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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.31738 OF 2016

AND

W.M.P.NO.27554 OF 2016, 21499 OF 2018

1.P.Malleeswaran

2.Indirani

...Petitioners

Vs

1.The State of Tamil Nadu,
Rep. by its Secretary to Government
Revenue Department,
Fort St. George,
Chennai - 600 009.

2.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Rural Development & Panchayatraj Department,
Fort St. George,
Chennai - 600 009.

3.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St. George,
Chennai - 600 009.

4.The Chairman and Managing Director,
Municipal Administration & Water Supply Department,
Chepauk, Chennai - 600 005.

5.The District Collector,
Collectorate Complex,
Coimbatore District,
Coimbatore.

6.The District Revenue Officer,
Coimbatore District,
Coimbatore.



7.The Revenue Divisional Officer,
Coimbatore.

8.The Commissioner,
Corporation of Coimbatore,
Coimbatore.

9.The Executive Engineer,
Execution Division,
Tamil Nadu Water Supply & Drainage Board,
Coimbatore.

10.The Tahsildar,
Madukkarai Taluk,
Coimbatore District.

11.The Special Tahsildar (L.A.)
Coimbatore Water Supply Scheme,
Coimbatore.

...Respondents

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring the Land Acquisition proceedings initiated under Section 4(1) of the Land Acquisition Act, 1894 in respect of land comprised in Survey No.659, measuring an extent of 1.89 1/2 Acres (North - South on Eastern side), situated at Vellalore Village, Madukkarai Taluk, Coimbatore District, deemed to have lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013).

For Petitioners	:	Mr.S.Jayakumar
For Respondents 1 to 3, 5 to 7, 10, 11	:	Mr.M.R.Gokul Krishnan, Government Advocate
For Respondents 4, 9	:	Mr.R.Ganesh Babu
For Respondent 8	:	Mr.K.Magesh, Standing counsel

O R D E R

This writ petition has been filed to issue a Writ of Declaration, declaring the Land Acquisition proceedings initiated under Section 4(1) of the Land Acquisition Act, 1894 in respect of land comprised in Survey No.659, measuring an extent of 1.89 1/2 Acres (North - South on Eastern side), situated at Vellalore Village, Madukkarai Taluk, Coimbatore District, deemed to have lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013).



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2. The counter is very vague and there is no record to show that the respondents have taken physical possession from the respective petitioners and the revenue records are not yet mutated in favour of the respondents and all the revenue documents such as patta, adangal and chitta stood in the name of the petitioners.

3. Heard, Mr.M.R.Gokul Krishnan, Government Advocate appearing for the respondents 1 to 3, 5 to 7, 10, 11, Mr.K.Magesh, Standing Counsel appearing for the eighth respondent, and Mr.R.Ganesh Babu, the learned Standing Counsel appearing for the respondents 4, 9.

4. The petitioners have filed this writ petition raising two grounds i.e. possession has not been taken and also compensation was not paid. On perusal of records, shows that notification under Section 4(1) of the Land Acquisition Act (hereinafter called as 'the Act') was issued vide GO.Ms.No.1332, RD & LA Department dated 24.07.1981 and published through Tamil Nadu Government Gazette vide notification II/2 RUL/3444/81, RD & LA Department of Supplement to Part II, Section II dated 12.08.1981 for acquisition of the lands situated at Vellalore Village, Coimbatore. Thereafter, vide GO.Ms.No.1332, Rural Development and Local Administration Department dated 24.07.1981, the first respondent appointed the eighth respondent as the authority under Section 5-A of the Act to consider the objections of the land owners. Thereafter, a direction was issued to the eighth respondent to perform the functions of the Collector and take possession and pass orders of acquisition, which culminated in passing of awards. According to the petitioners, possession was not taken and compensation amount was not paid. However, the learned counsel for the respondents submitted that as per the award, award amount has been deposited in the civil deposit and also possession has been taken over from the petitioners.

5. The grounds raised by the petitioners in this Writ petition has 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,



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.

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.



Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

7. That apart, it is seen from the records that the Executive Engineer, Tamil Nadu Water Supply and Drainage Board, Executive Division, Coimbatore has applied for the acquisition of land to an extent of 1.89 1/2 Acres in Vellalore Village for the formation of sewage farm under Coimbatore Drainage Project. It was administratively sanctioned by the Government in G.O.Ms.No.107 RD and LA Department, dated 25.01.1980. The extent applied for the Executive Engineer was split up to 18 blocks for processing land acquisition under this scheme. Insofar as the petitioners lands are concerned, after complying all the formalities, an award has been passed and possession has been taken over and handed over to the respondents. Thereafter, the revenue records mutated in their names and they also utilised some of the lands for the said purposes. In view of the settled position of law, the writ petitions are devoid of merits and liable to be dismissed.

8. In the result, the Writ Petitions stand dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

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To

1.The Secretary to Government
Revenue Department,
Fort St. George,
Chennai - 600 009.

2.The Secretary to Government,
Rural Development & Panchayatraj Department,
Fort St. George,
Chennai - 600 009.

3.The Secretary to Government,
Municipal Administration and Water Supply Department,
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10.The Tahsildar,
Madukkarai Taluk,
Coimbatore District.

11.The Special Tahsildar (L.A.)
Coimbatore Water Supply Scheme,
Coimbatore.

+1cc to Mr.K.Magesh, Advocate SR.No.53689

+1cc to the Government Pleader SR.No.53885

W.P.No.31738 of 2016
and W.M.P.No.27554 of 2016, 21499 of 2018

NMI (CO)
RVM(30/11/2021)