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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2021

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THE HONOURABLE Mr. JUSTICE G.K.ILANTHIRAIYAN

WP.Nos.16842 to 16847 of 2018

and

WMP.Nos.20031 to 20036 of 2018

S.Ravi	...Petitioner in WP.No.16842 of 2018
P.V.Ekambaram	...Petitioner in WP.No.16843 of 2018
R.Prabu	...Petitioner in WP.No.16844 of 2018
M.Rajee	...Petitioner in WP.No.16845 of 2018
P.Velraj	...Petitioner in WP.No.16846 of 2018
K.Mohan	...Petitioner in WP.No.16847 of 2018

Vs

1. The Principal Secretary to Government,
Housing and Urban Development,
Fort St.George,
Chennai 600 009

2. The Managing Director,
Tamilnadu Housing Board,
No.331, Annasalai,
Nandanam,
Chennai 600 035

...Respondents

Common Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration declaring the land acquisition proceedings initiated by the respondents under the Land Acquisition Act, 1894 as amended as null and void 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) pertaining to the petitioner's land measuring an extent 6280 sq.ft., 5155 sq.ft., 4502 sq.ft., 7919 sq.ft., 4365 sq.ft., and 3998 sq.ft., respectively in survey Nos.483, 485 and 486 in Plot Nos.4 and 5, 8&9, 13&14, 1,2&3, and 11&12 and 10 respectively Mogappair Village, Ambattur Taluk, Thiruvallur District.



For Petitioners
in all WP's : Mr.Vinod Paul Tyagaraj David

For Respondents
in all WP's

For R1 : Mr.C.Kathiravan,
Special Government Pleader

For R2 : Mr.M.Baskar,
in all WP's Standing Counsel

COMMON ORDER

The writ petitions are filed for Writ of Declaration declaring the land acquisition proceedings initiated by the respondents under the Land Acquisition Act, 1894 as amended as null and void 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) pertaining to the petitioners' lands comprised in survey Nos.483, 485 and 486 situated at Mogappair Village, Ambattur Taluk, Thiruvallur District.

2. Heard, Mr.Vinod Paul Tyagaraj David, the learned counsel for the petitioners, Mr.C.Kathiravan, Special Government Pleader appearing for the first respondent and Mr.M.Baskar, Standing Counsel appearing for the respondents.

3. The petitioners have challenged the acquisition proceedings on the ground that the physical possession has not been taken over and not paid compensation. The petitioners have purchased their respective properties only in the year 1997. Whereas, the subject land was acquired for implementation of Ambattur Neighbourhood Scheme under the provisions under Section 4(1) of the Land Acquisition Act, 1894, which was approved by Government in GO.Rt.No.261 Housing Department dated 23.10.1975. It was published in the Government Gazatte dated 12.11.1975. Draft declaration under Section 6 of the Act was approved by the Government in GO.Ms.No.1525 Housing and Urban Development Department dated 09.11.1978. It was published in the Government Gazatte dated 10.11.1978. Accordingly, award was passed on 01.02.1988 in Award No.1 of 1988. As per the award, the lands stood in the name of one, Thiru.Asirvadham and the entire compensation amount was also paid to him. Thereafter, power of attorney of the said Asirvadham sold out the subject lands to various persons. Therefore, all the petitioners are subsequent purchasers in the year 1997. They cannot challenge the acquisition proceedings since they have no locus to challenge the same. In this regard, it is relevant to rely upon the



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judgment reported in (2019) 10 SCC 229 in the case of Shiv Kumar and anr Vs Union of India and ors, in which the Hon'ble Supreme Court of India held as follows :-

"13. The definition of 'landowner' is in Section 3(r), the same is extracted hereunder:

3. Definition.-In this Act, unless the context otherwise requires,--

(r) "landowner" includes any person,--
(i) whose name is recorded as the owner of the land or building or part thereof, in the records of the authority concerned; or

(ii) any person who is granted forest rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) or under any other law for the time being in force; or

(iii) who is entitled to be granted Patta rights on the land under any law of the State including assigned lands; or (iv) any person who has been declared as such by an order of the court or Authority;
Landowner is a person who is recorded as the owner of land or building. The record of date of issuance of preliminary notification Under Section 11 is relevant. A purchaser after Section 11 cannot be said to be a landowner within the purview of Section 3(r).

.....

21. Thus, under the provisions of Section 24 of the Act of 2013, challenge to acquisition proceeding of the taking over of possession under the Act of 1894 cannot be made, based on a void transaction nor declaration can be sought Under Section 24 (2) by such incumbents to obtain the land. The declaration that acquisition has lapsed under the Act of 2013 is to get the property back whereas, the transaction once void, is always a void transaction, as no title can be acquired in the land as such no such declaration can be sought. It would



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not be legal, just and equitable to give the land back to purchaser as land was not capable of being sold which was in process of acquisition under the Act of 1894. The Act of 2013 does not confer any right on purchaser whose sale is ab initio void. Such void transactions are not validated under the Act of 2013. No rights are conferred by the provisions contained in the 2013 Act on such a purchaser as against the State.

22. 'Void is, ab initio,' a nullity, is inoperative, and a person cannot claim the land or declaration once no title has been conferred upon him to claim that the land should be given back to him. A person cannot enforce and ripe fruits based on a void transaction to start claiming title and possession of the land by seeking a declaration Under Section 24 of the Act of 2013; it will amount to conferment of benefit never contemplated by the law. The question is, who can claim declaration/rights Under Section 24(2) for the restoration of land or lapse of acquisition. It cannot be by a person with no title in the land. The provision of the Act of 2013 cannot be said to be enabling or authorizing a purchaser after Section 4 to question proceeding taken under the Act of 1894 of taking possession as held in U.P. Jal Nigam (supra) which is followed in M. Venkatesh (supra) and other decisions and consequently claim declaration Under Section 24 of the Act of 2013. What cannot be done directly cannot be permitted in an indirect method.

23. The provisions of the Act of 2013 aimed at the acquisition of land with least disturbance to the landowners and other affected families and to provide just and fair compensation to affected families whose land has been acquired or proposed to be acquired or are affected and to make adequate provisions for such affected persons for their rehabilitation and resettlement. The provisions of Act of 2013 aim at ousting all inter-meddlers from the



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. Accordingly, all the writ petitions are dismissed. However, the petitioners are at liberty to approach the authority concerned for reconveyance of their subject properties in the manner known to law. Consequently, connected miscellaneous petitions are closed. No order as to costs.

Sd/-
Assistant Registrar(CS III)

/True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government,
Housing and Urban Development,
Fort St.George,
Chennai 600 009.
2. The Managing Director,
Tamilnadu Housing Board,
No.331, Annasalai, Nandanam,
Chennai 600 035.

+4ccs to Mr.David Tyagaraj, Advocate, S.R.No.66416
+1cc to the Government Pleader, S.R.No.67083

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NSK 06/01/2022