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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2021

CORAM

THE HONOURABLE Mr. JUSTICE G.K.ILANTHIRAIYAN

WP.No.9767 of 2015

and

MP.No.1 of 2015

D.Ganesan

... Petitioner

Vs

1. State rep. by its Secretary,
Housing & Urban Development Department,
Fort St.George,
Chennai 600 009

2. Tamilnadu Housing Board,
Rep.by its Managing Director,
No.33, Anna Salai,
Nandanam, Chennai 600 035

3. The Executive Engineer,
Tamilnadu Housing Board,
Bhagalur Road, Hosur 635 109

4. The Special Tahsildar(L.A.),
Hosur Housing Scheme,
Bhagalur Road,
Hosur, Krishnagiri District

... Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894 in respect of land bearing plot No.2, measuring an extent of 2400 sq.ft. comprised in survey No.929/1 Hosur Village and Taluk, Krishnagiri District covered by Notification issued under Section 4(1) of Land Acquisition Act, 1894 vide GO.Ms.No.1459, Housing and Urban Development Department, dated 15.11.1991 and Declaration under Section 6 of Land Acquisition Act, 1894 vide GO.Ms.No.20, Housing and Urban Development Department dated 08.01.1993 deemed to have lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013.

For Petitioner

: Mr.V.Ayyapparaja



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For Respondents

For R1, 2 & 4

: Mr.C.Kathiravan
Special Government Pleader

For R3

: Dr.R.Gouri,
Standing Counsel

ORDER

This writ petition is filed to issue a Writ of Declaration declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894 in respect of land bearing plot No.2, measuring an extent of 2400 sq.ft. comprised in survey No.929/1 Hosur Village and Taluk, Krishnagiri District covered by Notification issued under Section 4(1) of Land Acquisition Act, 1894 vide GO.Ms.No.1459, Housing and Urban Development Department, dated 15.11.1991 and Declaration under Section 6 of Land Acquisition Act, 1894 vide GO.Ms.No.20, Housing and Urban Development Department dated 08.01.1993 deemed to have lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013.

2. Heard, Mr.V.Ayyapparaja, the learned counsel for the petitioner, Mr.C.Kathiravan, Special Government Pleader appearing for the respondents 1, 2 & 4 and Dr.R.Gouri, Standing Counsel appearing for the third respondent.

3. The land admeasuring 2400 sq.ft. comprised in survey No.929/1, Hosur Town, Krishnagiri District originally belonged to one Chinnappa. He developed the said land and made a lay out of house sites and sold one of such plot bearing No.2 to the petitioner by the registered sale deed dated 02.03.1983 registered vide document No.800 of 1983. When the petitioner approached the revenue officials for obtaining patta, he was informed that the said land was already acquired for the purpose of construction of houses under Neighbourhood Scheme of Hosur. The Government of Tamilnadu initiated land acquisition proceedings on behalf of the Tamilnadu Housing Board to acquire 212 acres of land including the subject land under Land Acquisition Act, 1894 for the purpose of Hosur Neighbourhood Housing Scheme. Notification under Section 4(1) of the Act was issued on 15.11.1991 and published on 18.01.1991, followed by the declaration under Section 6 of the said Act was issued and published on 08.01.1993 and 11.01.1993 respectively. The subject land has been sub divided as survey No.929/1A to an extent of 1.08.0 hectare and survey No.979/1B to an extent of 0.08.0 hectare owned originally by Bothi Kuttamma and Shivarajan



respectively as per the award. After following the due process of law, award was passed on 12.01.1995 in award No.1 of 1995. Possession of the property has been taken over and handed over to the requisitioning body on 18.01.1995. Accordingly, the entire records have been mutated in favour of the third respondent under patta No.457. Layout has been prepared and approved by the planning authority vide layout approval in DTCP No.71/98. Award amount has been deposited as contemplated under Section 30 of the Land Acquisition Act, 1894 in LAOP.No.630 of 1996 on the file of the Sub Court, Hosur.

4. The grounds raised by the petitioner 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:

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 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



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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).

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



To

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Hosur, Krishnagiri District

+1cc to the Government Pleader, S.R.No.67082

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KV(CO)
SU(05/01/2022)