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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2021

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NOS.31520, 31521, 31522, 30001 OF 2014

AND

M.P.NO.1 OF 2014

W.P.NO.31520 OF 2014

1. N.Somasundaram
2. P.Nagarathinam

... Petitioners

-Vs-

1. The State of Tamilnadu rep. by its
Secretary to Government,
Housing and Urban Development
Department,
Fort Saint George,
Chennai - 600 009.
2. The Land Acquisition Officer and
Special Tahsildar (L.A.),
Housing Scheme Unit I,
Coimbatore.
3. The Chairman-cum-Managing Director,
Tamilnadu Housing Board,
Nandanam,
Anna Salai,
Chennai - 600 035.
4. The Executive Engineer/
Administrative Officer,
Tamilnadu Housing Board,
Coimbatore Unit,
Tatabad,
Coimbatore - 641 012.

... Respondents



W.P.NO.31521 OF 2014

1. D.Selvaraj
2. D.Vijayalakshmi
3. D.Kavitha

... Petitioners

-Vs-

1. The State of Tamilnadu rep. by its
Secretary to Government,
Housing and Urban Development
Department,
Fort Saint George,
Chennai - 600 009.
2. The Land Acquisition Officer and
Special Tahsildar (L.A.),
Housing Scheme Unit I,
Coimbatore.
3. The Chairman-cum-Managing Director,
Tamilnadu Housing Board,
Nandanam,
Anna Salai,
Chennai - 600 035.
4. The Executive Engineer/
Administrative Officer,
Tamilnadu Housing Board,
Coimbatore Unit,
Tatabad,
Coimbatore - 641 012.

... Respondents

W.P.NO.31522 OF 2014

1. K.Sundaram
2. N.Somasundaram
3. P.Nagarathinam
4. Kaliappan

... Petitioners

-Vs-

1. The State of Tamilnadu rep. by its
Secretary to Government,
Housing and Urban Development
Department,
Fort Saint George,
Chennai - 600 009.



2. The Land Acquisition Officer and
Special Tahsildar (L.A.),
Housing Scheme Unit I,
Coimbatore.

3. The Chairman-cum-Managing Director,
Tamilnadu Housing Board,
Nandanam,
Anna Salai,
Chennai - 600 035.

4. The Executive Engineer/
Administrative Officer,
Tamilnadu Housing Board,
Coimbatore Unit,
Tatabad,
Coimbatore - 641 012.

... Respondents

W.P.NO.30001 OF 2014

1. D.Selvaraj
2. D.Vijayalakshmi
3. D.Kavitha

... Petitioners

-Vs-

1. The State of Tamilnadu rep. by its
Secretary to Government,
Housing and Urban Development
Department,
Fort Saint George,
Chennai - 600 009.
2. The Land Acquisition Officer and
Special Tahsildar (L.A.),
Housing Scheme Unit I,
Coimbatore.
3. The Managing Director,
Tamilnadu Housing Board,
Nandanam,
Chennai - 600 035.

... Respondents



Prayer in W.P.No.31520 of 2014:-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of declaration declaring that the entire Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894 in respect of the petitioners' lands measuring an extent of 53 cents in S.F.No.34/2A, 34/2B and an extent of 1.40 acres in S.R.Nos.35/2A1, 2A2, 2B1 and 2B2 of Vellakinar Village, Coimbatore North Taluk, Coimbatore District, as lapsed in view of Sec.24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Prayer in W.P.No.31521 of 2014:-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of declaration declaring that the entire Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894 in respect of the petitioners' lands measuring an extent of 3.35 Acres in S.F.No.83 and 4.84 Acres in S.F.No.84 of Vellakinar Village, Coimbatore North Taluk, Coimbatore District, as lapsed in view of Sec.24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Prayer in W.P.No.31522 of 2014:-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of declaration declaring that the entire Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894 in respect of the petitioners' lands measuring an extent of 3.58 acres in S.F.No.41/1A1, 1A2, 1B1, 1B2, 1B3, 1D, 1E and 41/2 of Vellakinar Village, Coimbatore North Taluk, Coimbatore District, as lapsed in view of Sec. 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Prayer in W.P.No.30001 of 2014:-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus to call for the records relating to the acquisition notification of the 1st respondent in G.O.Ms.No.219 Housing and Urban Development Department dated 28.02.1994 and to quash the same as the above land acquisition proceedings shall lapsed in view of the Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (Act 30 of 2013) and consequently direct the respondents to reconvey the land to the petitioners in respect of the land comprised in Survey Nos.83 and 84 situate at Vellaikinaru Village, Coimbatore



to an extent of 9.94 1/2 acres forthwith.

For Petitioners : Mr.N.Manokaran
in all WP's

For Respondents 1 & 2 : Mr.Richardson Wilson,
in all WP's Government Advocate

For Respondents 3 & 4 : M/s.R.Gouri
in all WP's

C O M M O N O R D E R

The W.P.No.31520 of 2014 is filed to issue a writ of declaration declaring that the entire Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894 in respect of the petitioners' lands measuring an extent of 53 cents in S.F.No.34/2A, 34/2B and an extent of 1.40 acres in S.R.Nos.35/2A1, 2A2 and 2B2 of Vellakinar Village, Coimbatore North Taluk, Coimbatore District, as lapsed in view of Sec. 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. The W.P.No.31521 of 2014 is filed to issue a writ of declaration declaring that the entire Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894 in respect of the petitioners' lands measuring an extent of 3.35 Acres in S.F.No.83 and 4.84 Acres in S.F.No.84 of Vellakinar Village, Coimbatore North Taluk, Coimbatore District, as lapsed in view of Sec.24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

3. The W.P.No.31522 of 2014 is filed to issue a writ of declaration declaring that the entire Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894 in respect of the petitioners' lands measuring an extent of 3.58 acres in S.F.No.41/1A1, 1A2, 1B1, 1B2, 1B3, 1D, 1E and 41/2 of Vellakinar Village, Coimbatore North Taluk, Coimbatore District, as lapsed in view of Sec.24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

4. The W.P.No.30001 of 2014 is filed to issue a writ of Mandamus to call for the records relating to the acquisition notification of the 1st respondent in G.O.Ms.No.219 Housing and Urban Development Department dated 28.02.1994 and to quash the same as the above land acquisition proceedings shall lapsed in view of the Section 24(2) of the Right to Fair Compensation and



Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (Act 30 of 2013) and consequently direct the respondents to reconvey the land to the petitioners in respect of the land comprised in Survey Nos.83 and 84 situate at Vellaikinaru Village, Coimbatore to an extent of 9.94 1/2 acres forthwith.

5. In view of the law settled by the Constitution Bench of the Hon'ble Supreme Court of India reported in (2020)8 Supreme Court Cases 129 Indore Development Authority -vs- Manoharlal and Others, the relevant portions are extracted below:

"366. In view of the aforesaid discussion, we answer the questions as under:

366.1. 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.

366.2. 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.

366.3. 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.

366.4. 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



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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.

366.5. 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 318 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.

366.6. 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).

366.7. 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).

366.8. 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



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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.

366.9. 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 319 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 points raised in these writ petitions were already answered by the Hon'ble Supreme Court of India. In view of the same, these writ petitions are devoid on merits.

7. Accordingly, these writ petitions are dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Housing and Urban Development
Department,
Fort Saint George,
Chennai - 600 009.
2. The Land Acquisition Officer and
Special Tahsildar (L.A.),
Housing Scheme Unit I,
Coimbatore.
3. The Chairman-cum-Managing Director,
Tamilnadu Housing Board,
Nandanam, Anna Salai,
Chennai - 600 035.



4. The Executive Engineer/
Administrative Officer,
Tamilnadu Housing Board,
Coimbatore Unit,
Tatabad,
Coimbatore - 641 012.

5. The Managing Director,
Tamilnadu Housing Board,
Nandanam,
Chennai - 600 035.

+3ccs to Mr.N.Manokaran, Advocate, S.R.Nos.39694 to 39696
+1cc to Mr.C.Prabakaran, Advocate, S.R.No.39389
+1cc to the Government Pleader, S.R.No.39783

W.P.NOS.31520, 31521, 31522,
30001 OF 2014 AND M.P.NO.1 OF 2014

RP(CO)
PBS/06/09/2021