



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.34190 & 34191 of 2014 and
MP.Nos.1 & 1 of 2014 and
MP.Nos.1 & 1 of 2015

WP.No.34190 of 2014

R.Kuppan

... Petitioner

-Vs-

1.The Government of Tamil Nadu,
Rep. by the Secretary to the Government,
Housing and Urban Development Department,
Fort St.George,
Chennai 600 009

2.The Special Thasildar (Land Acquisition),
Tamil Nadu Housing Board Schemes,
Nandanam, Chennai 600 035

3.The Secretary,
Tamil Nadu Housing Board,
Nandanam, Chennai 600 035

4.The Executive Engineer and
Administrative Officer,
K.K.Nagar Division,
Tamil Nadu Housing Board,
Chennai 600 083

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of declaration declaring that the entire land acquisition proceedings initiated under the Land Acquisition Act, 1894 in respect of the lands to an extent of 39.5 cents in survey 30 forming part and parcel of 2.91 acres in survey Nos.30 and 31 at Porur village, Ambattur Taluk, Thiruvallur District duly mentioned by the fourth respondent in letter No.KKNS/4795/11-3 dated 09.12.2014 as lapsed in view of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013).



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For petitioner : Mr.S.Sadasharam

For Respondents

For R1 & 2 : Mr.Richardson Wilson,
Government Advocate

For R3 & 4 : Mr.M.Baskar,
Standing Counsel

WP.No.34191 of 2014

V.Rajabather

... Petitioner

-Vs-

1.The Government of Tamil Nadu,
Rep. by the Secretary to the Government,
Housing and Urban Development Department,
Fort St.George,
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2.The Special Thasildar (Land Acquisition),
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Nandanam, Chennai 600 035

4.The Executive Engineer and
Administrative Officer,
K.K.Nagar Division,
Tamil Nadu Housing Board,
Chennai 600 083

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of declaration declaring that the entire land acquisition proceedings initiated under the Land Acquisition Act, 1894 in respect of the lands to an extent of 17 cents in survey 31 forming part and parcel of 2.91 acres in survey Nos.30 and 31 at Porur village, Ambattur Taluk, Thiruvallur District duly mentioned by the fourth respondent in letter No.KKNS/4795/11-3 dated 09.12.2014 as lapsed in view of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013).

For petitioner : Mr.S.Sadasharam

For Respondents

For R1 & 2 : Mr.Richardson Wilson,
Government Advocate

For R3 & 4 : Mr.M.Baskar,
Standing Counsel



COMMON ORDER

The writ petitions have been 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 lands to an extent of 39.5 cents and 17 cents in survey 30 & 31 forming part and parcel of 2.91 acres in survey Nos.30 and 31 at Porur village, Ambattur Taluk, Thiruvallur District duly mentioned by the fourth respondent in letter No.KKNS/4795/11-3 dated 09.12.2014 as lapsed in view of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013).

2. The case of the petitioners is that the land admeasuring 146.17 acres situated at Porur Village was sought to be acquired by the Government for development of new Ramapuram Neighborhood Scheme in the year 1975. The notification under Section 4(1) of the Land Acquisition Act (hereinafter called as 'the Act') was issued on 11.06.1975 and the declaration under Section 6 (1) of the Act was issued on 09.06.1978 by GO.Ms.No.974. Out of total extent of 146.17 acres, the petitioners' family owned land in survey Nos.30 and 31 in total 2.91 acres in Porur village. They challenged the acquisition proceedings in WP.Nos.3990 and 3991 of 1986. Though both the writ petitions were allowed on 08.10.1991, the first respondent filed writ appeals and the same were allowed in WA.Nos.11 & 12 of 1994 by order dated 16.11.1996. Thereafter, the possession of the land in survey No.30 to an extent of 1.87 acres and to an extent of 0.76 acres in survey No.31 part, which were vacant at the time of inspection was handed over to the Tamil Nadu Housing Board as early as on 27.01.2011. Out of total extent of 1.04 acres in survey No.31, only a part of the land admeasuring 76 cents was handed over to the Tamil Nadu Housing Board and the remaining extent of 28 cents were encroached by structures. Action is being taken to evict the encroachments and surrender the possession under Section 47 of the Land Acquisition Act. However, the case of the petitioners is that the legal heirs of their ancestors totally 14 in number and they had oral partition among themselves by dividing 146 acres.

2.1 The further case of the petitioners is that by virtue of the said oral partition, all the family members applied for patta and they were granted patta. In fact, some of them put up construction and paid planning charges and OSR charges to the Town Panchayat and CMDA. After acquisition proceedings, the petitioners submitted representation dated 13.02.2011 for reconveyance of their respective portion of the land. The representations were not considered and as such filed writ petitions before this Court in WP.Nos.5062 & 5319 of 2011. In the said writ petitions, this Court granted interim injunction and subsequently, the petitioners also filed suit in OS.No.7073 of 2011 for permanent injunction restraining the



third respondent from disturbing the peaceful possession and enjoyment of the suit property except under due process of law on the file of the XVI City Civil Court, Chennai. The fourth respondent issued notice under Section 84(2) of the Tamil Nadu Housing Board and directed the petitioner to vacate the premises within a period of 15 days. Now, these writ petitions have been filed challenging the very acquisition proceedings on the ground that the compensation has not been paid and the possession has not been taken over.

3. The respondents 3 and 4 filed counter, which revealed that the Tamil Nadu Housing Board requested to acquire an extent of 146.17 acres of land at Porur Village for the formation of New Ramapuram Neighbourhood Scheme. Accordingly, notification under Section 4(1) of the Act was approved by the Government in GO.Ms.No.412 Housing Department dated 09.05.1975 and published vide notification dated 11.06.1975. The Special Deputy Collector (Land Acquisition), Tamil Nadu Housing Board Scheme was authorised under Section 3(1) of the Act to perform the function of the Collector under Section 5A of the Act. After serving notice under Section 5-A of the Act, enquiry was conducted on 22.01.1976 and 23.01.1976. The gist of the objections received during the enquiry were placed before the requisitioning body and the remarks of the requisitioning body were communicated to the objectors and their acknowledgments have also been filed. By order dated 07.06.1978, the Government approved the declaration under Section 6 of the Act in respect of various part of the lands after considering the objections raised by the land owners at the time of 5-A enquiry on 09.06.1978 and the same was approved by the Government by order dated 13.10.1978 and the same was published in the Tamil Nadu Government Gazette on 15.11.1978. The enquiry under Section 11 of the Act was conducted on 27.03.1980 and on subsequent dates after serving individual notice as contemplated under Sections 9(3) and 10 of the Act.

3.1 Further revealed that the award has been passed in award No.8 of 1986 on 19.09.1996. As per the award, the land comprised in survey No.30 for an extent of 1.87 acres stands registered in the name of Babu Naicker S/o Murugappa Naicker, Ramanatha Naicker, Velu Naicker under patta No.148 as per revenue records and the lands comprised in survey No.31 to an extent of 1.04 acres registered in the name of Babu Naicker, Velu Naicker, Ranganathan under patta No.148 of Porur village and the award amount has been deposited in the civil court deposit since due to the writ petitions filed by the petitioners in WP.Nos.3990 and 3991 of 1986, the possession of the property could not be handed over to the requisitioning body. However, after the order passed in the writ appeals in WA.Nos.11 and 12 of 1994, the possession of the land has been taken over and handed over to the Tamil Nadu Housing Board on 27.01.2011. It is also to be noted that the petitioners filed batch of writ petitions in WP.Nos.5306 to 5319 of 2011 and this Court granted interim order dated 04.03.2011 as follows:



"There shall be an order of interim injunction till then, if the petitioners had not been dispossessed, till date. Whereas the land comprised in survey Nos.30 and 31 part to an extent of 2.63 acres have already been taken over by the Land Acquisition Officer as early as on 27.01.2011 prior to the interim order dated 04.03.2011 passed in the batch of writ petitions. In fact thereafter some of the land owners attempted to construct compound wall and as such the Tamil Nadu Housing Board lodged complaint before the Inspector of Police, R9 Valasaravakkam Police Station, Chennai and the same has been received in CSR.Nos.163 of 2012 and 218 of 2013 on the file of the Sub Inspector of Police, R11, Rayala Nagar Police Station, Ramapuram. The petitioners have also filed suit in OS.No.7073 of 2011 on the file of the XVI City Civil Court, Chennai for permanent injunction. By judgment and decree dated 28.10.2014, wherein ordered that there is no bar to take action against the petitioners as per law and after serving due notice to the petitioners and granted permanent injunction.

4. Heard, Mr.S.Sadasharam, the learned counsel for the petitioners, Mr.Richardson Wilson, Government Advocate appearing for the respondents 1 & 2, and Mr.M.Baskar, Standing Counsel appearing for the respondents 3 & 4. 5. As stated above, already they were duly served notices and possession of the properties had been already taken over and handed over the possession to the Tamil Nadu Housing Board as early as on 27.01.2011. Now these writ petitions have been filed on the ground that the possession has not been taken over and the award amount has not been deposited by invoking Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

6. As stated supra, the award amount has been deposited in the civil court deposit as early as on 24.03.1987 and 27.03.1987 as per the award in respect of the land comprised survey No.30 admeasuring 1.87 acres. Insofar as the land comprised in survey No.31 to an extent of 1.04 acres had been already deposited on 29.10.1986. In fact, the petitioners were also issued show cause notice under Section 84(2) of the Tamil Nadu Housing Board Act on 09.12.2014. These writ petitions have been field on the show cause notice by the Tamil Nadu Housing Board. Therefore, the petitioners failed to make out the case as contemplated under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

7. The grounds raised by the petitioners in these Writ Petitions have already been settled by the Hon'ble Supreme Court of India in the judgment reported in (2020) 8 SCC 129 in the case of Indore Development Authority Vs. Manoharlal and ors etc., which held as follows :-

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



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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.

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



requisition body. Further the requisition body also deposited the compensation as awarded by the Land Acquisition Officer. 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 over 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 petitions are devoid of merits and liable to be dismissed.

9. Accordingly, both the writ petitions are dismissed. Consequently, Connected miscellaneous petitions are closed. No order as to costs.

Sd/-

Assistant Registrar(CS-IV)

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Sub Assistant Registrar

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To

- 1.The Secretary to the Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George,
Chennai 600 009
- 2.The Special Thasildar (Land Acquisition),
Tamil Nadu Housing Board Schemes,
Nandanam, Chennai 600 035
- 3.The Secretary,
Tamil Nadu Housing Board,
Nandanam, Chennai 600 035
- 4.The Executive Engineer and
Administrative Officer,
K.K.Nagar Division,
Tamil Nadu Housing Board,
Chennai 600 083

+2ccs to Mr.S.Sadasharam, Advocate SR.No.48402

W.P.Nos.34190 & 34191 of 2014

VSN II(CO)
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