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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No. 5909 of 2016

K.Mohan

...Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai - 9.

2. The Revenue Divisional Officer (Land Acquisition),
Muthampalayam Housing Scheme,
Erode Housing Unit,
Brough Road,
Erode - 638 001.

3. The Executive Engineer,
Erode Housing Unit,
Tamil Nadu Housing Board,
Surampatti Naal Road,
Erode - 638 001.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of declaration declaring that the land acquisition proceedings in respect of the property comprised in S.F.Nos.28/1, 28/2, 30/8 and an undivided share of 0.10.0 hectacres in S.No.28/11 of Muthampalayam Village, Erode Taluk, Erode District, measuring to an extent of 1.14.50, 0.29.0, 0.41.50 and 2.09.5 hectares respectively as lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioner : Mr.S.Saravanan

For R1 & R2 : Mr.Richardson Wilson,
Government Advocate

For R3 : Mr.I.Sathish,
Standing Counsel



ORDER

This writ petition has been filed to issue a writ of declaration, declaring that the land acquisition proceedings in respect of the petitioner properties as lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, i.e., Act 30 of 2013 (herein after called as "the New Act")

2. Heard, Mr.S.Saravanan, learned counsel for the petitioners, Mr.Richardson Wilson, learned Government Advocate appearing for the respondents 1 & 2, and Mr.I.Sathish, learned Standing Counsel appearing for the third respondent.

3. The grounds raised by the petitioners in this writ petition 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:

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.





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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. In view of the settled position of law, this Court is of the considered view that the writ petition is liable to be dismissed as devoid of merits. That apart, the subject land was acquired for the purpose of constructing the house and developing house sites. The acquisition proceedings have been completed and the subject land was taken over by the government and the possession was handed over to the requisition body. Further the requisition body also deposited the compensation as awarded by the Land Acquisition Officer. That apart, the petitioner failed to satisfy the twin requirements stipulated 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. Therefore, in view of the dictum laid down by the Hon'ble Supreme Court of India, the issues raised by the petitioners were already settled. Hence, the acquisition proceedings have not 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.

5. Accordingly, the writ petition stands dismissed. No order as to costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai - 9.

2. The Revenue Divisional Officer (Land Acquisition),
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+1CC to Mr.S.Saravanan, Advocate, Sr.No.42875

+1CC to Government Pleader, Sr.No.43093

W.P.No.5909 of 2016

KSM (CO)

K.RK. (23.09.2021)