



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.04.2021

CORAM:

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

WEB COPY

W.P(MD)No.20158 of 2015

and

M.P(MD)No.1 of 2015

T.Karmegan

: Petitioner

Vs.

1.The Secretary to Government,
Housing Board,
Fort Saint George,
Chennai - 600 009.

2.The Chairman cum Director,
Tamil Nadu Housing Board,
NO.331, Anna Salai,
Chennai.

3.The District Collector,
Tirunelveli District.
Tirunelveli.

4.The Special Tahsildar,
(Land Acquisition),
Neighbourhood Scheme,
Tirunelveli - 627 011

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Declaration declaring the acquisition proceedings of the Petitioner's land bearing Survey No.12 measuring about 20 cents in Vijayaragava Muthaliyar Chatram, Palayamkottai, Tirunelveli District by virtue of the impugned proceedings in ROC No.A34/88 Award No.01/2004-2005 dated 17.12.2004 on the file of the 4th respondent is lapsed by virtue of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 and consequently, directing the respondents not to interfere with the physical possession over the said property.

For Petitioner : Mr.I.Robert Chandrakumar
for Mr.G.Prabhu Rajadurai

For Respondent : Mr.Mohamed Athiff
for R2

For Respondent : Mr.M.Rajarajan,
Nos.1&3,4 Additional Government Pleader



ORDER

This writ petition is filed as against the award dated 07.12.2004 of the fourth respondent seeking to declare the same as lapsed on the basis of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2.The learned Counsel appearing for the petitioner would submit that though the acquisition was taken place in the year 1993 and the award has been passed in the year 2003, the possession is still with the petitioner and therefore, this writ petition is maintainable. The learned Counsel by referring the proceedings dated 16.02.1993 of the Special Tahsildar (LA), Neighbourhood Scheme, Tirunelveli would submit that the respondents have mentioned specifically that the lands of one Padmavathi and Michal Anitha were excluded from the acquisition proceedings pursuant to the orders of this Court in W.P.No.7344 of 1992 and the award notice was not served on the petitioners.

3.Mr.Mohammed Atiff, learned Counsel for the respondents 1 and 2 submits that these petitioners' lands were originally excluded from acquisition proceedings pursuant to the interim order passed in W.P.No.7344 of 1992. The writ petition was subsequently dismissed by this Court by order dated 15.12.1999 and the writ appeal filed as against that order was also dismissed and therefore, in the earlier round of the litigation itself, the claim of the petitioner was rejected and thereafter the award has been passed for the lands of these petitioners also on 17.12.2004. He would further submit that the award amount was also deposited in the Court deposit on 07.07.2005. He would further submit that regarding the possession, the petitioner sent a representation on 01.09.2013, wherein, he has admitted the deposit of amount in the Civil Court as well as the possession taken by the respondent Corporation. However, he sought for re-possession of the land in his representation. Apart from this representation on 01.09.2013, the petitioner has also filed a writ petition in W.P.No.3624 of 2014 for a mandamus, directing the respondents to reconvey the not utilised properties acquired in Survey No.12 at Vijayaragava Muthaliyar Chatram, Palayamkottai, Tirunelveli District and the relief sought for in the writ petition would itself show that the possession has already been taken by the respondents. He has also relied on the Panchanama for having taken possession of the acquired land on 31.05.2005.

4.Mr.Mohammed Athiff, learned Counsel for the petitioner also relied on the orders of a Constitutional Bench of the Hon'ble Supreme Court in **Indore Development Authority v. Manoharlal & Others**, reported in **2020 (5) SCALE 34**, wherein it has held that either if compensation has been paid or possession has been taken, then there cannot be any lapse in the acquisition proceedings. For better appreciation, the relevant portion is extracted thus:



"363.3. 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 2013 Act 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."

5.He would further submit that the award has already been challenged and it was dismissed. Moreover, the amount has already been deposited in the Civil Court and the possession was also taken and therefore, this writ petition is not maintainable in view of Section 14(2) of the Act and also in view of the decision of the Hon'ble Supreme Court cited supra.

6.This Court has paid its anxious consideration to the rival submissions and perused the materials placed on record.

7.In view of the materials placed by the respondents it is evident that the award amount for the acquired lands has already been paid and the possession has also been taken by the respondents. It is further evident that the petitioner has also challenged the acquisition proceedings in W.P.No.7344 of 1992, which ended in dismissal. Therefore, this petitioner is not entitled to maintain this writ petition as per the orders of the Hon'ble Apex Court in **Indore Development Authority v. Manoharlal & Others**, reported in **2020 (5) SCALE 34**, wherein it has held that either if compensation has been paid or possession has been taken, then there cannot be any lapse in the acquisition proceedings.

8.In such view of the matter, this Court is not inclined to entertain this writ petition and accordingly, the same is dismissed. Pending interim orders, if any, shall also stand terminated. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSII)

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Sub Assistant Registrar(CS)

dsk



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

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Housing Board,
Fort Saint George,
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(Land Acquisition),
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Tirunelveli - 627 011

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-17265[F] dated
23/04/2021)

W.P(MD)No.20158 of 2015
22.04.2021

KB(30.06.2021) 4P 6C