



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.2747 & 2834 of 2018
and W.P.Nos.25510 to 25513 of 2018

TMT.GANDHIMATHI NADANAM ... PETITIONER in WP No.2747 of 2018
BADRINARAYAN GOIDANI ... PETITIONER in WP No.2834 of 2018
GIRAJ KUMAR JETHA ... PETITIONER in WP No.25510
& 25511 of 2018
RAMACHADAR SARADA ... PETITIONER in WP No.25512 of 2018
BANSIDHAR SARADA ... PETITIONER in WP No.25513 of 2018

Vs.

- 1 THE SECRETARY TO GOVERNMENT
HOUSING AND URBAN DEVELOPMENT DEPARTMENT
FORT ST. GEORGE CHENNAI-600 009.
- 2 THE DISTRICT COLLECTOR
THIRUVALLUR DISTRICT THIRUVALLUR.
- 3 THE MANAGING DIRECTOR
TAMIL NADU HOUSING BOARD NANDANAM
CHENNAI- 600 035.
- 4 THE MEMBER SECRETARY
CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY
THALAMUTHU NATARAJAN MALIGAI NO.1 GANDHI
IRWIN ROAD EGMORE CHENNAI-600 008.
- 5 THE SPECIAL DEPUTY COLLECTOR
(LAND ACQUISITION) CHENNAI METROPOLITAN
DEVELOPMENT AUTHORITY THALAMUTHU NATARAJAN
MALIGAI NO.1 GANDHI IRWIN ROAD
EGMORE CHENNAI-600 008.
- 6 THE CHENNAI METRO RAIL LIMIT
ED REP. BY DISTRICT REVENUE OFFICER AND
PROJECT IMPLEMENTATION OFFICER POONAMALLEE
POONAMALLE HIGH ROAD KOYAMBEDU
CHENNAI-600 107.
...RESPONDENTS in WP No.2747 & 2834 of 2018



- 1 THE SECRETARY TO GOVERNMENT
HOUSING AND URBAN DEVELOPMENT DEPARTMENT
FORT ST. GEORGE CHENNAI-9.
- 2 THE CHAIRMAN TAMIL NADU HOUSING BOARD
NANDANAM CHENNAI-35.
- 3 THE MEMBER SECRETARY
CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY
NO.1 GANDHI IRWIN ROAD EGMORE CHENNAI-28.
- 4 THE SPECIAL DEPUTY COLLECTOR
LAND ACQUISITION CMDA EGMORE CHENNAI-8.
- 5 THE CHENNAI METRO RAIL LIMITED
REP. BY DISTRICT REVENUE OFFICER AND
PROJECT IMPLEMENTATION OFFICER
POONAMALLEE HIGH ROAD KOYAMBEDU
CHENNAI. ...RESPONDENTS in WP No.25510 to 25513 of 2018

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Declaration,

WP No.2747 of 2018

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Declaration, Declaring that the land acquisition proceedings initiated by the respondents 1 to 5 to acquire the land in Plot No.29, 30, comprised in part of survey No.52, 53, 53/1 Part, 56, 57 Part, 62 Part, 63 and 64 measuring to an extent of 6659 sq.ft. under the old land acquisition act 1894 is lapsed in so far the petitioners land is concerned and consequently direct the respondents to initiate acquisition proceedings under the New Act viz. Right to fair compensation and transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (Act 30 of 2013) as if required by the respondents and pay the compensation twice of the present market value without any deduction under section 24(2) of the Act 30 of 2013.

WP No.2834 of 2018

To issue a Writ of Declaration, declaring that the land acquisition proceedings initiated by the respondents 1 to 5 to acquire the land in Plot No. 5,6,&7 comprised in Part of survey No.52, 53,53/1 part, 56,57 part, 62 part, 63 and 64 measuring to an extent of 8140 sq.ft under the old land acquisition act 1894 is lapsed in so far the petitioners land is concerned and consequently direct the respondents to initiate afresh acquisition proceedings under the New act Viz., Right to Fair compensaiton and Transparency in land acquisition,



rehabilitation and resettlement act 2013 (Act 30 of 2013) as if required by the respondents and pay the compensation twice of the present market value without any deduction under 24(2) of the Act 30 of 2013.

WEB COPY

WP No.25510 of 2018

To Issue a Writ of Declaration, declaring that the land acquisition proceedings initiated by the respondents 1 to 5 to acquire the land in Plot No.24, Comprised in Survey No.62/2 part of Survey No.52, 53, 53/1 part, 56, 57 Part, 62 Part, 62/2, 63, and 64 measuring to an extent of 2400 sq.ft. under the old land acquisition act 1894 is lapsed in so far the petitioners land is concerned and consequently direct the respondents to initiate acquisition proceedings under the New Act viz., Right to Fair Compensation and Transparency in Land Acquisition, rehabilitation And resettlement Act 2013(ACT 30 OF 2013) as if required by the respondents and pay the compensation twice of the present market value without any deduction under section 24 (2) of the Act 30 of 2013.

WP No.25511 of 2018

To issue a Writ of Declaration, declaring that the land acquisition proceedings initiated by the respondents 1 to 5 acquire the land in Plot No.1, comprised in Survey No.62/2 part of Survey Nos 52, 53, 53/1 part, 56, 57 part 62 part, 62/2, 63, and 64 measuring to an extent of 2560 sq.ft. under the old land acquisition act 1894 is lapsed in so far the petitioners land is concerned and consequently direct the respondents to initiate acquisition proceedings under the New Act Viz RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT ACT 2013 (ACT 30 OF 2013) as if required by the respondents and pay compensation twice of the present market value without any deduction under section 24(2) of the Act 30 of 2013.

WP No.25512 of 2018

To issue a Writ of Declaration declaring that the land acquisition proceedings initiated by the respondents 1 to 5 acquire the land in plot no.28, comprised in Survey No.62/1 part of Survey Nos. 52, 53, 53/1 part, 56, 57 Part, 62 Part 62/2, 63, and 64 measuring to an extent of 4345 sq.ft. under the old land acquisition act 1894 is lapsed in so far the petitioners land is concerned and consequently direct the respondents to initiate acquisition proceedings under the New Act viz. RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION REHABILITATION AND RESETTLEMENT ACT 2013 (ACT 30 OF 2013) as if required by the respondents and pay the compensation twice of the present market value without any deduction under section 24(2) of the Act 30 of 2013.



WP No.25513 of 2018

To issue a Writ order, or direction more particularly a Writ of Declaration declaring that the land acquisition proceedings initiated by the respondents 1 to 5 acquire the land in Plot No.27, comprised in Survey No.62 Part of Survey Nos. 52, 53, 53/1 Part, 56, 57 Part, 62 Part, 62/2, 63, and 64 measuring to an extent of 2460 sq.ft. under the old land acquisition act 1894 is lapsed in so far the petitioners land is concerned and consequently direct the respondents to initiate acquisition proceedings under the New Act viz. RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT ACT 2013 (ACT 30 OF 2013) as if required by the Respondents and pay the compensation twice of the present market value without any deduction under Section 24(2) of the Act 30 of 2013.

In W.P.Nos.2747 & 2834 of 2018:

For Petitioner : Mr.A.Sridharan

For Respondents

For R1 & R2 : Mr.M.R.Gokul Krishnan
Government Advocate.

For R3 : Mr.M.Baskar
Standing Counsel.

For R4 & R5: Ms.P.Veena Suresh
Standing Counsel

For R6 : Mr.Jayesh B. Dolia

In W.P.Nos.25510 to 25513 of 2018:

For Petitioner : Mr.N.Sampath

For Respondents

For R1 : Mr.M.R.Gokul Krishnan
Government Advocate.

For R2 : Mr.M.Baskar
Standing Counsel.

For R3 & R4: Ms.P.Veena Suresh
Standing Counsel

For R5 : Mr.Jayesh B. Dolia



COMMON ORDER

These Writ Petitions have been filed to declare that the land acquisition proceeding initiated by the respondents herein, insofar as the petitioners' lands are concerned, as lapsed by virtue of 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") and consequently direct the respondents to initiate acquisition proceedings under the new Act, as if required by the respondents and pay the compensation twice the present market value without any deduction.

2. The Tamil Nadu housing board requested the first respondent to acquire land for the purpose of K.K.Nagar Neighbourhood Scheme. Accordingly, the first respondent issued notice under Section 4(1) of the Land Acquisition Act, 1984 (herein after called as "the old Act") and after completing the acquisition proceedings Section 6 declaration was issued and the award has been passed in Award No.1 of 1986 dated 30.01.1986. Thereafter, symbolic possession has been taken by the Government and the same was handed over to the Tamil Nadu Housing Board as early as on 22.07.1986. Challenging the said acquisition proceedings, the present Writ Petitions have been filed.

3. The petitioners are the subsequent purchasers from the original owners after the award passed by the Acquisition Officer in Award No.1 of 1986 dated 30.01.1986. The earlier owners and the subsequent purchasers viz., the petitioners herein have already been challenged the acquisition proceedings in W.P.Nos.20286, 6939 & 7874 of 1993 etc., and the same were dismissed. In fact, in the said Writ Petitions, they obtained interim stay of possession and subsequently the said Writ Petitions were dismissed with a direction to the petitioners, to seek remedy under Section 18 of the old Act for enhancement of compensation. After dismissal of the Writ Petitions, notices are issued under Sections 9 and 10 of the old Act to the land owners and the award has been passed in Award No.1 of 2002 on 06.09.2002. The petitioners are being the subsequent purchasers, now challenged the very same land acquisition proceedings on the ground that the possession has not been taken and the compensation has not been received. Now the acquired lands have been handed over to the Estate Officer, Chennai Metro Rail Limited for Metro Rail Project, during 2010.

4. Heard Mr.A.Sridharan, learned counsel appearing for the petitioners in W.P.Nos.2747 & 2834 of 2018, Mr.N.Sampath, learned counsel appearing for the petitioners in W.P.Nos.25510 to 25513 of 2013, Mr. M.R.Gokul Krishnan, learned Government



Advocate, Mr.M.Baskar, learned Standing Counsel, Ms.P.Veena Suresh, learned Standing Counsel and Mr.Jayesh B. Dolia, learned counsel appearing for the respondents in all the Writ Petitions.

5. Admittedly the petitioners are the subsequent purchasers and it is settled position of law that the subsequent purchaser cannot have right to challenge the acquisition proceedings. In this regard, it is relevant to rely upon the 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



WEB COPY

title can be acquired in the land as such no such declaration can be sought. It would 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



7. The mode of taking possession under the Act of 1894 and as contemplated under Section 24(2) is by drawing of inquest report/



WEB COPY

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."

8. 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 acquisition proceedings have been completed and the subject lands were taken over possession by the government and the same was handed over to the Chennai Metro Rail Limited for metro rail project. Further the requisition body also deposited the compensation under Civil Court deposit as awarded by the Land Acquisition Officer during the year 2001 itself. 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 herein 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, all the Writ Petitions are devoid of merits and liable to be dismissed.



9. In the result, all the Writ Petitions stand dismissed.
There shall be no order as to costs.

WEB COPY

s/d-
Assistant Registrar (CS-VII)

True Copy

Sub-Assistant Registrar

rts

To

1. The Secretary to Government,
Housing and Urban Development Department,
Fort St. George,
Chennai - 600 009.
2. The District Collector,
Thiruvallur District,
Thiruvallur.
3. The Managing Director,
Tamil Nadu Housing Board,
Nandanam,
Chennai - 600 035.
4. The Member Secretary,
Chennai Metropolitan Development
Authority,
Thalamuthu Natarajan Maligai,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
5. The Special Deputy Collector,
(Land Acquisition)
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maligai,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
6. The District Revenue Officer,
and Project Implementation Officer,
The Chennai Metrorail Limited
Poonamallee High Road,
Kooyambedu, Chennai - 600 107.



7. The Chairman
Tamil Nadu Housing Board
Nandanam, Chennai

WEB COPY

+1 CC to The Government Pleader sr 46875.

W.P.Nos.2747 & 2834 of 2018
and W.P.Nos.25510 to 25513 of 2018

AJS (CO)
SP (20/10/2021)