



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 25.08.2021

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THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.821 to 827 of 2015
and M.P.No.1 of 2015

T.Subramani ... Petitioner in W.P.No.821 of 2015

1.Danabakiyammal
2.V.Lakshmi ammal
3.S.Vijayakumar
4.S.Venkatesan ... Petitioners in W.P.No.822 of 2015

D.Pachaiyappan ... Petitioner in W.P.No.823 of 2015

1.P.Kamalakannan
2.P.Sankari ... Petitioners in W.P.No.824 of 2015

1.Saroja
2.T.Udayakumar
3.T.Manoharan
4.Manjula
5.T.Magesh ... Petitioners in W.P.No.825 of 2015

1.E.Subramani
2.E.Ponmani
3.E.Vadivelu ... Petitioner in W.P.No.826 of 2015

J.Vadivel ... Petitioner in W.P.No.827 of 2015

Vs

1.The Collector,
Kancheepuram District,
Kancheepuram.

2.The Land Acquisition Officer,
The Special Tahsildar (L.A.1)
Tamil Nadu Housing Board Schemes,
Nandanam, Chennai - 600 035.
.. Respondents 1 & 2 in W.P.No.821
to 827 of 2015

3.The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai - 600 035. ... 3rd Respondent in
W.P.Nos.821 to 823 & 825
to 827 of 2015



(R3 is impleaded as per Order dated 01.07.2016 by NKKJ in W.M.P.Nos.13922 to 13927 of 2016 in W.P.Nos.823,825 to 827 of 2015)

COMMON PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India praying to issue the Writ of Declaration that the Land Acquisition proceeding initiated as under G.O.Ms.No.49, Housing and Urban Development (A2) dated 05.02.1992 and the consequential award thereon have lapsed in view of the provision under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioners : Mr.V.Manohar
in all WP's

For Respondents : Mr.Richardson Wilson,
1 & 2 Government Advocate
in all WP's

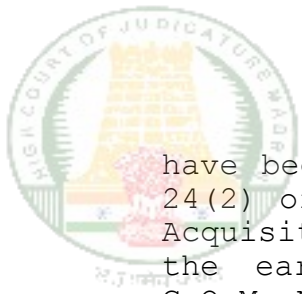
For Respondent 3 : Mr.M.Baskar,
in WA 821 to 823,
825 to 827 of 2015 Standing counsel

C O M M O N O R D E R

These Writ Petitions are filed to issue the Writ of Declaration that the Land Acquisition proceeding initiated as under G.O.Ms.No.49, Housing and Urban Development (A2) dated 05.02.1992 and the consequential award thereon have lapsed in view of the provision under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. All the petitioners in the above writ petitions challenged the acquisition proceedings dated 05.02.1992 and the consequential award thereon on the ground that the proceedings have lapsed in view of the provision under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

3. The lands were acquired for the formation of Mini Kancheepuram Neighbourhood Scheme to be developed by the third respondent from the petitioners. Thereafter the award came to be passed on 28.04.1995. After the period of 20 years that too after the New Act came into force the present writ petitions



have been filed on the ground that the provision under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 rendered the earlier proceedings initiated under the Notification in G.O.Ms.No.49, Housing and Urban Department dated 05.02.1992 as redundant and ineffective on all purposes. For the reason that no compensation amount was paid and the possession of the property was not taken over at any point of time.

4. On perusal of the counter revealed that the 4(1) Notification was approved by the Government in G.O.Ms.No.49, Housing and Urban Development Department dated 05.02.1992. It was published in the Tamil Nadu Government Gazette dated 26.02.1992. The gist of the Notification was published in the Tamil daily on 12.04.1992 and 15.04.1992. It was also published in the locality on 29.04.1992. The entire lands under acquisition are classified as dry in the village account.

5. The enquiry conducted under Section 5(A) of the Land Acquisition Act, the notice was served to the petitioners. On receipt of the same, they also filed their objections, after receipt of the remarks on the objections from the third respondent the enquiry was conducted on 01.06.1992 and 27.08.1992. In fact, the opinion of the third respondent was also duly communicated to the petitioners and further enquiry under Section 3(b) of the Rules framed under Section 55(1) of the Land Acquisition Act was conducted on 03.03.1993 and 04.03.1993. All the petitioners were appeared for enquiry and reiterated the same objections raised at the time of Section 5 (A) of the Land Acquisition Act. It was approved by the Government in G.O.Ms.No.328, Housing and Urban Development Department dated 26.04.1993 and published in the Tamil Nadu Government Gazette dated 27.04.1993. It was also published in newspapers on 28.04.1993 and in locality on 29.04.1993. After following all the procedures laid down in the Act, the Award was passed on 28.04.1995. Section 12(2) of the Act notice also served to the original land owners in the month of May 1995. The Award amount was duly deposited in the Sub Court, Kancheepuram. Subsequently, the possession of the land was also taken over on 26.07.1996. The patta for the land transferred in the name of third respondent. Therefore, the grounds raised by the petitioners cannot be sustained.

6. That apart, the grounds raised by the petitioners 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:

366.1. Under the provisions of Section 24



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(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.

366.2. 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.

366.3. 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.

366.4. 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.

366.5. In case a person has been tendered



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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 318 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.

366.6. 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).

366.7. 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).

366.8. 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.

366.9. 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 319 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."

7. In view of the settled position of law, all the writ petitions are devoid of merits and liable to be dismissed. That



apart, the petitioners failed to satisfy the twin requirements under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 i.e. the physical possession of the land was not taken and the compensation has not been paid / tendered / deposited in accordance with law. The respondents also filed counter and stated that the possession of the respective lands were already taken and compensation of the award amount also deposited by revenue deposit / court deposit. In view of the dictum laid down by the Hon'ble Supreme Court of India, the issues raised by the petitioners were settled by the Hon'ble Supreme Court of India. Therefore, all the acquisition proceedings have not 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.

8. Accordingly, these writ petitions are dismissed. Consequently, connected miscellaneous petition is dismissed. No order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Collector,
Kancheepuram District,
Kancheepuram.
- 2.The Land Acquisition Officer,
The Special Tahsildar (L.A.1)
Tamil Nadu Housing Board Schemes,
Nandanam, Chennai - 600 035.
- 3.The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai - 600 035.

+1 cc to Government Pleader Sr.NO. 43036

W.P.Nos.821 to 827 of 2015
and M.P.No.1 of 2015

PM co
A.SK(11.10.2021)