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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.41803 & 43196 to 43200 of 2016
and
WMP.Nos.35782, 37028 to 37032 of 2016

Padmanaban	...Petitioner in W.P.No.41803 of 2016
A.S.Ponurangam	...Petitioner in W.P.No.43196 of 2016
S.Jaganathan	...Petitioner in W.P.No.43197 of 2016
D.Arul prakash	...Petitioner in W.P.No.43198 of 2016
L.Sadhanandan	...Petitioner in W.P.No.43199 of 2016
A.S.sathiyamoorthy	...Petitioner in W.P.No.43200 of 2016

Vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Chennai - 600 009
 2. The District Collector,
Vellore
 3. The Special Tahsildhar,
Adi Dravidar and Tribal Welfare Department,
Vellore
- ...Respondents in all WPs

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of declaration declaring the entire acquisition proceedings in respect of the lands comprised in S.Nos.41/2A, 41/1E2, 41/1B, 40/1B, 40/1A Abdullapuram Village in W.P.Nos.41803 & 43196 to 43199 of 2016 and S.Nos.306, 307/1A and 307/2 Melmanavur Village in W.P.No.43200 of 2016 Vellore Taluk and District as having been lapsed in terms of section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, Act 30 of 2013.



For Petitioner : Mr.S.V.Karthikeyan

For Respondents: Mr.M.R.Gokul Krishnan,
Government Advocate

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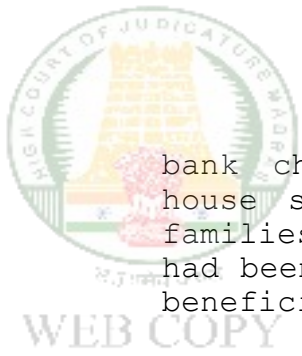
COMMON ORDER

The writ petitions have been filed to declare the the entire acquisition proceedings with regard to the petitioners' lands as having been lapsed in terms 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.S.V.Karthikeyan, learned counsel appearing for the petitioners, Mr.M.R.Gokul Krishnan, Government Advocate appearing for the respondents.

3. The petitioners have filed these writ petitions raising two grounds i.e. possession has not taken and also compensation was not paid. On perusal of records, revealed that the petitioners already challenged the acquisition proceedings in the year 1992 itself. Thereafter, the same were dismissed. They also filed writ petition for re-conveyance of the lands and the same was also rejected. After new Act i.e. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 came into force, the petitioners filed these writ petitions on the grounds that the possession has not been taken and also compensation amount was not paid.

4. The third respondent filed counter and produced documents. On perusal of the counter and documents, revealed that the petitioners already challenged the acquisition proceedings and the same were negatived by this Court. The third respondent initiated acquisition proceedings for providing free house site patta for houseless adidravidar people of Vellore Town. Due to non availability of vacant land in Vellore town, an extent of 6.42 acres of dry lands in Abdullapuram and Meimonavur villages had been selected and Section 4(1) notification was approved and published on 26.09.1988. All the land owners were called for enquiry and after considering their objections, order has been passed and thereafter award also passed on 18.12.1991 itself. In fact, award has been challenged by some of the petitioners and the same were also dismissed by this Court for the reason that there is no error or infirmity in the procedure followed in the process of acquisition proceedings by order dated 22.07.1999 in WP.No.1351 of 1992. Thereafter, the petitioners refused to receive the compensation and as such the award amount had been deposited in the revenue deposit through



bank challan No.4988 of 1987 on 06.02.2003. Thereafter free house site patta was issued to 138 poor houseless adidravida families. Therefore, already possession of the subject property had been taken over and also issued free house site patta to the beneficiaries.

5. The grounds raised by the petitioners in the Writ 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 :-

"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



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

9. Section 24(2) of the Act of 2013 does not give rise to new cause of action to



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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."

6. The Hon'ble Supreme Court of India settled all proposition of law in the above judgment including the grounds raised by the petitioners. That apart, the process of acquisition proceedings had been over and the award amount had been deposited in the revenue deposit through bank challan No.4988 of 1987 on 06.02.2003. Thereafter free house site patta was also issued to 138 poor houseless adidravida families. Therefore, 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. In view of the dictum laid down by the Hon'ble Supreme Court of India, the issues raised by the petitioners were settled and therefore, the acquisition proceedings have not been 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. In view of the settled position of law, the writ petitions are devoid of merits and liable to be dismissed.

7. 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(CS VII)

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Sub Assistant Registrar

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To

1. The Secretary to Government,
Government of Tamil Nadu,
Adi Dravidar and Tribal Welfare Department,
Chennai - 600 009

2. The District Collector,
Vellore

3. The Special Tahsildhar,
Adi Dravidar and Tribal Welfare Department,
Vellore

+1cc to the Government Pleader, S.R.No.43905

WP.Nos.41803 & 43196 to 43200 of 2016

SPD(CO)
RGA(28/09/2021)