



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2021

CORAM

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

W.P.No.27841 of 2014
and M.P.No.1 of 2014

1.B.Viswanathan
2.B.Loganathan
3.B.Venugopal

... Petitioners

Vs

1.The Government of Tamilnadu rep. by its
Secretary to Government,
Housing and Urban Development
Department, Fort Saint George,
Chennai - 9.

2.The Tamilnadu Housing Board
rep. by its Chairman & Managing Director,
Tamilnadu Housing Board,
Nandanam, Anna Salai,
Chennai - 600 035.

3.The Executive Engineer &
Administrative Officer,
TNHB, Coimbatore Unit,
Tatabad, Coimbatore - 18.

4.The Special Tahsildar (LA) and
Land Acquisition Officer,
Housing Scheme Unit - I,
Tatabad, Coimbatore.

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of declaration declaring that the land acquisition proceedings initiated under the Land Acquisition Act, 1894, with respect to the lands of an extent of 3.67 acres comprised in S.F.No.58, of an extent of



1.55 acres comprised in S.F.No.59 and an extent of 2.56 acres comprised in S.F.No.63 situated at Veerakeralam Village, Coimbatore, belonging to the petitioners as lapsed in view of the 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 : No Appearance

For Respondent : Mr.R.Gokula Krishnan

For Respondents : Dr.R.Gouri
2 & 3

O R D E R

This Writ Petition is filed to issue a writ of declaration declaring that the land acquisition proceedings initiated under the Land Acquisition Act, 1894, with respect to the lands of an extent of 3.67 acres comprised in S.F.No.58, of an extent of 1.55 acres comprised in S.F.No.59 and an extent of 2.56 acres comprised in S.F.No.63 situated at Veerakeralam Village, Coimbatore, belonging to the petitioners as lapsed in view of the 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 learned counsel for the petitioners would submit that already he had given change of vakalat to the petitioners. Even then, the petitioners did not engage any counsel to represent on behalf of them.

3. The writ petition filed on the ground of that the acquisition proceedings lapsed as contemplated under Section 24 of the New Act. The grounds raised by the petitioners already settled by the Hon'ble Supreme Court of India reported in (2020)8 Supreme Court Cases 129 Indore Development Authority -vs- Manoharlal and Others, the relevant portions are extracted below:

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



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



WEB COPY

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.

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



To

1.The Government of Tamilnadu rep. by its
Secretary to Government,
Housing and Urban Development
Department, Fort Saint George,
Chennai - 9.

2.The Tamilnadu Housing Board
rep. by its Chairman & Managing Director,
Tamilnadu Housing Board,
Nandanam, Anna Salai,
Chennai - 600 035.

3.The Executive Engineer &
Administrative Officer,
TNHB, Coimbatore Unit,
Tatabad, Coimbatore - 18.

4.The Special Tahsildar (LA) and
Land Acquisition Officer,
Housing Scheme Unit - I,
Tatabad, Coimbatore.

+1CC to The Government Pleader, SR.No. 42289

W.P.No.27841 of 2014
and M.P.No.1 of 2014

BP(CO)
B.VC (20/10/2021)