapse of 35 years under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, on the ground that the compensation amount has not been paid and the possession has not been taken as contemplated under Section 24(2) of the Act.



That apart, these writ petitions have been filed after demise of the said P. Ramadoss on 22.06.2014 by a Will dated 27.03.2014 all the legal heirs i.e., the petitioners herein claimed the subject property. Therefore, the provision under Section 24 (2) of the Act is not applicable to the petitioners as the subject lands have been taken over under the Section 24(2) of the Act and after a period of 35 years, the proceedings have been challenged under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

7. The grounds raised by the petitioners in these writ petitions have already been settled by the Hon'ble Supreme Court of India in the case of Indore Development Authority Vs. Manoharlal and others 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 1.1.2016 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 been deposited with respect to majority of land holdings then all beneficiaries (landowners) as on the date of notification for land



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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) 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 1.1.2016. 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



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acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the Act of 2013, i.e., 1.1.2016. 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 settled position of law, this Court is of the considered view that these writ petitions are liable to be dismissed as devoid of merits.

9. In the result, these writ petitions stand dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

1. The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George,
Chennai - 600 009.

2. The District Collector,
Kancheepuram District,
Kancheepuram.

3. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 600 008.

4. The Sub Collector / Revenue Divisional Authority,
Chengalpet Sub Collector's Office,
Chengalpet.



5. The Special Tahsildar (Land Acquisition),
Maraimalai Nagar Scheme,
Kattankolathur, Kancheepuram District.

+1 CC to M/s.A.L. Gandthimathi, Advocate sr 66419
+1 CC to M/s.P. Veena Suresh, Advocate sr 66314
+1 CC to The Government Pleader sr 67080.

W.P.Nos.4775 to 4778 of 2015
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KSM(CO)
SP(16/02/2022)