



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P. Nos. 29476 & 29477 of 2014

A.Sathar .....Petitioner in W.P.No.29476/2014

J.Mangayarkarasi @ Mangai .....Petitioner in W.P.No.29477/2014

Vs

1. The District Collector,  
Kancheepuram District.

2. The Revenue Divisional Officer  
cum Land Acquisition Officer,  
Chengalpet, Kancheepuram District.

3. The Assistant Divisional Engineer,  
Construction and Maintenance,  
Highways Department,  
Tambaram Sub-Division,  
Chennai - 600 100.

.....Respondents in both Wps

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration, culminating in award No.6 of 1995 dated 30.03.1995 in respect of land in Survey No.91/2B2A1 and 98/1A1A1C, Kanathur Reddikuppam, Kancheepuram District of the petitioners as lapse u/s.24(2) of the Right to Fair compensation and Transparency in Land Rehabilitation and Resettlement Act, 2013.

For Petitioners in both WPs : Mr.A.S.Mujibur Rahman

For Respondents in both WPs : Mr.Richardson Wilson  
Government Advocate

COMMON ORDER

These Writ Petitions have been filed for issuance of writ of declaration, culminating in award No.6 of 1995 dated 30.03.1995 in respect of land in Survey No.91/2B2A1 and 98/1A1A1C, Kanathur Reddikuppam, Kancheepuram District of the petitioners as lapse u/s.24(2) of the Right to Fair Compensation and Transparency in Land Rehabilitation and Resettlement Act, 2013.



2. Both the Writ Petitions are filed challenging the award passed under the acquisition proceedings on the ground that the entire land acquisition proceedings as lapse under Section 24(2) of the Right to Fair compensation and Transparency in Land Rehabilitation and Resettlement Act, 2013. They raised grounds that the first respondent without giving prior notice to the petitioners, passed award and it is violation of principles of natural justice and that the award amount was not paid to the petitioners even after five years from the date of acquisition proceedings. The award was passed on 30.03.1995, whereas no compensation amount was paid to the petitioners. Therefore, the entire acquisition proceedings is vitiated. Till the date of award, the petitioners were the absolute owner of the subject properties. Therefore, they are challenging the award passed under the land acquisition proceedings.

3. On perusal of the counter filed by the third respondent revealed that the subject properties were taken over and the possession was already handed over to the Highways Authority. Thereafter, the East Coast Road was formed already and it is being maintained by the Tamil Nadu Road Development Company Ltd. The Government accorded administrative sanction for the Strengthening and Widening, towards improvement of the East Coast Road from 11/800 KM to 178/400 KM from Thiruvannamiyur to Cuddalore. Accordingly, to an extent of 3.86.0 hectares or 09.61 of dry land in No.35, Kanathur Reddy Kuppam Village, now Thiruporur Taluk, Kancheepuram District have been notified for acquisition proceedings under Section 4(i) read with Section 17 (3) of urgency Clause of Land Acquisition Act (Central Act 1 of 1894) in G.O.Ms.No.961(P.W/(HS.2) Department dated 09.07.1992.

4. Heard, Mr.A.S.Mujibur Rahman, the learned counsel appearing for the petitioners and Mr.Richardson Wilson, Government Advocate appearing for the respondents.

5. All the provisions were duly complied with and notified lands for acquisition have been duly demarcated, surveyed under Section 8 of the said Act. The petitioners were duly served notice on 20.02.1995 calling for them to attend the award enquiry on 16.03.1995, 17.03.1995 and finally on 24.03.1995. On that day, the value of the land was fixed at Rs.700/- per cent based on the data sale deed. Accordingly, the award was passed. Since no one was present at the time of passing the award, the land acquisition officer has ordered the compensation to be kept in revenue deposit, since no details apart from personal details are known to the land acquisition officer. Therefore, all the procedures according to the Land Acquisition Act were followed and the lands were acquired as per the procedure.



6. In view of the Judgment of the Hon'ble Supreme Court of India in the case reported in 2020 (8) SCC 129 [Indore Development Authority Vs. Manoharlal], wherein the Constitutional Bench of Hon'ble Supreme Court held that

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366.3. 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.

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 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 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."



The land owners had refused to accept compensation and hence they cannot claim that the acquisition proceedings had lapsed under Section 24(2) of the Right to Fair compensation and Transparency in Land Rehabilitation and Resettlement Act, 2013. Therefore, these writ petitions are devoid of merits.

7. In view of the above, these writ petitions stand dismissed. No costs.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,  
Kancheepuram District.
2. The Revenue Divisional Officer  
cum Land Acquisition Officer,  
Chengalpet, Kancheepuram District.
3. The Assistant Divisional Engineer,  
Construction and Maintenance,  
Highways Department,  
Tambaram Sub-Division,  
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+1CC to the Government Pleader, Sr.No.39782

W.P. Nos. 29476 & 29477 of 2014

AK (CO)  
K.RK. (01.09.2021)