



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2021

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.29145 & 29146 of 2017

WP.No.29145 of 2017

M/s.Nortan Electricals Private Limited,
Represented by its Director,
V.Muralikrishnan,
Having Office at No.130,
3rd Floor, Khumbat Commercial Complex,
No.699-700 Poonamallee High Road,
Chennai 600 029

...Petitioner

Vs

1.The Secretary to the Government,
Housing and Urban Development,
Government of Tamilnadu,
Fort St.George,
Chennai 600 009

2.The District Collector,
Tiruvallur District,
Tiruvallur

3.The Managing Director,
Tamilnadu Housing Board,
Nandanam, Chennai 600 035

4.The Special Tahsildar,
(Land Acquisition) - Unit-V,
Tamil Nadu Housing Board,
Nandanam, Chennai 600035

...Respondents

PRAYER:- Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Declaration declaring that the entire land acquisition proceedings covered under Award No.1 of 1993 dated 12.01.1993 passed by the fourth respondent herein insofar as the petitioner's land measuring 1.00 acre in survey No.64/1B part in Kilmuthalambedu (Panapakkam) Village, Gummidipoondi Taluk, Tiruvallur District as lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 30 of 2013.



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For Petitioner : Mr.M.S.Subramanian
For Respondents
For R1,2,4 : Mr.M.R,Gokul Krishnan,
Government Advocate

For R3 : Mr.M.Baskar,
Standing Counsel

WP.No.29146 of 2017

S.Meganathan

Vs

...Petitioner

1.The Secretary to the Government,
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Government of Tamilnadu,
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Chennai 600 009

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4.The Special Tahsildar,
(Land Acquisition) - Unit-V,
Tamil Nadu Housing Board,
Nandanam, Chennai 600035

...Respondents

PRAYER:- Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Declaration declaring that the entire land acquisition proceedings covered under Award No.1 of 1993 dated 12.01.1993 passed by the fourth respondent herein insofar as the petitioner's land measuring 0.88 acre in survey No.64/1B part in Kilmuthalambedu (Panapakkam) Village, Gummidipoondi Taluk, Tiruvallur District as lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 30 of 2013.

For Petitioner : Mr.M.S.Subramanian
For Respondents
For R1,2,4: Mr.M.R,Gokul Krishnan,
Government Advocate

For R3 : Mr.M.Baskar,
Standing Counsel



COMMON ORDER

The Writ Petitions have been filed to issue a Writ of Declaration declaring that the entire land acquisition proceedings covered under Award No.1 of 1993 dated 12.01.1993 passed by the fourth respondent herein insofar as the petitioners' lands in survey No.64/1B part in Kilmuthalambedu (Panapakkam) Village, Gummidipoondi Taluk, Tiruvallur District as lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 30 of 2013.

2. The case of the petitioners is that the lands comprised in survey No.64/1B part admeasuring situated at Kilmuthalambedu village, Gummidipoondi Taluk, Tiruvallur District was purchased by the petitioners under registered sale deed dated 06.04.1987. It was proposed to be acquired by the notification issued under Section 4(1) of the Land Acquisition Act (hereinafter called as 'the Act') in GO.Ms.No.1181 Housing and Urban Development Department dated 21.12.1989. The notification under Section 4(1) of the Act was also published in tamil dailies on 09.01.1990. Thereafter, the declaration was made under Section 4 of the Act on 30.01.1991. Accordingly, award has been passed on 12.01.1993 in Award No.1 of 1993. According to the petitioners, the declaration under Section 6 of the Act should be made within a period of one year from the date of 4(1) notification. Therefore, it is per se illegal and void. Further, the petitioners have not been served with notice under Section 12(2) of the Act. Further, copy of the award was not served to the petitioners and they were not aware that when the possession has been taken over by the respondents. The compensation amount has not been deposited in the court.

3. On perusal of counter, revealed that after 4(1) notification, the enquiry notice was duly served to the petitioners as contemplated under Section 5-A of the Land Acquisition Act on 20.03.1990, 06.04.1990 and 28.05.1990. After following due procedure, draft declaration under Section 6 of the Act was approved by the Government in GO.Ms.No.145 Housing and Urban Development Department dated 30.01.1991. The declaration was published in Tamilnadu Government Gazattee dated 31.01.1991 and it was lastly published in the public locality on 01.02.1991. Therefore, draft declaration was passed within the period of prescribed period of one year. After the said proceedings, award has been passed in Award No.1 of 1993 dated 12.01.1993. The petitioners authorised one, B.Mathuram to appear for award enquiry. He appeared for award enquiry on 04.11.1992 and objected to the land acquisition and also refused to receive compensation amount. Thereafter, the possession of the land was



taken over and handed over to the requisition body on 15.02.1994. Insofar as compensation is concerned, notice under Section 12(2) of the Act was issued to the petitioner on 22.02.1993. Since the petitioner has refused to receive the compensation amount, the award amount has been deposited in the Sub Treasury, Tiruvallur. Now the entire land is in possession and enjoyment of the Tamil Nadu Housing Board. Therefore, the petitioners failed to prove the grounds raised by them i.e. the compensation amount has not been paid to the petitioners and the possession of the subject land has not been taken over.

4. The grounds raised by the petitioners in the 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



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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



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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."

5. 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 requisition body. Further the requisition body also deposited the compensation as awarded by the Land Acquisition Officer. Therefore, the petitioners 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 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.

6. Accordingly, both the writ petitions are dismissed. No order as to costs.

s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

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To

1.The Secretary to the Government,
Housing and Urban Development,
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Fort St.George,
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+2 CCS to Mr.M.S.Subramanian, Advocate sr 50706, 50707
+1 CC to The Government Pleader sr 50476.

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NRL (CO)
SP(18/10/2021)