



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.25599 of 2021
and
W.M.P.No.27021 of 2021

1.E. Murthy
2.E. Kalyani

...Petitioners

Vs

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

2. The Special Tahsildar
Land Acquisition
Unit V, Tamil Nadu Housing Board
Thirumangalam, Anna Nagar
Chennai-600 101.

3. The Chairman and Managing Director
Tamil Nadu Housing Board
No.331, Anna Salai,
Nandanam, Chennai-600 035.

.... 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 acquisition of lands in respect of the lands in Survey No.423/1 of an extent of 29 cents in No.155 of Sholinganallur Village, Tambaram Taluk, Kancheepuram District pursuant to Section 4(1) Notification of the Land Acquisition Act and the G.O Ms. No.433 Housing and Urban Development Department dated 14.05.1990 and Section 6 Declaration issued vide G.O Ms.No.948 Housing and Urban Development Department dated 07.06.1991 has been lapsed in view of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.



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For Petitioners : Mr.AR.L. Sundaresan
Senior Counsel for
Ms.A.L.Gandhimathi

For R1 and R2 : Mr.C.Kathiravan
Special Government Pleader

For R3 : Mr.M.Baskar
Standing Counsel

ORDER

This Writ Petition has been filed for issuance of Writ of Declaration, declaring that the acquisition of lands in respect of the lands in Survey No.423/1 of an extent of 29 cents in No.155 of Sholinganallur Village, Tambaram Taluk, Kancheepuram District pursuant to Section 4(1) Notification of the Land Acquisition Act and the G.O Ms. No.433 Housing and Urban Development Department dated 14.05.1990 and Section 6 Declaration issued vide G.O Ms.No.948 Housing and Urban Development Department dated 07.06.1991 has been lapsed in view of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2.Heard, Mr.AR.L.Sundresan , learned Senior Counsel appearing for the petitioners, Mr. C.Kathirvan, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.M.Baskar, learned Standing Counsel appearing for the 3rd respondent.

3. The case of the petitioners is that the petitioners challenged the acquisition proceedings in respect of the land comprised in Survey No.423/1 to an extent of 29 cents situated in No.155 of Sholinganallur Village, Tambaram Taluk, Kancheepuram District, on the ground that the possession has not been taken over and they were not paid any compensation even today. Therefore, in view of the provisions under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the entire acquisition proceedings lapsed. The petitioners already challenged the award passed in the acquisition proceedings in Award No.1 of 1997 dated 02.05.1997 before this Court in W.P.No.9653 of 1997 and this Court, by an order dated 18.01.2006, observed that "the learned counsel for the petitioner referred to the exemption from acquisition proceeding



granted to the adjacent land owners and the acquisition proceedings were dropped in respect of the neighbouring land owners". Therefore, this Court observed that it is open for the Government to consider the representation of the petitioner dated 20.06.1997, in dispassionate manner as per law as provided under Section 48(B) of the Land Acquisition Act 1894 and dismissed the writ petition.

4.Mr.AR.L. Sundaresan, learned Senior Counsel appearing for the petitioners submitted that even today, their application is not considered by the respondents to re-convey the subject land to them. He further submitted that the award was passed behind their back and a meagre amount of Rs.26,560/- alone was fixed as compensation. However, the possession of the petitioners' land has not been taken over and also the compensation amount has not been paid sofar. Therefore, the entire acquisition proceeding is lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

5. It is seen from the available records that the award passed on 23.04.1997 in Award No.1 of 1997 for the acquisition of the petitioners land for the purpose of Sholinganallur Neighbourhood Scheme by the second respondent herein. Thereafter, the petitioners were duly informed about the Award under Section 12(2) of the Land Acquisition Act, 1894 and called upon them to receive the compensation. However, they did not come forward to receive the compensation and as such, the second respondent deposited the same in the Court Deposit as contemplated under Section 30 and 36(1) of the Land Acquisition Act. Insofar as the compensation is concerned, though the petitioners are in physical possession of the subject land and the symbolic possession is already taken. In view of the Judgment reported in 2020 (8) SCC 129 [Indore Development Authority Vs. Manoharlal], wherein the Constitutional Bench of Hon'ble Supreme Court held that the land acquisition proceedings cannot be lapsed.

6.However, the petitioners are at liberty to make a fresh representation before the authority concerned for re-conveyance of their property comprised in Survey No.423/1 to an extent of 29 cents in No.155 of Sholinganallur Village, Tambaram Taluk, Kancheepuram District, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the authority concerned is directed to consider the representation of the petitioners in view of the observation made by this Court in W.P.No.9653 of 1997 dated 18.01.2006 and



pass orders on merits and in accordance with law within a period of twelve weeks thereafter.

7. With the above direction, this writ petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No order as to costs.

Sd/-
Assistant Registrar(CS-)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government
Housing and Urban Development Department
Fort St.George
Chennai-600 009.
2. The Special Tahsildar
Land Acquisition
Unit V, Tamil Nadu Housing Board
Thirumangalam, Anna Nagar
Chennai-600 101.
3. The Chairman and Managing Director
Tamil Nadu Housing Board
No.331, Anna Salai,
Nandanam, Chennai-600 035.

+1cc to Mr.AL.Ganthimathi, Advocate SR.No.63160
+1cc to the Government Pleader SR.No.63826

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SRA(CO)
GN(21/01/2022)