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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.25225 OF 2014

Parameswari

... Petitioner

.Vs.

1. The State of Tamilnadu,
Rep. by its Commissioner and Secretary,
Housing and Urban Development,
Fort St.George,
Chennai.
2. The Chairman and Managing Director,
Tamilnadu Housing Board,
Nandanam,
Chennai - 600 035.
3. The Revenue Divisional Officer,
Tamilnadu Housing Board,
Land Acquisition Incharge,
Vellore.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India to issue a writ of declaration to declare the entire land acquisition proceedings in respect of GO.Ms.No.397 dated 06.03.1987 as deemed to have lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in respect of petitioner's property bearing survey No.69/3C of Kondasamudram Village, Gudiyatham Taluk, Vellore District with an extent of 2.22 acres.

For Petitioner : Mr.D.Rajagopal

For Respondents

For R1 & 3 : Mr.Richardson Wilson,
Government Advocate

For R2 : Mr.S.Vanchinathan,
Standing Counsel



ORDER

This writ petition has been filed to issue a writ of declaration to declare the entire land acquisition proceedings in respect of GO.Ms.No.397 dated 06.03.1987 as deemed to have lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in respect of petitioner's property bearing survey No.69/3C of Kondasamudram Village, Gudiyatham Taluk, Vellore District with an extent of 2.22 acres.

2. The case of the petitioner is that even till today, no possession has been taken and no compensation amount is paid to the petitioner. The petitioner owned the property in survey No.69/3C of Kondasamuthram Village, Gudiyatham Taluk, Vellore District with an extent of 2.22 acres.

3. On perusal of the records, revealed that already the petitioner filed writ petition in WP.No.5092 of 1989 challenging the acquisition proceedings after passing award in Award No.6 of 1989 dated 15.03.1989 and the petitioner went upto Hon'ble Supreme Court of India and confirmed the same. Thereafter the petitioner filed writ petition to drop the acquisition proceedings and the same was dismissed, and in the writ appeal, the order passed in the writ petition was confirmed. Aggrieved by the same, the petitioner also went upto Hon'ble Supreme Court of India in SLP.No.7685 of 2011 and the same was dismissed by the order dated 19.05.2011. In fact, the petitioner also filed another writ petition for re-conveyance of the subject property in writ petition No.1238 of 2002. Though this Court directed the respondents to dispose of the representation dated 22.01.1997, the same was rejected. Therefore, the petitioner filed this writ petition after commencement of new Act i.e. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 on the ground that the award amount not paid to the petitioner and possession also not taken from the petitioner as contemplated under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

4. Copy of the transfer of charge certificate produced by the respondents revealed that on 05.03.1989, the possession of the subject land was handed over to the second respondent. Insofar as the compensation is concerned, they deposited in the revenue deposit. However, the petitioner cannot challenge the acquisition proceedings repeatedly, that too after commencement of the new Act i.e. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.



In this regard, the Constitution Bench of the Hon'ble Supreme Court of India in the case of Indore Development Authority Vs. Manoharlal and ors etc., reported in (2020) 8 SCC 129, held as follows :-

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299. In cases where some landowners have chosen to take recourse to litigation (which they have a right to) and have obtained interim orders on taking possession or orders of status quo, as a matter of practical reality it is not possible for the authorities or State officials to take the possession or to make payment of the compensation. In several instances, such interim orders also impeded the making of an award. Now, so far as awards (and compensation payments, pursuant to such proceedings were concerned) the period provided for making of awards under the Act of 2013 could be excluded by virtue of Explanation to Section 11A.192 Thus, no fault of inaction can be attributed to the authorities and those who had obtained such interim orders, cannot benefit by their own action in filing litigation, which may or may not be meritorious. Apart from the question of merits, when there is an interim order with respect to the possession or order of status quo or stay of further proceedings, the authorities cannot proceed; nor can they pay compensation. Their obligations are intertwined with the scheme of land acquisition. It is observed that authorities may wait in the proceedings till the interim order is vacated.

300. In our considered opinion, litigation which initiated by the landowners has to be decided on its own merits and the benefits of Section 24(2) should not be available to the litigants. In case there is no interim order, they can get the benefits they are entitled to, not otherwise as a result of fruit of litigation, delays and dilatory tactics and some time it may be wholly frivolous pleas and forged documents as observed in V. Chandrasekaran (supra) mentioned above.

"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



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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 31(1) of the Act of 1894, it is not open to him to claim



5. The Hon'ble Supreme Court of India settled all proposition of law in the above judgment including the grounds raised by the petitioner. That apart, the award has been passed



in Award No.6 of 1989 dated 15.03.1989 itself and the possession of the property has already been taken by the Government and handed over to the Tamil Nadu Housing Board. The compensation was also deposited in the revenue deposit. Therefore, the petitioner 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 petitioner 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. Therefore, the writ petition is devoid of merits and liable to be dismissed.

6. However, the learned counsel for the petitioner produced photographs showing that the petitioner is in possession and enjoyment of the subject property even till today. He further submitted that for the entire scheme of the Housing Board, the second respondent dropped the subject property and the subject property is free of their requirement. Therefore, the petitioner is at liberty to make fresh request for re-conveyance of the subject property. On receipt of the said request, the authority concerned is directed to consider the same and pass orders on merits and in accordance with law.

7. With the above directions, this writ petition is dismissed. No order as to costs.

Sd/-
Assistant Registrar(CS V)

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Sub Assistant Registrar

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To

1. The Commissioner and Secretary,
State of Tamilnadu,
Housing and Urban Development,
Fort St.George,
Chennai.
2. The Chairman and Managing Director,
Tamilnadu Housing Board,
Nandanam,
Chennai - 600 035.



3. The Revenue Divisional Officer,
Tamilnadu Housing Board,
Land Acquisition Incharge,
Vellore.

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+1cc to the Government Pleader, High Court, Madras, S.R.No.43913

W.P.NO.25225 OF 2014

AK-II(CO)
PBS/23/09/2021