



W.P. (MD) No.2557 of 2013, etc., batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 16.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE **B.PUGALENDHI**

W.P. (MD) Nos.2557 to 2560 of 2013
and
M.P. (MD) Nos.1 (4) of 2013

Madasamy	... Petitioner in WP(MD) 2557/2013
Jayakumar	... Petitioner in WP(MD) 2558/2013
Thamaraiselvan	... Petitioner in WP(MD) 2559/2013
Tamilarasi	... Petitioner in WP(MD) 2560/2013

Vs.

- 1.The Director General of Police,
Office of the Director General of Police,
Kamarajar Salai, Chennai.
- 2.The Superintendent of Police,
Office of the Superintendent of Police,
Virudhuagar District.
- 3.The District Collector,
Office of the District Collector,
Virudhunagar District.
- 4.The Special Tahsildar,
Adi Dravidar Welfare,
Srivilliputhur,
Virudhunagar District.
- 5.The Inspector of Police,
Seithur Rural Police Station,
Virudhunagar District.



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6.B.Santhanamari

7.Parvathi

8.M.Selvi

9.K.Radha

10.Aavudaiyammal

11.Maari

12.Aarumugakkani

13.Devi

14.Murugeshwari

15.Kaaliyammal
W/o.Karuppasamy

16.Kaaliyammal
W/o.Subramani

17.Karpagam

18.Valli

19.Kalpana

20.Sellaiya

21.Jeeva

22.Muthumari

23.Maariyammal

24.Annalekshmi

25.Karuppasamy

26.Maadatthi



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27. Subbulakshmi

28. Lakshmi
W/o. Perumal

29. Lingammal

30. Velammal

31. Lakshmi
W/o. Gopal

32. Murugeshwari

33. Ganapathy

34. Krishnammal

35. Ganapathiyammal

36. Ganapathy

37. Alamelu

38. Kumari

39. Velammal

40. Maari

41. Bakkiyam

42. Gomathi

43. Pommi

44. Esakkiyammal

45. Muneeswari ... Respondents in all WPs

[R.6 to R.45 impleaded vide order dated 14.03.2013]



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COMMON PRAYER : Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus forbearing the respondents 2 to 4 from acquiring the land in S.Nos.903/2, 903/1A, 903/1C, respectively, situated at Ayankollankondan Village, Rajapalayam Taluk, Virudhunagar District, without following due process of law.

For Petitioner : Mr.F.X.Eugene

For Respondents : Mr.B.Saravanan,
Government Advocate
for R.1 to R.5

Mr.P.Saravanan
for R.6 to R.45

[In all WPs]

C O M M O N O R D E R

These writ petitions are filed by the respective petitioners seeking issuance of a Writ of Mandamus forbearing the official respondents from acquiring their land situated at Ayankollankondan Village, Rajapalayam Taluk, Virudhunagar District, without following due process of law.

2. These writ petitions are posted before this Court, under the caption 'specially ordered cases' pursuant to



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the orders of the Hon'ble Administrative Judge, dated
04.09.2020.

3. Heard the learned Counsel appearing for the respective parties and perused the available documents.

4. The petitioners have come up with the present writ petitions on the following grounds:-

i) The petitioners, being the landowners, were not put on notice;

ii) The names of the petitioners were not found place in the notifications issued by the respondents;

iii) The Award was not passed in the name of the petitioners;

iv) The possession of the property was not taken away from the petitioners; and

v) They were neither offered nor paid with any compensation amount, till date, for the alleged acquisition.

5. The learned Government Advocate appearing for the official respondents represented that award has been



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passed as early as in the year 2000 in Award No. 14/1999-2000 in ROC.No.A1/94/97, dated 15.02.2000 and the compensation has also been deposited as follows:

Case Number	Date	Reference
WP (MD) . 2557/2013	31.03.2000	Receipts bearing nos.393, 395, 397, 399, 401 issued by the Treasury
WP (MD) . 2558/2013	31.03.2000	Receipts bearing nos.393, 395, 397, 399, 401 issued by the Treasury
WP (MD) . 2559/2013	21.03.2000	Receipt bearing no.385 issued by the Treasury
WP (MD) . 2560/2013	21.03.2000	Receipt bearing no.391 issued by the Treasury

The official respondents have also produced a copy of the deposit details.

6. In **Indore Development Authority v. Manoharlal & Others**, reported in **2020 (5) SCALE 34**, a Constitution Bench of the Hon'ble Supreme Court has held that the term 'paid' does not include 'deposit'. But, in the event of the authority being prevented from making payment, the available option is to deposit the compensation amount. The Court has further held that such deposit in treasury, instead of Court, causes no prejudice to the landowners,



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as such, the acquisition would not lapse. Therefore, the act of the respondents in depositing the award amount in treasury account cannot be found fault with. The relevant portion, in this regard, from the said decision is extracted thus:

"224. Thus, in our opinion, the word "paid" used in [Section 24\(2\)](#) does not include within its meaning the word "deposited", which has been used in the proviso to [Section 24\(2\)](#). [Section 31](#) of the Act of 1894, deals with the deposit as envisaged in [Section 31\(2\)](#) on being 'prevented' from making the payment even if the amount has been deposited in the treasury under the Rules framed under [Section 55](#) or under the Standing Orders, that would carry the interest as envisaged under [Section 34](#), but acquisition would not lapse on such deposit being made in the treasury. In case amount has been tendered and the landowner has refused to receive it, it cannot be said that the liability arising from non-payment of the amount is that of lapse of acquisition. Interest would follow in such a case also due to non-deposit of the amount. Equally, when the landowner does not accept the amount, but seeks a reference for higher compensation, there can be no question of such individual stating that he was not paid the amount (he was determined to be entitled to by the collector). In such case, the landowner would be entitled to the compensation determined by the Reference court.

... ..



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230. Deposit in treasury in place of deposit in court causes no prejudice to the landowner or any other stakeholder as their interest is adequately safeguarded by the provisions contained in [Section 34](#) of the Act of 1894, as it ensures higher rate of interest than any other Government securities. Their money is safe and credited in the earmarked quantified amount and can be made available for disbursement to him/them. There is no prejudice caused and every infraction of law would not vitiate the act."

7. The respondents have also produced a memo showing the details, viz., the date on which the possession was taken by them; the extent of land acquired; and the details as to the deposit of award amount.

8. Though the petitioners deny the factum of compensation, it is evident from the submission made by the learned Government Advocate that the compensation amount has been deposited.

9. In fact, the petitioners have taken a stand that they were not put on notice; the award was not passed in their name; they are in peaceful possession and occupation of the property. This Court is not inclined to accede this



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contention, inasmuch as it the stand of the respondents that they have issued notice to the landholders, as per the revenue records; passed awards on the names of the landholders, as per the revenue records. They have also circulated the notices in the Village Taluk Offices, Sub Registrar Offices, and Collectorates. For the failure on the part of the petitioners in taking steps to mutate the revenue records immediately after their purchase, the respondents cannot be found fault with.

10. With regard to the plea of retaining the possession, it is admitted by the petitioners themselves that in view of the interim orders, the respondents have not taken possession. Therefore, this ground would not give much strength to their case, inasmuch as the compensation has been deposited, at least after some efforts to pay the same. If the respondents had already taken possession and the petitioners still retain the same, then they are to be considered as trespassers, who have trespassed upon the property. In this regard, in the **Indore Development Authority's** case (supra), the Hon'ble Supreme Court has held as follows:



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"... ..

256. Thus, it is apparent that vesting is with possession and the statute has provided under [Sections 16 and 17](#) of the Act of 1894 that once possession is taken, absolute vesting occurred. It is an indefeasible right and vesting is with possession thereafter. The vesting specified under [section 16](#), takes place after various steps, such as, notification under [section 4](#), declaration under [section 6](#), notice under [section 9](#), award under [section 11](#) and then possession. The statutory provision of vesting of property absolutely free from all encumbrances has to be accorded full effect. Not only the possession vests in the State but all other encumbrances are also removed forthwith. The title of the landholder ceases and the state becomes the absolute owner and in possession of the property. Thereafter there is no control of the land- owner over the property. He cannot have any animus to take the property and to control it. Even if he has retained the possession or otherwise trespassed upon it after possession has been taken by the State, he is a trespasser and such possession of trespasser enures for his benefit and on behalf of the owner.

... ..

277. The court is alive to the fact that are a large number of cases where, after acquisition land has been handed over to various corporations, local authorities, acquiring bodies, etc. After depositing compensation (for the acquisition) those bodies and authorities have been handed possession of lands. They, in turn, after



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development of such acquired lands have handed over properties; third party interests have intervened and now declaration is sought under the cover of [section 24\(2\)](#) to invalidate all such actions. As held by us, [section 24](#) does not intend to cover such cases at all and such gross misuse of the provisions of law must stop. Title once vested, cannot be obliterated, without an express legal provision; in any case, even if the landowners' argument that after possession too, in case of non-payment of compensation, the acquisition would lapse, were for arguments' sake, be accepted, these third party owners would be deprived of their lands, lawfully acquired by them, without compensation of any sort. Thus, we have no hesitation to overrule the decisions in Velaxan Kumar (supra) and Narmada Bachao Andolan (supra), with regard to mode of taking possession. We hold that drawing of Panchnama of taking possession is the mode of taking possession in land acquisition cases, thereupon land vests in the State and any re-entry or retaining the possession thereafter is unlawful and does not inure for conferring benefits under [section 24\(2\)](#) of the Act of 2013."

11. In view of the foregoing discussions and reasonings and taking note of the decision of the Hon'ble Supreme Court, this Court is not inclined to entertain these writ petitions. However, the official respondents are directed to furnish the details with regard to the deposit of compensation to the respective petitioners,



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enabling them to receive the same, after proving their rights.

12. Accordingly, all these writ petitions are dismissed. Pending interim orders, if any, shall also stand terminated. No costs. Consequently, all the connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
gk

16.07.2021

To

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Kamarajar Salai, Chennai.
2. The Superintendent of Police,
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B. PUGALENDHI, J.,

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