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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

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

W.P.NO.5868 OF 2016

C.S.Revathy Devi

... Petitioner

Vs

1. The Government of Tamil Nadu
Rep. by its Secretary
Housing and Urban Development
Fort St. George, Chennai - 9.
2. The Special Tahsildar (LA) Unit-1,
Tamilnadu Housing and Neighbourhood Scheme,
Nandanam, Chennai 600 035.
3. The Deputy Secretary,
Tamil Nadu Housing Board,
493, Anna Salai,
Nandanam, Chennai - 35.

... Respondents

PRAYER:-

Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Declaration declaring that the land acquisition proceedings initiated by the respondents in respect of the petitioner's lands in S.No.421/2A2 and 421/3B1 measuring about 6540 sq.ft i.e 15 cents out of 46 cents Sholinganallur Village, Old Mahabalipuram Road, Chennai, have lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioner : Mr.Rajendra Prasad

For Respondents : Mr.Richardson Wilson,
1 and 2 Government Advocate

For Respondent 3: Mr.M.Baskar,
Standing Counsel



O R D E R

This writ petition is filed to issue a Writ of Declaration declaring that the land acquisition proceedings initiated by the respondents in respect of the petitioner's lands in S.No.421/2A2 and 421/3B1 measuring about 6540 sq.ft i.e 15 cents out of 46 cents Sholinganallur Village, Old Mahabalipuram Road, Chennai, have lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (herein after called as "the New Act").

2. The petitioner is none other than the daughter of the third petitioner in W.P.No.21220 of 2012. According to the petitioner her father purchased the property comprised in S.F.No.421/2A2 admeasuring 31 cents and property comprised in 421/3B1 admeasuring 15 cents out of 45 cents by the on 18.12.1966. Her father already challenged the very same acquisition proceedings in W.P.No.14607 of 1996 and the same was dismissed on 10.02.2004. Thereafter, he also filed writ appeal in W.A.No.1775 of 2004 and the same was also dismissed by this Court by an order dated 31.07.2006.

3. In fact, the petitioner's mother also filed writ petition challenging the very same acquisition proceedings after the demise of her husband in W.P.No.33426 of 2015 and the same was also dismissed on 27.10.2015 in view of the settlement deed executed in favour of the petitioner. Therefore, the petitioner again challenged the very same acquisition proceedings on the ground of compensation amount has not been paid and the possession of the property has not been taken as per Section 24 (2) of the New Act.

4. On perusal of the counter filed by the third respondent revealed as follows:

It is inferred from the Award, the land in Survey No.421/2A2 to an extent of 0.31 Acre and S.No.421/3B1 to an extent of 0.16 Acre stand registered in the name of the petitioner's father S.Chandran Achari. The Notice under Section 9(3) and 10 of the Land Acquisition Act was served to the petitioner's father. M.Sundaramurthy appeared for award inquiry. It is inferred from the Award that the compensation amount for the above lands is ordered to be kept under Civil Court Deposit under Section 30 and 31(2) of the Land Acquisition Act. The petitioner's father have already filed W.P.No.14607 of 1996 before this Court challenging the Land Acquisition Proceedings of the land in S.Nos.421/2A2, 421/3B1 and the same was dismissed by this Court by an order dated 10.02.2004. Aggrieved by the same, the



petitioner's father filed writ appeal in W.A.No.1775 of 2004, the same was also dismissed by this Court on 31.07.2006.

4.1. The Encumbrance details ascertained from the Official Website of the Registration Department reveals that an extent of 0.31 acre comprised in S.No.421/2A2 was sold by the petitioner's father to M/s.Chennai Techpark Foundation vide Document No.19 of 2006 dated 02.01.2006. Further an extent of 6540 sq.ft. (0.15 acre) was settled to the petitioner vide Document No.6112 of 2014 dated 28.08.2014 by C.Ganeshram, C.Praburam and S.Rajalakshmi. The settlement was made well after the enactment of the New Act. Hence it is very clear that the petitioner is trying to grab the Tamil Nadu Housing Board with an ulterior motive.

4.2. Further the said Rajalakshmi have filed W.P.No.33426 of 2015 before this Court challenging the Land Acquisition Proceedings of the land in S.Nos.421/2A2 and 421/3B1 under Section 24(2) of the New Act and the same was dismissed by this Court by an order dated 27.10.2015 with a warning not to repeat the act of misleading the Court in future.

4.3. An extent of 0.01 acre was handed over to the High ways Department for widening of Old Mahapalipuram Road and the possession of balance extent of 0.31 acres vest with the Government. Pursuant to the said sales, the present purchaser have filed W.P.No.21798 of 2017 under Section 24(2) of the New Act for the land in S.No.421/2A2 to an extent of 0.31 acre along with S.Nos.415/2, 415/3 of Sholinganallur Village and the same is pending before this Court.

5. Heard Mr.Rajendra Prasad, learned counsel for the petitioner and Mr.Richardson Wilson, learned Government Advocate for respondents 1 and 2 and Mr.M.Baskar, learned standing counsel for respondent 3.

6. The above grounds raised by the petitioners have already been settled by the Hon'ble Supreme Court of India in the case of Indore Development Authority Vs. Manoharlal and others etc reported in 2020 (8) SCC 129, wherein it is held as follows:

"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.



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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 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.



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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 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."

7. 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 award has been passed in Award No.1 of 1997 on 23.04.1997 itself. The acquisition proceedings have been completed and the subject land was taken over by the government and the same was handed over to the Tamil Nadu Housing Board on 11.05.2006. The compensation amount is kept under civil Court deposit under Section 30 and 31 (2) of the Land Acquisition Act. Therefore, the petitioners failed to satisfy the twin requirements under Section 24 (2) of the New Act, 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 petition is devoid of merits and liable to be dismissed.

8. Accordingly, this writ petition is dismissed. No order as to costs.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To

1. The Secretary
The Government of Tamil Nadu
Housing and Urban Development
Fort St. George, Chennai - 9.
2. The Special Tahsildar (LA) Unit-1,
Tamilnadu Housing and Neighbourhood Scheme,
Nandanam, Chennai 600 035.



3. The Deputy Secretary,
Tamil Nadu Housing Board,
493, Anna Salai, Nandanam, Chennai - 35.

+1cc to Mr.D.B.R.Prabhu, Advocate, S.R.No.43793

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JP-II (CO)
PM/28/09/2021