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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2021

CORAM

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

WP.NOS.8676, 8677, 8679 & 8680 OF 2015

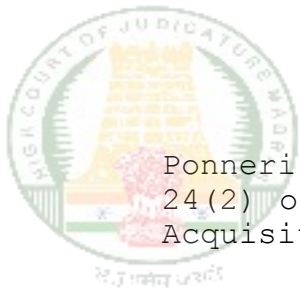
Lalitha	... Petitioner in W.P.No.8676/2015
Masilamani	... Petitioner in W.P.No.8677/2015
K.Loganathan	... Petitioner in W.P.No.8679/2015
Abdul Rasool	... Petitioner in W.P.No.8680/2015

.Vs.

1. The Secretary to Government, Transport Department, Fort St.George, Chennai - 600 009.	
2. The Chairman, Madras Port Trust, Chennai - 600 001.	
3. The Chairman, Ennore Port Trust, Chennai.	
4. The Land Acquisition Officer, Revenue Divisional Officer, Ponneri, Tiruvallur District.	... Respondents in all WPs

Prayer in W.P.No.8676 of 2015:-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue 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 petitioner comprised in S.No.717/1 ad-measuring an extent of 1.05 acres respectively situated at No.144, Vallur Village,



Ponneri Taluk, Tiruvallur District as lapsed in view of Section 24(2) of the Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Prayer in W.P.No.8677 of 2015:-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue 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 petitioner comprised in S.No.759/4 and 769/1,2,3 to an extent of 3.0 acres situated at No.144, Vallur Village, Ponneri Taluk, Tiruvallur District as lapsed in view of Section 24(2) of the Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Prayer in W.P.No.8679 of 2015:-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue 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 petitioner comprised in S.No.770 to an extent of acres 0.44 cents situated at No.144, Vallur Village, Ponneri Taluk, Tiruvallur District as lapsed in view of Section 24(2) of the Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Prayer in W.P.No.8680 of 2015:-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue 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 petitioner comprised in S.No.771 to an extent of 3.84 acres situated at No.144, Vallur Village, Ponneri Taluk, Tiruvallur District as lapsed in view of Section 24(2) of the Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioner : Mr.G.Ilamurugu
in all W.Ps

For R1 & R4 : Mr.Richardson Wilson
Government Advocate

For R3 : Mr.Krishna Ravindran



COMMON ORDER

These Writ Petitions are filed to issue 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.No.717/1 to an extent of 1.05 acres, S.No.759/4 and 769/1,2,3 to an extent of 3.0 acres, S.No.770 to an extent of acres 0.44 cents and S.No.771 to an extent of 3.84 acres respectively situated at No.144, Vallur Village, Ponneri Taluk, Tiruvallur District as lapsed in view of Section 24(2) of the Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. The case of the petitioners is that the petitioners are the absolute owners of the respective properties. The entire properties are subjected to land acquisition proceedings under the Land Acquisition Act, 1894, for the purpose of construction of staff quarters for Madras Port Trust. The notification under Section 4(1) of the Land Acquisition Act, 1894 was published by the first respondent in the Tamil Nadu Government Gazette (Part-II, Section 2) on 14.02.1996. Apart from the said notification, there was procedural violation and as such, the adjacent land owners challenged the acquisition proceedings before this Court and the same was quashed. Therefore, fresh notification under Section 6(1) of the Land Acquisition Act was published on 10.12.2001 and the subsequent acquisition proceedings was also challenged upto the Hon'ble Supreme Court of India. However, they failed to succeed in challenging the acquisition proceedings.

3. In pursuant to the acquisition proceedings, the award was passed on 04.06.1999. The award was not communicated to the petitioners but it was stated that the matter has been referred to the Civil Court under Section 30 & 31(2) of the Land Acquisition Act. Thereafter, the amount was deposited under the revenue deposit and for which there is no interest. Therefore, the acquisition proceedings has been challenged under the new Act of Section 24 (2) of the Act.

4. On perusal of the counter filed by the third respondent revealed that the Writ Petition in W.P.No.8676 of 2015 filed by Lalitha already died and as such, the power holder cannot sustain the writ petition. The subject property was notified in the year 1996 and the award was passed in the year 1999 and the compensation has been received in the year 2004 itself. Therefore, the entire averments made in all these writ petitions are false and frivolous and the legal heirs of the said Lalitha and the other petitioners were duly received compensation. The land was acquired on behalf of the third respondent for



construction of quarters for the Central Industrial Security Force personnel, who guard the port premises round the clock.

5. The revenue documents for the entire land, which was acquired, was mutated in the name of the third respondent. The compensation of the property was also disbursed long back to the petitioners. Therefore, the grounds raised in all these writ petitions also settled by the Hon'ble Supreme Court of India in the case reported in 2020 (8) SCC 129 [Indore Development Authority Vs. Manoharlal], wherein the Constitutional Bench of Hon'ble Supreme Court held that

"366. In view of the aforesaid discussion, we answer the questions as under:

366.1. 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.

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



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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 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.

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



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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 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.

367. Let the matters be placed before appropriate Bench for consideration on merits."

6. In view of the above judgment, the grounds raised in the present writ petitions already settled and all the writ petitions are devoid of merits and liable to be dismissed. Accordingly, these Writ Petitions are dismissed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Transport Department,
Fort St.George,
Chennai - 600 009.
2. The Chairman,
Madras Port Trust,
Chennai - 600 001.
3. The Chairman,
Ennore Port Trust,
Chennai.



4. The Land Acquisition Officer,
Revenue Divisional Officer,
Ponneri, Tiruvallur District.

+4ccs to Mr.G.Ilamurugu, Advocate, S.R.No.40585

+4ccs to Mr.Krishna Ravindran, Advocate, S.R.Nos.40174 to 40177

+1cc to the Government Pleader, S.R.No.40378

W.P.NOS.8676, 8677, 8679
& 8680 OF 2015

PHC (CO)
PBS/07/09/2021