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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.NO.92 OF 2017

AND

WMP.NO.105 OF 2017

1.Alamelu Mangai

2.R.Duraisamy

...Petitioners

Vs.

1.The Director,
Adi Dravida and Tribal Welfare Department,
Chepauk, Chennai

2.The Land Acquisition Officer /
Special Tashildar,
Adi Dravida Welfare Department,
Tashildar Office, Ram Nagar,
Sirkazhi Post, Devapattinam

3.The District Collector,
Sivagangai District,
Sivagangai

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of declaration declaring that the land acquisition proceedings initiated in lands measuring an extent of 1.575 hectares comprised in survey Nos.125/1, 125/2, 125/4 situated at N.Viravanpatti Village, Sirukoodalpatti Group, Thirupattur Taluk, Sivagangai District, deemed to have lapsed in view of Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioners : No appearance

For Respondents : Mr.Richardson Wilson,
Government Advocate



ORDER

The writ petition has been filed to issue a writ of declaration declaring that the land acquisition proceedings initiated in respect of lands measuring an extent of 1.575 hectares comprised in survey Nos.125/1, 125/2, 125/4 situated at N.Viravanpatti Village, Sirukoodalpatti Group, Thirupattur Taluk, Sivagangai District, deemed to have lapsed in view of Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. The petitioners owned property comprised in survey Nos.125/1, 125/2 and 125/4 situated at N.Viravanpatti Village, Sirukoodalpatti Group, Thirupattur Taluk, Sivagangai District. The respondents initiated acquisition proceedings and issued notice under Section 4(1) of the Land Acquisition Act, 1978 (Central Act). After completion of the entire proceedings, award has been passed on 09.03.2006. In fact, immediately the petitioners challenged the acquisition proceedings in WP.Nos.2304 & 2305 of 2006 and the writ petitions were dismissed. Now, again challenged the acquisition proceedings on the ground that possession has not been taken and the award amount has not been paid. That apart, the petitioners raised the ground that the subject land acquired for the purpose of Harijan Welfare Scheme, but the same has not been implemented till today.

3. The grounds raised by the petitioners in the Writ petition 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



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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 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/



5. In the result, the Writ Petition stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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Sd/-
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

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To

- 1.The Director,
Adi Dravida and Tribal Welfare Department,
Chepauk, Chennai
- 2.The Land Acquisition Officer /
Special Tashildar,
Adi Dravida Welfare Department,
Tashildar Office, Ram Nagar,
Sirkazhi Post, Devapattinam
- 3.The District Collector,
Sivagangai District,
Sivagangai.

+1cc to the Government Pleader SR.No.46465

W.P.No.92 of 2017

PVS(CO)
RVM(06/10/2021)