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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 31.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.Nos.28854 to 28860 of 2016 and
WMP.Nos.24929 to 24942 of 2016

WP.No.28854 of 2016

Sasikala

...Petitioner

Vs.

1.The State of Tamil nadu,
Represented by its Commissioner & Secretary,
Housing and Urban Development,
St.George Fort, Chennai 600 009.

2.Tamil Nadu Housing Board,
By the Chairman and Managing Director,
Nandanam, Chennai 600 035.

3.The Executive Engineer,
Tamil Nadu Housing Board,
Anna Nagar, Chennai.

4.The Tahsildar,
Aminjikarai Taluk,
Chennai 600 107

...Respondents

WP.No.28855 of 2016

Mrs.Ambiga

... Petitioner

W/O.Mr.Jayaraman

Vs

1.The State Of Tamil Nadu,
Rep By Its Commissioner And Secretary
Housing And Urban Development, St. George
Fort Chennai 9.

2.Tamil Nadu Housing Board,
By The Chairman And Managing Director,
Nandanam, Chennai 35.



3.The Executive Engineer,
Tamil Nadu Housing Board, Anna Nagar, Chennai.

4.The Tahsildar,
Aminjikarai Taluk, Chennai 107.

... Respondents

WP.No.28856 Of 2016

Muthaiyan

... Petitioner

Vs

1.The State Of Tamil Nadu,
Rep By Its Commissioner And Secretary
Housing And Urban Development, St. George
Fort, Chennai-9.

2.Tamil Nadu Housing Board,
By The Chairman And Managing Director,
Nandanam, Chennai 35.

3.The Executive Engineer,
Tamil Nadu Housing Board, Anna Nagar, Chennai.

4.The Tahsildar,
Aminjikarai Taluk, Chennai 107.

... Respondents

WP.No.28857 Of 2016

Mr.V.S.Sridhar,
S/O.P.V.Sethu Rao.

... Petitioner

Vs

1.The State Of Tamil Nadu,
Rep By Its Commissioner & Secretary Housing
And Urban Development, St George Fort,
Chennai-600 009.

2.Tamil Nadu Housing Board,
By The Chairman And Managing Director,
Nandanam, Chennai-600 035.

3.The Executive Engineer,
Tamil Nadu Housing Board, Anna Nagar, Chennai.



4.The Tahsildar,
Aminjikarai Taluk, Chennai-600 107.

... Respondents

WP.No.28858 Of 2016

M/S.Csi Emmanuel Church,
Rep By Its Pastor Rev.S. Sam Rajkumar Old
No.35, 1st Lane, Church Street, Thangam
Colony, 6th Avenue, Anna Nagar, Chennai-600 040.
Vs

... Petitioner

- 1.The State Of Tamil Nadu,
Rep By Its Commissioner & Secretary Housing
And Urban Development, St George Fort,
Chennai-600 009.
- 2.Tamil Nadu Housing Board,
By The Chairman And Managing Director,
Nandanam, Chennai-600 035.
- 3.The Executive Engineer,
Tamil Nadu Housing Board, Anna Nagar, Chennai.
- 4.The Tahsildar,
Aminjikarai Taluk, Chennai-600 107.

... Respondents

WP.No.28859 Of 2016

Mr.K.Sampath Kumar
S/O.K.Padmanabhan

... Petitioner

Vs.

- 1.The State Of Tamil Nadu,
Rep By Its Commissioner & Secretary Housing
And Urban Development, St George Fort,
Chennai-600 009.
- 2.Tamil Nadu Housing Board,
By The Chairman And Managing Director,
Nandanam, Chennai-600 035.
- 3.The Executive Engineer,
Tamil Nadu Housing Board, Anna Nagar, Chennai.
- 4.The Tahsildar,
Aminjikarai Taluk, Chennai-600 107.

... Respondent

... Respondents



WP.No.28860 Of 2016

Mrs.A.S.Veni W/O.A.Selvaraj

... Petitioner

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Vs

1.The State Of Tamil Nadu,

... Respondent

Rep By Its Commissioner & Secretary Housing
And Urban Development, St George Fort
Chennai-600 009.

2.Tamil Nadu Housing Board,

By The Chairman And Managing Director,
Nandanam, Chennai-600 035.

3.The Executive Engineer,

Tamil Nadu Housing Board, Anna Nagar, Chennai.

4.The Tahsildar,

Aminjikarai Taluk, Chennai-600 107.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of declaration declaring that the land acquisition proceedings have lapsed in respect of the property comprised in Sy.132 Part of Villivakkam Village, Chennai District measuring 1200 sq.ft sought to acquired under "West Madras Neighbourhood Project" by virtue of Section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, Act 30 of 2013.

WP No.28855 of 2016: Writ Petition filed under Article 226 of Constitution of India Praying to issue a writ of Declaration to declare that the Land Acquisition proceedings have lapsed in respect of the property comprised in Sy. 130 Part of Villivakkam Village, Chennai District measuring 1302 sq.ft. sought to acquired under West Madras Neighbourhood Project by virtue of Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 Act 30 of 2013 as void.

WP No.28856 of 2016: Writ Petition filed under Article 226 of Constitution of India Praying to issue a writ of Declaration to declare that the Land Acquisition proceedings have lapsed in respect of the property comprised in Sy. 131/1 Part of



Villivakkam Village, Chennai District measuring 1550 sq.ft. sought to acquired under West Madras Neighbourhood Project by virtue of Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 Act 30 of 2013 as void.

WP No.28857 of 2016: Writ Petition filed under Article 226 of Constitution of India Praying to issue a writ of Declaration to declare that the Land Acquisition Proceedings have lapsed in respect of the property comprised in Sy.No. 132 part of Villivakkam Village, Chennai District measuring 1020 Sq.ft sought to acquired under West Madras Neighbourhood Project by virtue of Section 24(2) of The Right of Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 Act 30 of 2013 as void.

WP No.28858 of 2016: Writ Petition filed under Article 226 of Constitution of India Praying to issue a writ of Declaration to declare that the Land Acquisition Proceedings have lapsed in respect of the property comprised in Sy.No.131/1 part and 131/2A part of Villivakkam Village, Chennai District measuring 2370 Sq.ft sought to acquired under West Madras Neighbourhood Project by virtue of Section 24(2) of The Right of Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 Act 30 of 2013 as void.

WP No.28859 of 2016: Writ Petition filed under Article 226 of Constitution of India Praying to issue a writ of Declaration to declare that the Land Acquisition Proceedings have lapsed in respect of the property comprised in Sy.No. 131/1 part of Villivakkam Village, Chennai District measuring 404 Sq.ft sought to acquired under West Madras Neighbourhood Project by virtue of Section 24(2) of The Right of Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 Act 30 of 2013 as void.

WP No.28860 of 2016: Writ Petition filed under Article 226 of Constitution of India Praying to issue a writ of Declaration to declare that the Land Acquisition Proceedings have lapsed in respect of the property comprised in Sy.No. 131/2B part of Villivakkam Village, Chennai District measuring 1140 Sq.ft sought to acquired under West Madras Neighbourhood Project by virtue of Section 24(2) of The Right of Fair Compensation and Transparency



in Land Acquisition, Rehabilitation and Resettlement Act, 2013
Act 30 of 2013 as void.

For Petitioner : Mr.T.Magendiran in all WP's

For Respondents in all WP's

For R1 & 4 : Mr.M.R.Gokul Krishnan,
Government Advocate

For R2 & 3 : Mr.M.Baskar,
Standing Counsel

COMMON ORDER

The writ petitions have been filed to issue a writ of declaration declaring that the land acquisition proceedings have lapsed in respect of the petitioners' properties situated at Villivakkam Village, Chennai District sought to be acquired under "West Madras Neighbourhood Project" by virtue of Section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, Act 30 of 2013.

2. Heard, Mr.T.Magendiran, learned counsel appearing for the petitioners, Mr.M.R.Gokul Krishnan, Government Advocate appearing for the respondents 1 & 4 and Mr.M.Baskar, Standing Counsel appearing for the respondents 2 and 3.

3. On perusal of records, shows that the Government of Tamilnadu had issued notifications under Section 4(1) of the Land Acquisition Act to acquire an extent of 1300 acres of land to establish the housing scheme "West Madras Neighbourhood Scheme". On 29.08.1991, notice under Section 47 of the Land Acquisition Act was issued to surrender the land. Aggrieved by the same, writ petition in WP.No.13248 of 1991 was filed, wherein order was passed on 08.03.2001, against which writ appeal was filed by the Tamilnadu Housing Board, which was allowed. Thereafter SLP was filed, wherein the order passed in the writ appeal was confirmed.

4. Therefore, once the petitioners challenged the acquisition proceedings, they cannot again challenge in the writ petitions on the ground of non payment of compensation as well as possession. The grounds raised by the petitioners in these Writ



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petitions 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 :-

299. In cases where some landowners have chosen to take recourse to litigation (which they have a right to) and have obtained interim orders on taking possession or orders of status quo, as a matter of practical reality it is not possible for the authorities or State officials to take the possession or to make payment of the compensation. In several instances, such interim orders also impeded the making of an award. Now, so far as awards (and compensation payments, pursuant to such proceedings were concerned) the period provided for making of awards under the Act of 2013 could be excluded by virtue of Explanation to Section 11A.192 Thus, no fault of inaction can be attributed to the authorities and those who had obtained such interim orders, cannot benefit by their own action in filing litigation, which may or may not be meritorious. Apart from the question of merits, when there is an interim order with respect to the possession or order of status quo or stay of further proceedings, the authorities cannot proceed; nor can they pay compensation. Their obligations are intertwined with the scheme of land acquisition. It is observed that authorities may wait in the proceedings till the interim order is vacated.

300. In our considered opinion, litigation which initiated by the landowners has to be decided on its own merits and the benefits of Section 24(2) should not be available to the litigants. In case there is no interim order, they can get the benefits they are entitled to, not otherwise as a result of fruit of litigation, delays and dilatory tactics and some time it may be wholly frivolous pleas and forged documents as observed in V. Chandrasekaran (supra) mentioned



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above.

"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 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,



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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 subsistence of interim orders passed by court has to be excluded in the computation of five



To

1.The Commissioner & Secretary,
State of Tamil nadu,
Housing and Urban Development,
St.George Fort, Chennai 600 009.

2.Chairman and Managing Director,
Tamil Nadu Housing Board,
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3.The Executive Engineer,
Tamil Nadu Housing Board,
Anna Nagar, Chennai.

4.The Tahsildar,
Aminjikarai Taluk,
Chennai 600 107.

+1cc to Mr.Vivekvanan, Advocate, S.R.No.44140

+1cc to the Government Pleader, S.R.No.43904

WP.Nos.28854 to 28860 of 2016

PM(CO)
SB(11/10/2021)