



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.No.19936 of 2017 and
WMP.No.21503 of 2017

1. C. Subramaniam
2. T. Kannammal
3. P. Malliga
4. Minor P. Subasree,
Rep. by her mother P. Malliga.
5. R.Soundari

...Petitioners

Vs.

1. State of Tamil Nadu,
Rep. by its Secretary to Government,
Industries Department,
Fort St George,
Chennai - 600 009.
2. District Collector,
Erode District,
District Collectorate,
Perundurai Road,
Erode - 638 001.
3. Revenue Divisional Officer,
Divisional Office,
Brough Road,
Erode 638 001.
4. Chairman cum Managing Director,
SIPCOT, 19, a Rukmani Lakshmipathy Road,
Egmore, Chennai - 08.

...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 under the Land



Acquisition Act, 1894 by the state of Tamil Nadu of the lands in survey number 260/4 extent of 1.01.5 hectares situate that Perundurai village, Perundurai Taluk, Erode District for industrial purposes as being lapsed in terms of section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 and consequently direct the respondents either to reconvey the land or pay compensation to the petitioners by fixing the market value of the land as on this day.

For Petitioners : Mr.Kumaresh Baby
for Mr.V.Balamurugane
For Respondents
For R1 to 3 : Mr.M.R.Gokul Krishnan,
Government Advocate
For R4 : Mrs. Sudarshana Sunder

ORDER

This writ petition is filed to issue a Writ of declaration, declaring that the land acquisition proceedings initiated under the Land Acquisition Act, 1894 by the state of Tamil Nadu of the lands in survey number 260/4 extent of 1.01.5 hectares situate that Perundurai village, Perundurai Taluk, Erode District for industrial purposes as being lapsed in terms of section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 and consequently direct the respondents either to reconvey the land or pay compensation to the petitioners by fixing the market value of the land as on this day.

2. The case of the petitioners is that the land comprised in survey No.260/4 to an extent of 1.01.5 hectares situated at Perundurai, Erode was acquired by the first respondent for the purpose of establishing an industrial estate under the Land Acquisition Act, 1894 (hereinafter called as 'the Act'). On 15.07.1992, notice under Section 4(1) of the Act was issued proposing to acquire the lands. Enquiry under Section 5A of the Act was conducted on 09.10.1992. On 11.08.1995, declaration under Section 6 was published. An award enquiry was conducted and award was passed in Award No.2 of 1995 on 11.08.1995. As per the award, sum of Rs.1,41,816.32/- was awarded for the land to the petitioners. The said amount was directed to be deposited in the Referral Court as per Section 31 (2) of the Act, as it was impossible for them to apportion the amount to the legal heirs and sought to refer the matter for apportionment as per Section 30 of the Act. It is also curious to note that the original land owners already challenged the acquisition proceedings in



WP.No.17125 of 1995 and the same was dismissed. The only grievance of the petitioners is that they were not able to find the proceedings in respect of their lands and they sent application under Right to Information Act seeking details in respect of their property. Therefore, they challenged the acquisition proceedings under the net Act i.e. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

3. Admittedly, already the acquisition proceedings were challenged and negatived by this Court. The grounds raised by the petitioners 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.

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.





Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

7. With the above observations, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

lok/drm

To

1. Secretary to Government,
State of Tamil Nadu,
Industries Department,
Fort St George,
Chennai - 600 009.
2. District Collector,
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District Collectorate,
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Erode - 638 001.
3. Revenue Divisional Officer,
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4. Chairman cum Managing Director,
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Egmore, Chennai - 08.

+1CC to Mr.V.Balamurugane, Advocate, Sr.No.45402
+1CC to Mr.Government Pleader, Sr.No.45873

WP.No.19936 of 2017 and
WMP.No.21503 of 2017

PL (CO)
K.RK. (06.10.2021)