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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.8907 of 2014
and
M.P.Nos.2 of 2014 & 1 of 2015

(Through Video Conferencing)

V.Jayagopal

... Petitioner

Vs

- 1.The Deputy Collector (Rev) South-cum-Land
Acquisition Officer,
Office of the Deputy Collector (Revenue) South,
Puducherry.
- 2.The Commissioner,
Office of the Bahour Commune Panchayat,
Bahour, Puducherry.
- 3.The Executive Office,
Sri Moolanathaswamy Devasthanam,
Bahour, Puducherry.
- 4.The Archaeological Survey of India,
Chennai Circle, Fort St.George,
Chennai - 9.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in regard to the entire land acquisition proceedings culminating in the award No.5/08 dated 05-05-08 and quash the same as having lapsed virtue of Section 24 of "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and consequently direct the Respondents 1 to 3 restore possession of the land in S.No.52/1 measuring Ha 1.52.00 in Bahour Commune Panchayat, Pondicherry to the petitioner forthwith together with a sum of Rs.15,00,000/- (Rupees fifteen lakhs) as compensation for the loss of agriculture income, motor shed, closing the 150



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feet deep borewell with 7.5 HP submersible motor pump, one palmyra tree and one mango tree.

For Petitioner : Mr.T.S.Baskaran

For Respondents

For R1 & R2 : Ms.G.Djearany
Government Advocate (Pondicherry)

For R3 : Mr.P.Mani

For R4 : Mr.S.M.Deenadayalan

ORDER

This Writ Petition has been filed by the petitioner, to call for the records of the first respondent in the land acquisition proceedings and quash the same and consequently direct the first to third respondents to restore possession of the land to the petitioner forthwith together with a sum of Rs.15,00,000/- (Rupees fifteen lakhs) as compensation.

2. The petitioner challenged the acquisition proceedings on the ground that the compensation amount having not been paid even after five years from the date of award and as such the entire land acquisition proceedings were lapsed. The award under the proceedings of the land acquisition is liable to be set aside in view of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

3. Now it is clarified by the Hon'ble Supreme Court of India in the case of Indore Development Authority Vs Manoharlal and others, reported in (2020) 8 SCC 129. In Paragraph No.363, the Hon'ble Supreme Court of India held 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.

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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, 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.



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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 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."

4. Accordingly, In case possession has been taken, the compensation has not paid, then there would be no lapses. If the compensation paid, but possession has not taken, then also there would be no lapses.

5. In the case on hand, the award has been passed on 30.07.2007 and the award amount has been deposited in the concerned jurisdictional Court. Therefore, the acquisition proceedings is not vitiated by any violation.

6. Therefore, the Writ Petition is devoid of merits and is



hereby dismissed. No costs.
Miscellaneous Petitions are closed.

Consequently, connected

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Sd/-
Assistant Registrar (CS-V)

// True Copy//

Sub Assistant Registrar

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To

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Puducherry.
- 2.The Commissioner,
Office of the Bahour Commune Panchayat,
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- 3.The Executive Office,
Sri Moolanathaswamy Devasthanam,
Bahour, Puducherry.
- 4.The Archaeological Survey of India,
Chennai Circle, Fort St.George,
Chennai - 9.

+1cc to Mr.T.S.Baskaran, Advocate, S.R.No.39058

+1cc to Mr.P.Mani, Advocate, S.R.No.38748

+1cc to the Government Pleader, S.R.No.38950

W.P.No.8907 of 2014
and
M.P.Nos.2 of 2014 & 1 of 2015

SS (CO)
SU (27/08/2021)