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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.NO.7433 OF 2015

1. Chellammal
2. Krishnaveni
3. Rathinam

... Petitioners

-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 Tamil Nadu Housing Board,
Rep by its Managing Director,
Nandanam, Anna Salai,
Chennai - 600 035.
3. The Executive Engineer/Administrative Officer,
Tamil Nadu Housing Board,
Salem Housing Unit,
Ayyan Thiru Maligai,
Salem - 638 008.
4. The District Collector,
Collectorate Complex,
Namakkal.
5. The Special Tahsildar (Land Acquisition),
Neighbourhood Scheme,
Tamil Nadu Housing Board,
Salem Housing Unit,
Ayyan Thiru Maligai,
Salem - 613 008.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, declaring that the entire land acquisition proceedings initiated



under the Land Acquisition Act, 1894, in respect of the Lands belonging to the petitioners comprised in S.F.No.193/1B2 ad measuring an extent of 1.14 acres situated at Kadachanallur Village, Triuchengode Taluk, Namakkal District in G.O.Ms.No.895 Housing and Urban Development Department, dated 17.10.1981 (Section 4(1) Notification) and G.O.Ms.No.915 Housing and Urban Development Department dated 30.10.1984 (Section 6 declaration) as lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 10 of 2013).

For Petitioners : Mr.Kandhan Duraisami

For Respondents

For R1,R4&R5 : Mr.Richardson Wilson
Government Advocate

For R2 & R3 : Mr.M.Baskar
Standing Counsel

ORDER

The Writ Petition has 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 petitioners comprised in S.F.No.193/1B2 ad measuring an extent of 1.14 acres situated at Kadachanallur Village, Triuchengode Taluk, Namakkal District in G.O.Ms.No.895 Housing and Urban Development Department, dated 17.10.1981 (Section 4(1) Notification) and G.O.Ms.No.915 Housing and Urban Development Department dated 30.10.1984 (Section 6 declaration) as lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (herein after called as " the New Act").

2. Heard Mr.Kandhan Duraisami, learned counsel appearing for the petitioners, Mr.Richardson Wilson, learned Government Advocate appearing for the respondents 1, 4 & 5 and Mr.M.Baskar, learned counsel appearing for the respondents 2 & 3.

3. The grounds raised by the petitioners in this Writ Petition 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:



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.



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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 1.1.2014. 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."



4. The Hon'ble Supreme Court of India settled all proposition of law in the above judgment including the grounds raised by the petitioners. That apart, the acquisition proceedings have been completed and the subject lands were taken over by the government and the same were handed over to the requisition body. Further, the requisition body also deposited the compensation as awarded by the Land Acquisition Officer. Therefore, the petitioners failed to satisfy the twin requirements under Section 24 (2) of the New Act i.e., the physical possession of the land was not taken and the compensation has not been paid/tendered/deposited in accordance with law. In view of the dictum laid down by the Hon'ble Supreme 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 petition is devoid of merits and liable to be dismissed.

5. In the result, the Writ Petition stands dismissed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Secretary to Government,
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+1cc to the Government Pleader, S.R.No.41760

W.P.NO.7433 OF 2015

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PBS/22/09/2021