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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.21549 OF 2017

AND

W.M.P.NO.22626 OF 2017 AND W.M.P.NO.29734 OF 2018

N.Rajeswari

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Municipal Administration & Water Supply Department,
Fort St.George, Secretariat,
Chennai - 600 009.
2. The Chairman and Managing Director,
Municipal Administration & Water Supply Department,
Chepauk,
Chennai - 600 005.
3. The District Collector,
Coimbatore District,
Coimbatore.
4. The Corporation of Coimbatore,
Represented by its Commissioner,
Office of the Corporation of Coimbatore,
Coimbatore.
5. The District Revenue Officer,
Coimbatore District,
Coimbatore.
6. The Revenue Divisional Officer,
Coimbatore (South), State Bank Road,
Coimbatore.
7. The Tahsildar,
Madukkarai Taluk,
Coimbatore District.
8. The Special Tahsildar (LA),
Coimbatore Water Supply Scheme,
Coimbatore.

... Respondents



PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of declaration, to declare that the entire acquisition proceedings initiated by the first respondent culminating in award No.14/1985 dated 19.12.1985 passed by the eighth respondent in respect of lands comprised in Survey Nos.655/1A & 657/1 ad-measuring about 4.32 acres in Vellalur Village, Coimbatore District as lapsed by operation of law in view of Section 24(2) of the Rights to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013).

For Petitioner : No Appearance

For Respondents: Mr.M.R.Gokul Krishnan
Government Advocate
(for R-1, R-3 R-5 to R-8)

: Mr.K.Magesh
Standing Counsel (for R-4)

O R D E R

This petition has been filed to declare that the entire acquisition proceedings initiated by the first respondent culminating in Award No.14/1985 dated 19.12.1985 passed by the eighth respondent in respect of lands comprised in Survey Nos.655/1A & 657/1, ad-measuring about 4.32 acres in Vellalur Village, Coimbatore District, as lapsed by operation of law, in view of Section 24(2) of the Rights to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the New Act' for short).

2. The case of the petitioner is that her father owned the properties comprised in S.Nos.655/1A, 657/1 ad-measuring 4.32 acres situated at Vellalur Village, Coimbatore Taluk. While that being so, the first respondent initiated acquisition proceedings and issued Notification under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act' for short) for the purpose of constructing a sewerage farm. However, even after a lapse of 30 years, the respondents have not taken possession of the lands and they have not used the said lands for the purpose for which they were acquired. Therefore, after the New Act, the petitioner challenged the entire acquisition proceedings on the ground that the possession of the subject properties had not been taken even till today. The petitioner is not paid any compensation for the acquisition land. Therefore, the entire acquisition proceedings have lapsed as per Section 24 (2) of the New Act.



3. The fourth respondent filed Counter and stated that about 657 acres of lands in Vellalur and Kurinchi Villages of Madukkarai Taluk, Coimbatore District, were acquired by the Special Tahsildar (L.A), Coimbatore, the eighth respondent herein during the years 1981 to 1986 for the purpose of Sewerage Farm and construction of Sewerage Treatment Plant to Coimbatore Corporation. The work was administratively sanctioned by the Government in G.O.Ms.No.107, R.D. & L.A. Department, dated 23.01.1980. The extent acquired had been split upto 18 blocks for submission of draft Notification under Section 4(1) of the Act. Subsequently, after due enquiry, the eighth respondent passed awards on various dates and the compensation amount was also deposited into the Civil Court and some of the land owners have also received the award amounts from the Special Tahsildar (L.A). The possession of the acquired lands were also handed over to the Tamil Nadu Water Supply and Drainage Board on 10.11.1986 and 06.12.1986 by the Special Tahsildar (L.A). The Tamil Nadu Water Supply and Drainage Board, in turn handed over the possession to the Coimbatore Corporation on 09.10.1988 and at present, the Coimbatore Corporation is in possession of the entire lands and the Coimbatore Corporation also obtained patta in their favour, vide patta No.700 and the Corporation is enjoying the same.

4. Heard M.R.Gokul Krishnan, learned Government Advocate appearing for the respondents 1, 3 5 to 8 and Mr.K.Magesh, learned Standing Counsel appearing for the fourth respondent.

5. The grounds raised by the petitioner in this 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.



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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 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



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(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 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."

6. The Hon'ble Supreme Court of India settled all proposition of law in the above judgment including the grounds raised by the petitioner. Admittedly, the Writ Petition has been filed after 30 years of the acquisition of the lands. The award has been passed in the year 1985 and the possession of the acquired lands were also handed over to the Tamil Nadu Water Supply and Drainage Board on 10.11.1986 and 06.12.1986 by the Special Tahsildar (L.A). The Tamil Nadu Water Supply and Drainage Board, in turn, handed over the possession to the Coimbatore Corporation on 09.10.1988 itself. The compensation amount was also deposited in the Civil Court. Therefore, the petitioner failed to satisfy the twin requirements under Section 24 (2) of the New Act, i.e., the physical possession of the land was not taken and the compensation has not been paid/tendered/deposited in accordance with law. In view of the



above dictum laid down by the Hon'ble Supreme Court of India, the issues raised by the petitioner was settled and therefore, the acquisition proceedings had not lapsed by operation of law under Section 24 (2) of the new Act i.e., Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. In view of the settled position of law, the writ petition is devoid of merits and liable to be dismissed.

7. In the result, the Writ Petition stands dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

kv

To

1. The Secretary to Government,
The State of Tamil Nadu,
Municipal Administration & Water Supply Department,
Fort St.George, Secretariat,
Chennai - 600 009.
2. The Chairman and Managing Director,
Municipal Administration & Water Supply Department,
Chepauk,
Chennai - 600 005.
3. The District Collector,
Coimbatore District,
Coimbatore.
4. The Commissioner,
The Corporation of Coimbatore,
Office of the Corporation of Coimbatore,
Coimbatore.
5. The District Revenue Officer,
Coimbatore District,
Coimbatore.



6. The Revenue Divisional Officer,
Coimbatore (South), State Bank Road,
Coimbatore.

7. The Tahsildar,
Madukkarai Taluk,
Coimbatore District.

8. The Special Tahsildar (LA),
Coimbatore Water Supply Scheme,
Coimbatore.

+1cc to Mr.K.Magesh, Advocate, S.R.No.43819
+1cc to the Government Pleader, S.R.No.43907

W.P.No.21549 of 2017

KSM(CO)
PM/28/09/2021