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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.28329 to 28336 of 2014  
and  
M.P.No.1,1,1,1,1,1,1 & 1 of 2014

|                    |                                     |
|--------------------|-------------------------------------|
| SHIV RATTAN KHANNA | ..PETITIONER in WP No.28329 of 2014 |
| CHANDNI KHANNA     | ..PETITIONER in WP No.28330 of 2014 |
| B.NAGARAJ          | ..PETITIONER in WP No.28331 of 2014 |
| P.SURESH KUMAR     | ..PETITIONER in WP No.28332 of 2014 |
| RAJAMARISON        | ..PETITIONER in WP No.28333 of 2014 |
| M.RAVJI PATEL      | ..PETITIONER in WP No.28334 of 2014 |
| LATHA              | ..PETITIONER in WP No.28335 of 2014 |
| VASANTHA MALLIGA   | ..PETITIONER in WP No.28336 of 2014 |

Vs

1. The State of Tamil Nadu,  
Rep. by the Secretary,  
Industries Department,  
Fort St.George,  
Chennai - 600 009.

2. The District Collector,  
Thiruvallur District.

3. The Special Tahsildar (Land Acquisition),  
Chennai Petroleum Corporation Limited,  
No.62/1, East Jones Road,  
Saidapet, Chennai - 600 015.

4. The Tahsildar,  
Madhavaram Taluk,  
Chennai - 600 060.



5. The Superintending Engineer,  
Transmission,  
Tamil Nadu Electricity Board,  
800, Anna Salai, Electricity Avenue,  
Chennai - 600 002.

...Respondents

Common Prayer:- Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of Writs of Declaration declaring that acquisition of lands in respect of the petitioners herein pursuant to the land acquisition proceedings 4(1) Notification in G.O.Ms.No.1400, Industries (MID-1) Department dated 04.12.1990 and 6 Declaration in G.O.Ms.No.319, Industries (MID-1) Department dated 27.07.1992 and the Award dated 26.08.1994 under Award No.11/1994 has been lapsed in view of Section 24 Clause 2 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

In all W.Ps

|                 |                                                                 |
|-----------------|-----------------------------------------------------------------|
| For Petitioners | : Mr.AR.L.Sundaresan<br>Senior Counsel<br>for Ms.AL.Gandhimathi |
| For R1 to R4    | : Mr.C. Kathiravan<br>Special Government Pleader                |
| For R5          | : Mr.S.Madhusudanan<br>Standing Counsel                         |

#### COMMON ORDER

These Writ Petitions have been filed for issuance of Writ of Declaration declaring that acquisition of lands in respect of the petitioners herein pursuant to the land acquisition proceedings 4(1) Notification in G.O.Ms.No.1400, Industries (MID-1) Department dated 04.12.1990 and 6 Declaration in G.O.Ms.No.319, Industries (MID-1) Department dated 27.07.1992 and the Award dated 26.08.1994 under Award No.11/1994 has been lapsed in view of Section 24 Clause 2 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. Heard, Mr.AR.L.Sundaresan, learned Senior counsel appearing for the petitioners, Mr.C.Kathiravan, learned Special Government Pleader appearing for the respondents 1 to 4 and Mr.S.Madhusudhanan, learned Standing Counsel appearing for the fifth respondent.



3. The case of the petitioners is that they purchased their respective properties comprised in various survey numbers in Mathur Village, after acquisition proceedings. The Government of Tamil Nadu, in order to establish an aromatic complex, under G.O.Ms.No.648, Industries dated 16.09.1989, accorded sanction for the acquisition and transfer of 1655.92 acres in patta land and poramboke lands in Mathur and five other villages for the location of the Aromatics Complex of National Aromatics and Petrochemical Corporation and other downstream projects by invoking urgency clause under the provisions of the Land Acquisition Act, 1894. The lands to be acquired included the lands to the souther side of the 200 feet road also called the MMRD road in Mathur Village, that were used for agricultural purposes as well as residential purposes.

4. The Official Committee appointed under the aforesaid Government order identified and found suitable lands of an extent of 63.60.5 hectares of patta lands and 50.89.8 hectares of poramboke lands in No.31, Mathur Village. Pursuant to the proposal for the acquisition of lands under Section 4(1) of the Land Acquisition Act under the urgency clause was notified under G.O.Ms.No.1440, Industries (MID-1) Department dated 04.12.1990. Thereafter, the declaration under Section 6 was published in G.O.Ms.No.319, Industries (MID-1) Department, dated 27.07.1992. In pursuant to the same, an award was passed on 26.08.1994 in Award No.11 of 1994.

5. While being so, the general public in Mathur Village had sent representations to drop the acquisition proceedings. Thereafter, the Government, passed G.O.Ms.No.2 (D) No.56/MDRJ dated 01.03.1994, ordered for exclusion of 132.13 acres form acquisition and 65.72 acres for acquisition falling on the south of MMRD road in Mathur Village. The Special Commissioner (Land Acquisition), by a letter dated 07.03.1997, requested the Government to consider the request on getting the technical opinion from all concerned. In the light of the said recommendations, the proposal for the exclusion of certain lands to an extent of 131.92 acres falling on the southern side of the MMRD road and by the Government letter dated 11.03.2004 made partial amendments to the aforesaid Government order dated 01.03.1994 and directed to transfer 13.17.5 hectares to CPCL exclusively for accommodating the families which were displaced due to acquisition of land for Aromatic Complex and transfer the remaining extent of 65.72 acres of lands to the Tamil Nadu Electricity Board and to the Highways Department on collection of the cost of lands and cost of acquisition.

6. The Tamil Nadu Electricity Board need space only to put up towers and to take over the lands paying land value and



other charges. They also decided to put up a 400 KV power station in the said area. The land value has been paid through Cheque dated 28.11.2013. The second respondent issued notice to the encrochers under the Land Encroachment Act. There were illegal sales of the acquired land. The reason for this is that post award action could not be completed due to grant of stay by this Court. After disposal of the writ petition, symbolic possession of the lands were taken and also handed over to Chennai Petroleum Corporation Limited.

7. The Highways Department entered into the lands and completed the MMRD Road (I.R.R) on the realigned area close to Manjambakkam border in survey No.167 and 168 pt etc. The lands in survey No.83pt, 88pt, 89, 90pt, 94 are in the rehabilitation layout and the plots were allotted already and occupied by the allottees by constructing house. Therefore, all the petitioners had purchased the land already acquired and symbolic possession is already taken after depositing the compensation amount under Revenue Deposit in Government Treasury as the land owner has not chosen to receive the compensation.

8. The lands were acquired on 26.08.1994 and the petitioners had purchased the land in the year 2013. The Tamil Nadu Electricity Board had paid the land value on 28.11.2013 and proposed to utilize the land to put up 400 KV sub-station. All the petitioners have filed the present writ petitions after eviction proceedings initiated by the fourth respondent herein. All the petitioners are being the subsequent purchasers, they have no locus to challenge the acquisition proceedings. Even proviso to Section 24(2) of the Act, does not recognise such purchasers and does not give any right to subsequent purchasers to invoke provisions of Section 24(2) of the Act.

9. 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



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(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 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



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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 fray by ensuring payment in the bank account of landholders Under Section 77 of the Act.

24. The intendment of Act of 2013 is to benefit farmers etc. Subsequent purchasers cannot be said to be landowners entitled to restoration of land and cannot be termed to be affected persons within the provisions of Act of 2013. It is not open to them to claim that the proceedings have lapsed Under Section 24(2)."

10. That apart, the only ground raised by the petitioners that they have not received any compensation and their



possession has not been taken over even today. Admittedly, all the petitioners are subsequent purchasers and symbolic possession of the properties have been taken over and the compensation amount has been deposited under the revenue deposit.

11. That apart, 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 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



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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 that acquisition has lapsed under Section 24(2) due to non-payment or 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.

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).

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).

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



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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."

12. 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. However, the petitioners are at liberty to approach the authority concerned for re-conveyance of the land in the manner known to law.

13. In the result, the Writ Petition stands dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

Sd/-  
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Lpp

To

1. The Secretary,  
State of Tamil Nadu,  
Industries Department,  
Fort St. George,  
Chennai - 600 009.
2. The District Collector,  
Thiruvallur District.



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Chennai - 600 060.

5. The Superintending Engineer,  
Transmission,  
Tamil Nadu Electricity Board,  
800, Anna Salai, Electricity Avenue, .  
Chennai - 600 002.

+1cc to M/s.AL.Gandhimathi, Advocate, S.R.No.66421

+1cc to Mr.S.Madhusudanan, Advocate, S.R.No.66381

+1cc to the Government Pleader, S.R.No.67421

W.P.Nos.28329 to 28336 of 2014  
and  
M.P.No.1,1,1,1,1,1,1 & 1 of 2014

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