



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 09.04.2021

Delivered on : 17.04.2021

CORAM

THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. (MD)Nos.776, 657 to 661, 768 and 773 of 2021

and C.M.P. (MD) Nos.3478 & 3479, 2886, 2885, 2884, 2887, 2888, 3473 & 3475 and 3444 & 3451 of 2021

C.Rojapoo ... Appellant/Petitioner in W.A. (MD) No.776/2021

K.Sonai ... Appellant/Petitioner in W.A. (MD) No.657/2021

P.Danam ... Appellant/Petitioner in W.A. (MD) No.658/2021

V.Karuthasamy ... Appellant/Petitioner in W.A. (MD) No.659/2021

M.Karuppiah ... Appellant/Petitioner in W.A. (MD) No.660/2021

L.Palpandi ... Appellant/Petitioner in W.A. (MD) No.661/2021

G.Indran ... Appellant/Petitioner in W.A. (MD) No.768/2021

M.Sadacharam (Died)

1.C.Baby

2.C.Rajasekaran

3.C.Maheswari

4.S.Mahalakshmi

...Proposed 1 TO 4

Appellants/3rd Parties in W.A. (MD) No.773/2021

Vs.

1.The District Revenue Officer,
Madurai District,
Madurai.

2.The Land Acquisition Officer and
the Special Tahsildar (Land Acquisition),
South Neighbourhood Scheme,
Unit - I,
Madurai - 20.



3.The Executive Engineer and Administrative Officer,
Madurai Special Division,
Tamil Nadu Housing Board,
Eillis Nagar,
Madurai.

... Respondents/Respondents in all the Writ Appeals

Common Prayer : Appeals filed under Clause 15 of the Letters Patent against the order passed by this Court in W.P.(MD)Nos.7134, 7006, 6988, 6993, 7005, 7004, 6971 and 7133 of 2014, dated 19.03.2020.

PRAYER in WP(MD)NO.7134, 7006 OF 2014:

Writ Petitions filed under Article 226 of the constitution of India, to issue a writ of Declaration, to declare that the acquisition proceedings initiated by the Second Respondent vide Award No.3/91, Roc.No.A.250/86, L.A.C.No.8/86 dated 31.10.1991 in respect of Petitioner's property situated in Survey No.54/17, 54/9 at Thoppur Village, Madurai South Taluk, Madurai District shall be deemed to have lapsed as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 and consequently direct the Respondents not to disturb the Petitioner's peaceful possession and enjoyment of the said property.

PRAYER IN WP(MD).No6988 OF 2014:

Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Declaration, to declare that the acquisition proceedings initiated by the Second Respondent vide Award No.3/91, Roc.No.A.250/86, L.A.C.No.8/86 dated 31.10.1991 in respect of Petitioner's property situated in Survey Nos.54/10-A and 54/10-B at Thoppur Village, Madurai South Taluk, Madurai District shall be deemed to have lapsed as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 and consequently direct the Respondents not to disturb the Petitioner's peaceful possession and enjoyment of the said property.

Prayer in WP(MD). 6993/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Declaration by declaring that the acquisition proceedings initiated by the 2nd respondent vide Award No.3/91, Roc.No.A/250/86, L.A.C.No.8/86 dated 31.10.1991 in respect of my property situated in survey no.54/7B, at Thoppur Village, Madurai South Taluk, Madurai District, shall be deemed to have lapsed as per section 24(2) of the right to fair compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013, and consequently direct hte respondents not to disturb the petitioner s peaceful possession and enjoyment of ths aid property and pass such any or other orders .



Prayer in WP(MD). 7005/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Declaration declaring that the acquisition proceedings initiated by the 2nd respondent vide award no.3/91, Roc. NO.A/250/86, L.A.C.No.8/86/dated 31.10.1991 in respect of petitioner s property situated in survey Nos. 54/1, 54/2, 54/8, 54/10C, 54/11, and 54/18, at Thoppur village, Madurai South Taluk, Madurai District, shall be deemed to have lapsed as per section 24(2) of the right of Fair compensation and transparecny in Land Acquistion Rehabilitation and resettlement Act, 2013 and cosnequently direct the respondents not to disturb the petitioner s peaceful possession and enjoyment of the said property.

Prayer in WP(MD). 7004/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Declaration, declaring that the acquisition proceedings initiated by the 2nd respondent vide award no.3/91, Roc. NO.A/250/86, L.A.C.No.8/86/dated 31.10.1991 in respect of petitioner s property situated in survey Nos. 54/7A, at Thoppur village, Madurai South Taluk, Madurai District, shall be deemed to have lapsed as per section 24(2) of the right to Fair Compensation and Transparecny in Land Acquistion Rehabilitation and resettlement Act, 2013 and cosnequently direct the respondents not to disturb the petitioner s peaceful possession and enjoyment of the said property.

Prayer in WP(MD). 6971/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Declaration, by declaring that the acquisition Proceedings initiated by the 2nd respondent vide Award No.3/91, Roc No.A/250/96, L.A.C. No.8/86 dated 31.10.1991 in respect of Petitioner s property situated in Survey Nos 54/4, 54/12, 54/13, 54/14 and 54/15, at Thoppur Village, Madurai South Taluk, Madurai District, shall be deemed to have lapsed as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 and consequently direct the respondents not to disturb the Petitioner s peacefull possession and enjoyment of the said property.

Prayer in WP(MD). 7133/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Declaration, declaring that the acquisition proceedings initiated by the 2nd respondent vide award no.3/91, Roc. NO.A/250/86, L.A.C.No.8/86/dated 31.10.1991 in respect of petitioner s property situated in Survey Nos. 54/3, 54/4, 54/12, 54/13, 54/14 and 54/15 at Thoppur Village, Madurai South Taluk, Madurai Dsitric, shall be deemed to have lapsed as per section 24(2) of the right to Fair Compensation and Transparency in Land Acquistion Rehabilitation and Resettlement Act,



2013 and consequently direct the respondents not to disturb the petitioner's peaceful possession and enjoyment of the said property.

WEB COPY

For Appellants in all the : Mr.N.Dilip Kumar
Writ Appeals

For Respondent Nos.1 & 2 : Mr.K.P.Krishnadass
in all the Writ Appeals Special Government Pleader

For Respondent No.3 in all : Mr.R.Janarthanan
the Writ Appeal Standing Counsel

COMMON JUDGMENT

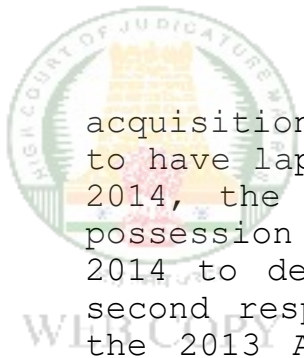
(Judgment of the Court was delivered by T. S. SIVAGNANAM, J.)

The appellants being aggrieved by the order, dismissing their Writ Petitions, filed for issuance of a Writ of Declaration, declaring the acquisition proceedings initiated by the second respondent, in respect of the lands in question, to be deemed to have been lapsed as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (the 2013 Act for brevity) are before us by way of these appeals.

2.Though the Writ Petitions were dismissed by separate orders dated 19.03.2020, since the grounds raised before us by the appellants/writ petitioners are identical, the appeals are heard together and are disposed of by this common judgment.

3.Writ Appeal No.776 of 2021 is taken up as the lead case and the fact therein are noted as hereunder:-

The appellant claims to be the owner of the land comprised in S.No.54/17, Thoppur Village, Madurai South Taluk, Madurai District, measuring an extent of 0.12.5 Hectare. The said land along with adjacent lands were subjected to the land acquisition proceedings under the provisions of the Land Acquisition Act, 1894 (the 1894 Act for brevity). The notification under Section 4(1) of the notification was published on 10.11.1998. The appellant is said to have given his objection to the land acquisition proceedings, for the purpose of forming a Satellite City by the Tamil Nadu Housing Board, called 'South Neighbourhood Scheme'. Ultimately, the award was passed under Section 11 of the 1894 Act in Award No.3 of 1991. The appellant's case is that though the land acquisition proceedings were initiated and culminated in Award No.3 of 1991, the physical possession of the acquired land continued to remain with the appellant and the respondents had failed to pay compensation to the appellant for over 23 years. It is the further case of the appellant that even after the 2013 Act the physical possession of the land has not been taken or compensation has not been paid and hence, the land

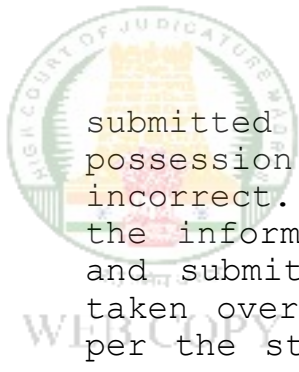


acquisition proceedings initiated under the 1894 Act shall be deemed to have lapsed. The appellant would further state that during April, 2014, the respondents attempted to interfere with the appellant's possession of the land and the appellant filed W.P.(MD) No.7134 of 2014 to declare the land acquisition proceedings initiated by the second respondent as deemed to have lapsed under Section 24(2) of the 2013 Act and by order dated 23.04.2014, an interim order of status-quo was granted in the Writ Petition. It is further submitted that the third respondent Housing Board had filed counter during April, 2015 and the Writ Petition was pending and the order of status quo was in force. The Writ Petition along with the connected matters were heard by the learned Writ Court and it is alleged that during the course of arguments, the learned counsel for the Housing Board had placed certain documents before the Court without furnishing copies to the appellant and it was submitted before the Court that compensation amount was deposited on 19.12.1991 and 07.04.1992 and possession of the property was taken on 17.06.1992. It is also submitted that the Court taking into consideration those documents had dismissed the Writ Petition. The said order is impugned in this appeal.

4. Similar orders have been passed in the other Writ Petitions, filed by the Writ Petitioners and on identical grounds those Writ Petitions were also dismissed, against which, other appeals were filed by the appellants.

5. Mr. N. Dilipkumar, learned counsel appearing for the appellants submitted that the respondents had contended that they have taken possession of the property on 17.06.1992, by referring to a 'Transfer Charge Certificate' signed by the revenue authorities. This document could not have been the basis to conclude that the physical possession of the property was taken away from the appellants/land owners. The learned counsel for the appellants placed reliance on the decision of this Court in **M. Palanisamy v. State of Tamil Nadu**, reported in **2020 SCC OnLine Mad 2476**, wherein, it is held that when there is no material available and nowhere any statement has been made as to when the State took possession of the properties from the land owners, reliance cannot be placed merely on the handing over possession by Acquiring Body to the Requisitioning Body as this will happen only after the possession is taken by the State from the owners of the lands and therefore, the Court held that drawing of Panchanama of taking possession is the correct mode of taking possession in land acquisition cases.

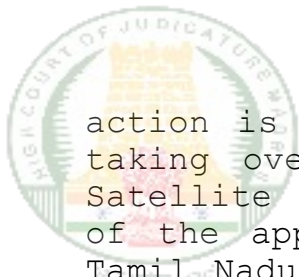
6. It is submitted by Mr. N. Dilipkumar, learned counsel for the appellants that in the case of the appellants, the possession is alleged to have taken over based on a Transfer Charge Certificate signed by the revenue officials, which is an inter-departmental communication and this cannot be considered as a proof for taking possession of the property by the respondents. Further, it is



submitted that the appellants/land owners never handed over the possession on 17.06.1992 and the said submission is factually incorrect. Further, the learned counsel has drawn our attention to the information obtained under the Right to Information Act, 2005 and submitted that it clearly shows that the possession was not taken over from the land owners. Further, it is submitted that as per the stand taken by the Housing Board, the Housing Site layout was approved only during the year 2013 and even after 24 years, after the award was passed, the respondents have not taken any action to form the Satellite City, for which, the land acquisition proceedings were initiated.

7.The learned counsel also referred to the decision of the Hon'ble Supreme Court in **Indore Development Authority v. Manoharlal and others [2020 SCC OnLine SC 316]**. Further, it is submitted that the respondents had stated that the compensation amount has been deposited on 19.12.1991 and on 07.04.1992 by relying upon the Challans. From the documents, which were placed by the Housing Board, it is seen that the Audit Department had returned the bills on 21.10.1992 and 19.03.2001 and this will show that the deposit of the compensation amount is not in accordance with the provisions of the 1894 Act. Once again, relying upon the decision in **M.Palanisamy** (supra), it is submitted that the alleged deposit of the compensation amount is not a valid deposit in the eye of law and therefore, the land acquisition proceedings are deemed to have been lapsed on both grounds, namely, actual physical possession of the property was not taken from the land owners and the compensation amount has not been deposited in terms of the provisions of the 1894 Act.

8.Mr.R.Janarthanan, learned Standing Counsel appearing for the Housing Board, after referring to the land acquisition proceedings initiated under the 1894 Act, by issuing notice under Section 4(1) of the Act, the enquiry was conducted under Section 5-A of the 1894 Act, in which, the interested land owners appeared and have given their objections that the land is required for the agricultural purpose. The objection was forwarded to the Housing Board, who have in turn submitted their views and ultimately the objections raised by the land owners were overlooked and declaration under Section 6 was issued and the entire extent of 1.91.0 Hectares was acquired and award was passed on 31.10.1991. The compensation amount was deposited in the Pay and Account Office and the same had lapsed on 31.03.1998 and returned back to the Government again and after receiving representations from the land owners, the Revenue Divisional Officer, Madurai made a request to the District Revenue Officer, Madurai and the land was handed over to the Housing Board on 17.06.1992. Therefore, it is incorrect to state that the land was not taken over. Further, it is submitted that any alleged entering upon the land, which was the Government Land, is un-authorized and



action is liable to be initiated. It is also submitted that after taking over the land, the Housing Board proposed to form a new Satellite Town in an extent of 50.20 Acres, inclusive of the lands of the appellants and the house site layout was prepared by the Tamil Nadu Housing Board and the same was approved by the Town and Country Planning Authority, Madurai and the layout plan has been prepared with 940 housing plots for different categories inclusive of other public amenities like nursing home, school site, community hall, shop site, park, open space and road. After the layout plan was approved, the Tamil Nadu Housing Board prepared Area Development Scheme, which was approved for a sum of 1831 Lakhs and technical sanction has been obtained and the tender for the work has been called for and the work has commenced and when the developmental works were carried out, the appellants have raised the objections. It is further submitted that the appellants are aware of the conclusion of the land acquisition proceedings as early as in the year 1989 and without questioning the same, the present Writ Petitions are totally devoid of merits. It is also submitted that the Housing Board has spent more than Rs.14 Crores for the developmental works.

9. With regard to the deposit of the amount, the learned Standing Counsel refers to the challans dated 19.12.1991 and 07.04.1992, wherein, it has been clearly mentioned as to the survey numbers for which the compensation amount has been deposited in civil deposit account. Further, it is submitted that the Transfer Charge Certificate is a valid document and the extent of land, which was taken over has been clearly demarcated in the FMB Sketch. The compensation amounts have shown to have been deposited before the Sub Court, Madurai. Therefore, it is submitted that the proper procedure as contemplated under the 1894 Act has been scrupulously followed and the present attempt is made to grab the property of the Government used for development, in which, housing lay out has been formed for offering housing plots to persons, who do not own property. Therefore, it is submitted that the learned Writ Court has rightly dismissed the Writ Petition.

10. We have elaborately heard the learned counsel for the parties and carefully perused the materials placed on record.

11. The arguments of Mr.N.Dilip Kumar, learned counsel for the appellants stating that the land acquisition proceedings are deemed to have lapsed in terms of Section 24(2) of the 2013 Act is based on the grounds that the actually physical possession of the land in question was not taken in the manner known, as provided under the Act and the compensation amount has not been deposited as contemplated under the Act and therefore, the land acquisition proceedings are deemed to have lapsed.



12. Before we examine the correctness of the submissions, we are to point out that the Writ Petitions, which were filed in the year 2014 are liable to be dismissed on the ground of delay and laches. We say so, because the land acquisition proceedings having attained finality by passing of the award on 31.10.1991 in Award No.3 of 1991 and the attempt to challenge the land acquisition proceedings in the year 2014 by filing Writ Petitions is an attempt made by the appellant to indirectly achieve what they could not achieve directly. The appellants have made this attempt after the coming into force of the 2013 Act, with effect from 01.01.2014, by relying upon Section 24(2) of the 2013 Act. The belated attempt to question the land acquisition proceedings should not be entertained and should be thrown out at the thresh-hold. In any event, since two grounds have been taken as was argued before the learned Writ Court, we have to consider the same for its correctness.

13. The first of the two grounds is that the actual possession of the land in question was not taken over from the land owners. This submission is not supported by any valid document to show that the appellants/land owners are in lawful possession of the property, in spite of the land acquisition proceedings having been concluded by passing of the award in the year 1991. In the absence of any such document, proving lawful possession of the property, if the averment of the appellants is correct, they have to be treated as trespassers into Government property. We have considered the factual position as it is primordial to examine whether the decision in **M.Palisamy** (supra), can be applied to the case of the appellants. On facts, we find that the possession was taken over in the year 1991 and handed over to Tamil Nadu Housing Board and the Tamil Nadu Housing Board had obtained layout approval and has commenced developmental works. Therefore, the decision in **M.Palisamy** (supra), does not render any assistance in the case on hand.

14. The appellants' case rest upon certain information obtained under the Right to Information Act, 2005, wherein, the Public Information Officer of the Madurai Housing Unit has stated that certain Survey Numbers of the land has not been handed over to the housing board and requested the applicant one Mr.V.Maharajan, Advocate to approach the Office of the Special Tahsildar. It is not clear as to how the information obtained under the Right to Information Act by an Advocate would in any manner advance the case of the appellants when the information states that out of the acquired lands, the land covered in para No.2 has not been handed over by the Government to the Housing Board and therefore, the applicant has to approach the Office of the Special Tahsildar for securing the said information. The information furnished under the Right to Information Act, 2005 would be detrimental to the case of the appellants because the information confirms that the land acquisition proceedings has been completed and the Government has taken over the land and the award was passed. Therefore, the



appellants can never contend that the possession of the land still remains with them based upon the information obtained under the Right to Information Act, 2005. Therefore, the first ground raised by the appellants has to necessarily fail.

15.The second ground raised by the learned counsel for the appellants, by referring to certain audit objections with regard to the deposit of the compensation amount and after elaborately referring to the challans in the typed set of documents filed by the third respondent, it is submitted that the deposited amount has been returned and seeks to make out a case that the deposit of the amount was not in accordance with the provisions of the 1894 Act. The documents which were referred to by the learned counsel for the appellants is notings in the official file and the noting clearly shows that the deposit has been effected, but for some reason / audit objection, portion of the amount has been returned and in the counter affidavit the respondents they have clearly stated that subsequently, the amount has been deposited before the Sub Court Madurai. Therefore, merely because there was an audit objection and a portion of the amount deposited was returned would not lead to the interference that the amount was not deposited. The factum of deposit alone is the criteria to examine whether the provisions of Section 24(2) of the 2013 Act would get attracted. If there has been any audit objection with regard to the quantum that will not take away the factum of civil deposit. Therefore, the second contention raised by the appellants has to fail.

16.Thus, for the above reasons, we are of the view that the learned Writ Court has rightly dismissed Writ Petition and no ground has been made to interfere with the same. Accordingly, the Writ Appeals fail and the same are dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The District Revenue Officer,
Madurai District,
Madurai.

2.The Land Acquisition Officer and
the Special Tahsildar (Land Acquisition),
South Neighbourhood Scheme,
Unit - I,
Madurai - 20.

1CC TO THE SPL GOVT PLEADER SR 16476
2CC'S TO MR. R. JANARTHANAN, ADVOCATE SR 16423
1CC TO MR. N. DILIPKUMAR, ADVOCATE SR 16234

TR
05/04/2021
10P/7C

Judgment in
W.A. (MD) Nos. 776, 657 to 661, 768 and 773 of 2021
Delivered on **17.04.2021**