

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.09.2021

Coram:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

WP.Nos.18316 to 18330 of 2017 and
WMP.Nos.29158 to 29168, 29719, 29721, 29727 & 29730 of 2018
and WMP.Nos.19888 to 19902 of 2017

WP.No.18316 of 2017

N.Saraswathi

...Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. 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,
Rep. by its Commissioner,

Office of the Corporation of Coimbatore,
Coimbatore

5.The District Revenue Officer,
Coimbatore District,
Coimbatore

6.The Revenue Divisional Officer,
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 declaring that the entire acquisition proceedings initiated by the first respondent culminating in Award No.5 of 1985 dated 14.08.1985 passed by the eighth respondent in respect of lands comprised in survey no.639/1 and 4 admeasuring about 1.92 acres, Madhukkarai Taluk (then Coimbatore Taluk), Coimbatore District as lapsed by operation of law in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 (Act 30 of 2013).

For Petitioner : No appearance

For Respondents

For R1,3,5& 8 : Mr.M.R.Gokul Krishnan,
Government Advocate

For R4 : Mr.K.Magesh
Standing Counsel

For R2 : Mr.R.Ganesh Babu

COMMON ORDER

The writ petitions have been filed to issue a writ of declaration declaring that the entire acquisition proceedings initiated by the first respondent culminating in Award passed by the eighth respondent in respect of lands of the petitioners situated at Madhukkarai Taluk (then Coimbatore Taluk), Coimbatore District as lapsed by operation of law in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 (Act 30 of 2013).

2. The learned counsel who appeared on behalf of the petitioners earlier, submitted that already change of vakalat has been given. However, the petitioners have not engaged another counsel on behalf of them.

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

4. The petitioners have filed these writ petitions raising two grounds i.e. possession has not been taken and also compensation was not paid. On perusal of records, shows that notification under Section 4(1) of the Land Acquisition Act (hereinafter called as 'the Act') was issued vide GO.Ms.No.1332, RD & LA Department dated 24.07.1981 and published through Tamil Nadu Government Gazette vide notification II/2 RUL/3444/81, RD & LA Department of Supplement to Part II, Section II dated 12.08.1981 for acquisition of the lands situated at Vellalore Village, Coimbatore. Thereafter, vide GO.Ms.No.1332, Rural Development and Local Administration Department dated 24.07.1981, the first respondent appointed the eighth respondent as the authority under Section 5-A of the Act to consider the objections of the land owners. Thereafter, a direction was issued to the eighth respondent to perform the functions of the

Collector and take possession and pass orders of acquisition, which culminated in passing of awards. According to the petitioners, possession was not taken and compensation amount was not paid. However, the learned counsel for the respondents submitted that as per the award, award amount has been deposited in the civil deposit and also possession has been taken over from the petitioners.

5. 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 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 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 petitioners. That apart, the acquisition proceedings have been completed and the subject land was taken over by the Government and the same was handed over to the requisitioning body. Therefore, the petitioners failed to satisfy the twin requirements under Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, 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 dictum laid down by the Hon'ble Supreme Court of India, the issues raised by the petitioners were settled and therefore, the acquisition proceedings have not been 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 petitions are devoid of merits and liable to be dismissed.

7. In the result, the Writ Petitions stand dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

13.09.2021

Speaking Order/Non Speaking Order

Index : Yes / No

Internet : Yes

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WP.Nos.18316 to 18330 of 2017

and

WMP.Nos.19888 to 19902 of 2017

and

WMP.Nos.29158 to 29168, 29719, 29721, 29727 & 29730 of 2018
G.K.ILANTHIRAIYAN, J.

The matter is listed today under the caption 'for being mentioned' at the instance of the learned counsel appearing for the petitioners.

2. Mr.AR.L.Sundaresan, learned Senior Counsel for the petitioners

submitted that on 13.09.2021, he could not appear before this Court and as such order was passed on that day. He further submitted that his contentions may be recorded in the order.

3. Considering the submissions of the learned Senior Counsel, it is ordered that the entire order in W.P.No.18316 to 18330 of 2017 shall read as follows :

COMMON ORDER

“The writ petitions have been filed to issue a writ of declaration declaring that the entire acquisition proceedings initiated by the first respondent culminating in Award passed by the eighth respondent in respect of lands of the petitioners situated at Madhukkarai Taluk (then Coimbatore Taluk), Coimbatore District as lapsed by operation of law in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 (Act 30 of 2013).

2. Mr.AR.L.Sundaresan, learned Senior Counsel for the petitioners submitted that the counsel, who filed the writ

petition, has become a Government Advocate and engaged another counsel. At the time of passing the order, no one represented on behalf of the petitioner. The counter is very vague and there is no record to show that the respondents have taken physical possession from the respective petitioners and the revenue records are not yet mutated in favour of the respondents and all the revenue documents such as patta, adangal and chitta stood in the name of the petitioners.

3. Heard, Mr.AR.L.Sundaresan, learned Senior Counsel appearing for the petitioners, Mr.M.R.Gokul Krishnan, Government Advocate appearing for the respondents 1, 3, 5 to 8, Mr.K.Magesh, Standing Counsel appearing for the fourth respondent, and Mr.R.Ganesh Babu, the learned Standing Counsel appearing for the second respondent.

4. The petitioners have filed these writ petitions raising two grounds i.e. possession has not been taken and also

compensation was not paid. On perusal of records, shows that notification under Section 4(1) of the Land Acquisition Act (hereinafter called as 'the Act') was issued vide GO.Ms.No.1332, RD & LA Department dated 24.07.1981 and published through Tamil Nadu Government Gazette vide notification II/2 RUL/3444/81, RD & LA Department of Supplement to Part II, Section II dated 12.08.1981 for acquisition of the lands situated at Vellalore Village, Coimbatore. Thereafter, vide GO.Ms.No.1332, Rural Development and Local Administration Department dated 24.07.1981, the first respondent appointed the eighth respondent as the authority under Section 5-A of the Act to consider the objections of the land owners. Thereafter, a direction was issued to the eighth respondent to perform the functions of the Collector and take possession and pass orders of acquisition, which culminated in passing of awards. According to the petitioners, possession was not taken and compensation amount was not paid. However, the learned

counsel for the respondents submitted that as per the award, award amount has been deposited in the civil deposit and also possession has been taken over from the petitioners.

5. *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 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 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 petitioners. That apart, the acquisition proceedings have been completed and the subject land was taken over by the Government and the same was handed over to the requisitioning body. Therefore, the petitioners failed to satisfy the twin requirements under Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, 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 dictum laid down by the Hon'ble Supreme Court of India, the issues raised by the petitioners were settled and therefore, the acquisition proceedings have not been 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.

7. That apart, it is seen from the records that the Executive Engineer, Tamil Nadu Water Supply and Drainage Board, Executive Division, Coimbatore has applied for the acquisition of land to an extent of 729.13 acres in Vellalore Village for the formation of sewage farm under Coimbatore Drainage Project. It was administratively sanctioned by the Government in G.O.Ms.No.107 RD and LA Department, dated 25.01.1980. The extent applied for the Executive Engineer was split up to 18 blocks for processing land acquisition under this scheme. Insofar as the petitioners lands are concerned, after complying all the formalities, an award has been passed and possession has been taken over and handed over to the respondents. Thereafter, the revenue records mutated in their names and they also utilised some of the lands for the said purposes. In view of the settled

position of law, the writ petitions are devoid of merits and liable to be dismissed.

8. *In the result, the Writ Petitions stand dismissed.*

Consequently, connected miscellaneous petitions are closed.

There shall be no order as to costs.”

4. It is also ordered that the appearance portion of the order dated 13.09.2021 in W.P.No.18316 to 18330 of 2017 shall read as follows :

“ For Petitioner in all W.Ps : Mr.AR.L.Sundaresan
Senior Counsel
for Mr.S.N.Ravichandran
and Mr.T.Ranganathan

For Respondents in all W.Ps
For R1, 3, 5 & 8 : Mr.M.R.Gokul Krishnan,
Government Advocate

For R4 : Mr.K.Magesh
Standing Counsel

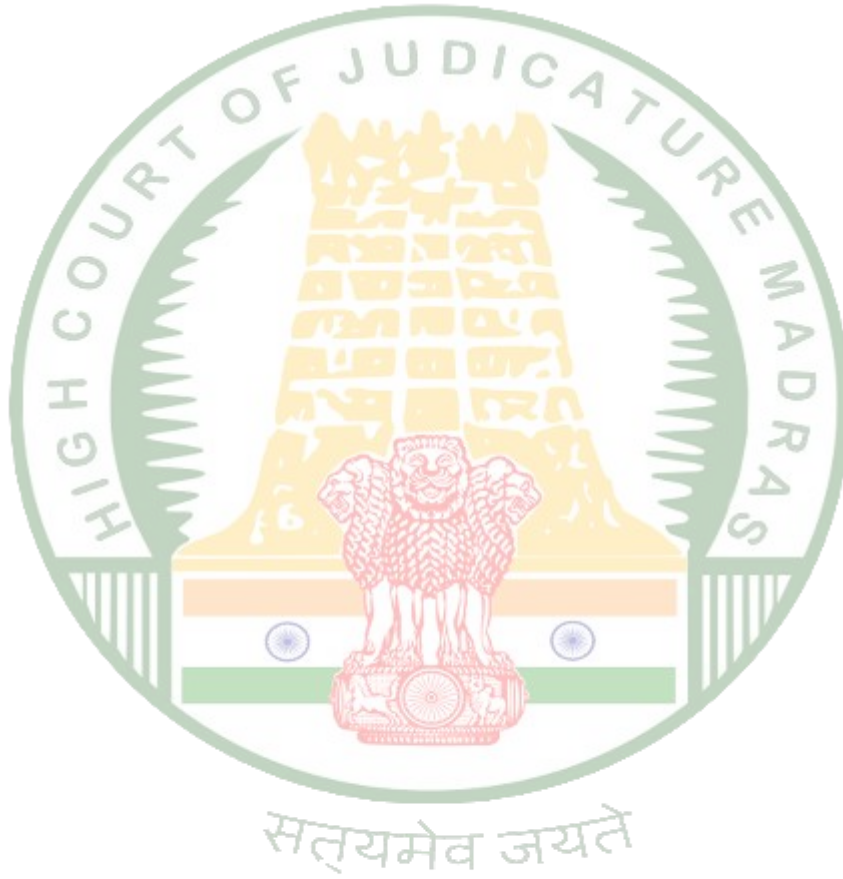
For R2 : Mr.R.Ganesh Babu
Standing Counsel”

5. Registry is directed to carry out the necessary corrections and

re-issue copy of the order.

20.10.2021

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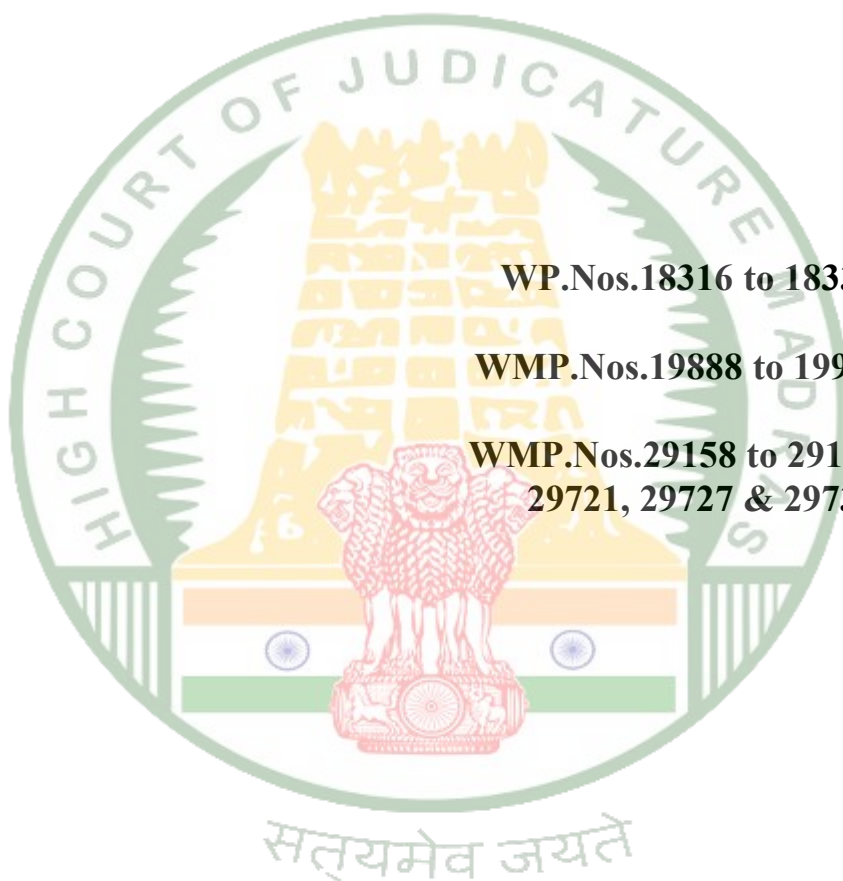


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G.K.ILANTHIRAIYAN, J.

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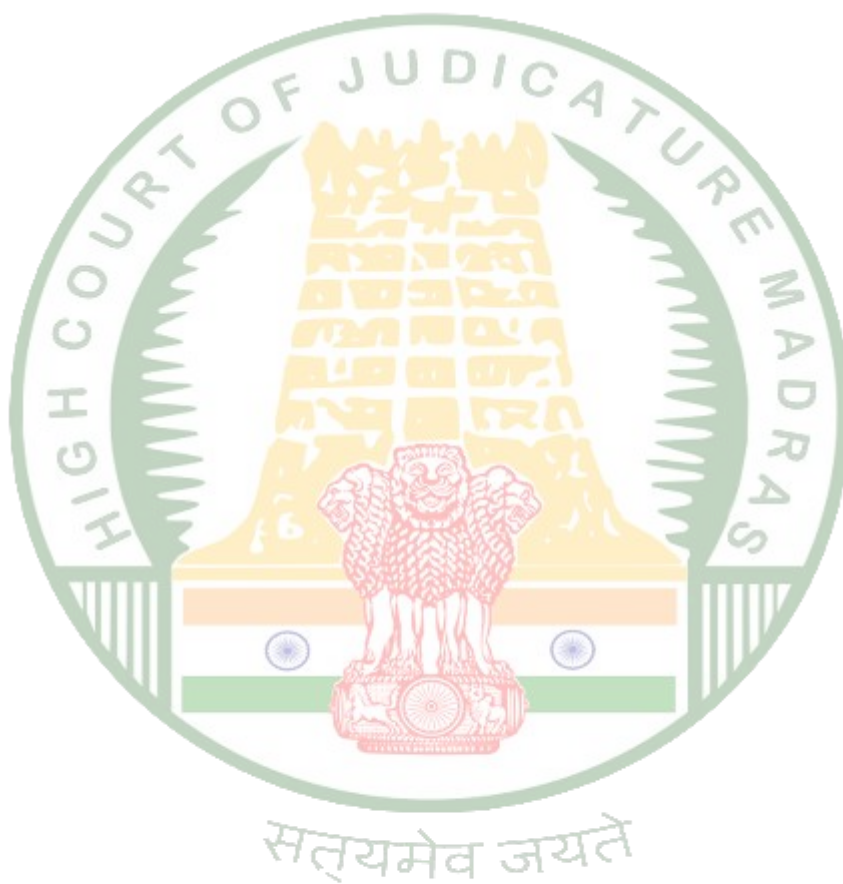
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