



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 09.10.2020

Pronounced on : 17.02.2021

WEB COPY

CORAM:

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

**W.P. (MD) Nos. 5253 to 5255, 5867, 6070,
7220 to 7222, 19380, 19381, 22747 of 2015,
5160 of 2016 & 1111 of 2017**

and

M.P. (MD) Nos. 1 (11) & 2 (8) of 2015

and

**W.M.P. (MD) Nos. 4614, 7694, 7695, 7697 of 2016
& 935 of 2017**

K. Rajendran	... Petitioner in WP (MD). 5253/ 2015
N. Ravichandran	... Petitioner in WP (MD). 5254/ 2015
M. Jamuna Rani	... Petitioner in WP (MD). 5255/ 2015
Meenakshisundaram	... Petitioner in WP (MD). 5867/ 2015
S. Muthumani	... Petitioner in WP (MD). 6070/ 2015
Saraswathi W/o Arumugam	... Petitioner in WP (MD). Nos. 7220 to 7222/ 2015
R. Dinakaran	... Petitioner in WP (MD). 19380/ 2015
Kanivelan	... Petitioner in WP (MD). 19381/ 2015
Saraswathy, W/o M. Shanmugam	... Petitioner in WP (MD). 22747/ 2015
Mrs. Nagalakshmi	... Petitioner in WP (MD). 5160/ 2016
S. Parimala	... Petitioner in WP (MD). 1111/ 2017

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Resident Welfare Officer, Chennai - 600 009.



2. The Revenue Divisional Officer - cum -
Land Acquisition Officer,
Ramanathapuram.

3. The Executive Engineer,
Tamil Nadu Housing Board,
Ramanathapuram Housing Unit,
Ramanathapuram-623 501. ... Respondents in WP(MD) Nos.

5253 to 5255, 5867, 6070, 7220 to 7222,
19380, 19381, 22747/15 & 5160/2016

1. The Govt. of Tamil Nadu
Rep. by its Secretary to Govt.,
Housing & Urban Development Department,
Fort St. George, Chennai - 600 009
2. The Revenue Divisional Officer,
Ramanathapuram, Ramanathapuram District.
3. The Executive Engineer And
Administrative Officer,
Ramanathapuram Housing Unit,
(TNHB), Ramanathapuram. ... Respondent in WP(MD) No. 1111/2017

Prayer in WP(MD). 5253 of 2015 :

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Declaration to declare the entire acquisition proceedings as lapsed, in view of the award dated 28.03.2003 in his award No. Na. Ka. A1/12674/89, issued by the 2nd respondent in respect of Ramanathapuram Taluk, Sakkarakottai Village, Plot No. 1 in S. No. 132/2 Subsequent Survey No. 132/2B and etc., Ramanathapuram Taluk an extent of 2180 sq. ft. land of the land acquired for Tamil Nadu Housing Board after the expiry of two years and in violation of the Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Prayer in WP(MD). 5254 of 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, to declare the entire acquisition proceedings has lapsed in view of the award dated 28.03.2003 in his award No. Na. Ka. A1/12674/89, issued by the second respondent in respect of Ramanathapuram Taluk, Sakkarakottai Village, Plot Number 2 in Survey No. 132/2 Subsequent Survey No. 132/2B and etc., Ramanathapuram Taluk an extent of 2180 Sq. ft. land of the land acquired for Tamil Nadu Housing Board after the expiry of two years and in violation of the Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013.



Prayer in WP(MD). 5255 of 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration to declare the entire acquisition proceedings has lapsed in view of the award dated 28.03.2003 in his award No. Na.Ka.A1/12674/89 issued by the second respondent in respect of Ramanathapuram Taluk, Sakkarakottai village Plot Number 31 in Survey NO. 130/2A1A and etc., Ramanathapuram Taluk an extent of 1420 sq. ft. land of the land acquired for Tamil Nadu Housing Board after the expiry of two years and in violation of the Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 and thus render justice.

Prayer in WP(MD). 5867 of 2015 :

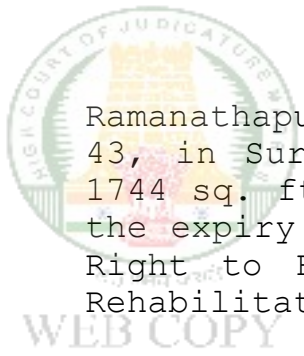
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Declaration to declare the entire acquisition proceedings has lapsed in view of the award dated 28.03.2003 in his award no.Na.Ka.A1/12674/89, issued by the 2nd respondent in respect of Ramanathapuram Taluk, Sakkarakottai Village plot Number 17 in Survey No.132/2 Subsequent sub divided Survey No.132/2B and etc. Ramanathapuram Taluk an extent of 1742 sq.ft. land, of the land acquired for Tamil Nadu Housing Board after the expiry of two years and in viololation of the section 24(2) of the right of Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013.

Prayer in WP(MD). 6070 of 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Declaration to declare the entire acquisition proceedings has lapsed in view of the award dated 28.03.2003 in his award no.Na.Ka.A1/12674/89, issued by the second respondent in respect of Ramanathapuram Taluk, Sakkarakottai group & Village plot Number 1 & 2 in Survey No.131/2B2 and etc., Ramanathapuram Taluk an extent of 3326 sq.ft. of the land acquired for Tamil Nadu Housing Board after the expiry of two years and in violation of the Section 24(2) of the Right to Fair Compesation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013.

Prayer in WP(MD). 7220 of 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, to declare the entire acquisition proceedings has lapsed in view of the award dated 28.03.2003 in his award No. Na.Ka.A1/12674/89 issued by the second respondent in respect of



Ramanathapuram Taluk, Sakkarakottai Group and Village Plot Number 43, in Survey NO. 131/2A2 etc., Ramanathapuram Taluk an extent of 1744 sq. ft of the land acquired for Tamil Nadu Housing board after the expiry of two years and in violatin of the Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement ACT 2013 and thus render justice.

Prayer in WP(MD). 7221 of 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, to declare the entire acquisition proceedings has lapsed in view of the award dated 28.03.2003 in his award No. Na.Ka.A1/12674/89 issued by the second respondent in respect of Ramanathapuram Taluk, Sakkarakottai Group and Village Plot Numbers 43,4 in Survey NO. 131/2A2 etc., Ramanathapuram Taluk an extent of 1727 sq. ft of the land acquired for Tamil Nadu Housing board after the expiry of two years and in violatin of the Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement ACT 2013 and thus render justice.

Prayer in WP(MD). 7222 of 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration to declare the entire acquisition proceedings has lapsed in view of the award dated 28.03.2003 in his award No.Na.Ka. A1/12674/ 89, issued by the 2nd respondent in respect of Ramanathapuram Taluk, Sakkarakottai Group and village plot No.9 in Survey No. 131/2c2 etc., Ramanathapuram Taluk an extent of 1981 sq.ft of the land acquired for TN housing Board after the expiry of 2 years and in violation of the Section 24(2) of teh Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Prayer in WP(MD). 19380 of 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Declaration to declare the entire acquisition proceedings has lapsed in view of the award dated 28.03.2003 in his award No.Na.Ka.A1/12674/89, issued by the second respondent in respect of Ramanathapuram Taluk, velipattinam sub division sakkarakottai group & village in Survey No.130/2A1A of Sakkarakottai Group Ramanathapuram Taluk measuring 4.96 cents i.e.2160 sq.ft of land, plot No.25 acquired for Tamil Nadu Housing Board after the expiry of two years and in violation of the Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.



Prayer in WP(MD). 19381 of 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, to declare the entire acquisition proceedings has lapsed in view of the award dated 28.03.2003 in his award No.Na.Ka.A1/12674/89, issued by the 2nd respondent in respect of Ramanathapuram Taluk, Velipattinam Sub Division Sakkarakottai Group & Village in Survey No. 130/2A1A of Sakkarakottai Group Ramanathapuram Taluk measuring i.e. 2183 sq.ft of land, plot no. 24 acquired for Tamil Nadu Housing Board after the expiry of two years and in violation of the Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013.

Prayer in WP(MD). 22747 of 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration to declare the entire acquisition proceedings has lapsed in view of the award dated 28.03.2003 in the award No. Na.Ka.A1/12674/89 issued by the 2nd respondent in respect of Ramanathapuram Taluk, Sakkarakottai Village an extent of Survey No. 132/1A2 and etc., Ramanathapuram Taluk out total extent of 2 acres, the plot No.31 measuring 6.45 cents of land acquired for the Tamil Nadu Housing Board after the expiry of two years in violation of the under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013.

Prayer in WP(MD). 5160 of 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, to declare the entire acquisition proceedings has lapsed in view of the award dated 28.03.2003 in his award NO.Na.Ka.A1/12674/89, issued by the 2nd respondent in respect of Ramanathapuram Tk, Velipattinam sub division Sakkarakottai Group & Village in Survey Nos. 144/1B2 & 155/2 Ramanathapuram Taluk an extent of 8.59 cents of the land acquired for Tamil Nadu Housing Board after the expiry of two years and in violation of the Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013.

Prayer in WP(MD). 1111 of 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, to declare that the land acquisition proceedings



initiated under the Land Acquisition Act, 1894 in respect of the land of an extent of an extent of 3.87 cents (Plot No.3) comprised in Survey No.332/1 situated at Pattinamkathan Village, Ramanathapuram, Ramanathapuram District belonging to the petitioner as lapsed in view of the Section 24(2) of the Right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30/2013).

For Petitioner : Mr.K.Vadivelu
for Mr.A.S.Mujibur Rahman

For Respondents : Mr.Sreecharan Rangarajan,
Additional Advocate General
Assisted by
Mr.M.Rajarajan,
Additional Government Pleader
for R.1 & R.2
Mr.R.Janarthanan
Standing Counsel for R.3

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 Declaration to declare the land acquisition proceedings as lapsed, in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act').

2. This batch of writ petitions is posted before this Court, under the caption 'specially ordered cases' pursuant to the orders of the Hon'ble Administrative Judge, dated 04.09.2020.

3. Since the issue involved in all these writ petitions revolves around Section 24 of the Act, all these writ petitions are heard together and are disposed of by way of this common order.

4. Heard the learned Counsel appearing for the respective parties and perused the documents placed on record.

5. The petitioners have come up with the present writ petitions to declare the impugned acquisition proceedings as lapsed, on several grounds and the same, in brief, are as follows:

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

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

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

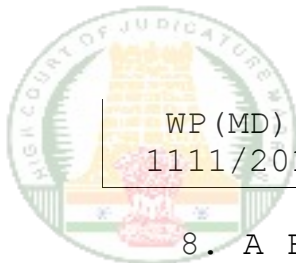


iv) The petitioners are still in possession of the property; and compensation amount was not paid to them.

6. The learned Additional Advocate General appearing for the Government represented that the petitioners herein purchased the subject properties after the issuance of notifications under Sections 4 and 6 of the Act, with regard to the acquisition. The said transaction, which took place after the issuance of the notifications, itself is void, as such, the petitioners cannot maintain these writ petitions. In support of this plea, the learned Additional Advocate General has relied upon the affidavits filed by the respective petitioners, wherein, the date of purchase of the property has been averred by the petitioners.

7. For ready reference, the learned Additional Advocate General has produced a chart comparing the date of notifications with the date of purchase of the properties by the petitioners, which reads as follows:

Case Number	Date of S.4 Notification	Date of S.6 Notification	Date of purchase by the petitioner (As per their affidavit)
WP (MD) . 5253/2015	24.11.1992	10.02.1994	31.05.2000
WP (MD) . 5254/2015	24.11.1992	10.02.1994	31.05.2000
WP (MD) . 5255/2015	24.11.1992	10.02.1994	18.04.2001
WP (MD) . 5867/2015	24.11.1992	10.02.1994	04.09.2000
WP (MD) . 6070/2015	24.11.1992	10.02.1994	08.10.2001
WP (MD) . 7220/2015	24.11.1992	10.02.1994	25.09.2000
WP (MD) . 7221/2015	24.11.1992	10.02.1994	27.09.2000
WP (MD) . 7222/2015	24.11.1992	10.02.1994	08.11.2000
WP (MD) . 19380/2015	24.11.1992	10.02.1994	22.11.2001
WP (MD) . 19381/2015	24.11.1992	10.02.1994	22.11.2001
WP (MD) . 22747/2015	24.11.1992	10.02.1994	08.07.2002
WP (MD) . 5160/2016	24.11.1992	15.12.1993	22.10.2001 & 12.11.2001



WP (MD) . 1111/2017	23.02.1994	26.07.1994	2009
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8. A Full Bench of the Hon'ble Supreme Court, in **Shiv Kumar and another v. Union of India and others**, reported in (2019) 10 SCC 229, has held that the sale after the issuance of notification under Section 4 of the Act is void, as such, the subsequent purchasers are not having any right to invoke the provisions under Section 24(2) of the Act. For better appreciation, the relevant portions are extracted as under:

" ... 19. The 2013 Act presupposes that a person is required to be rehabilitated and resettled. Such a person who has purchased after Section 4 notification as sale deed is void under the 1894 Act, cannot claim rehabilitation and resettlement as per policy envisaged under the 2013 Act, as his land has not been acquired, but he has purchased a property which has already been acquired by the State Government, he cannot claim even higher compensation, as per proviso to Section 24(2) under the 2013 Act. An original landowner cannot be deprived of higher value under the 2013 Act, which higher compensation was not so contemplated when the void transaction of sale had been entered, and right is conferred under the proviso to Section 24(2) on recorded owners under the 1894 Act. We have come across instances in which after notifications under Section 4 were issued and, the property was purchased at throwaway prices by the builders and unscrupulous persons, such purchases are void and confer no right even to claim higher compensation under Section 24(2) of the 2013 Act as it is to be given to the owner as mentioned in the notification.

20. Given that, the transaction of sale, effected after Section 4 notification, is void, is ineffective to transfer the land, such incumbents cannot invoke the provisions of Section 24. As the sale transaction did not clothe them with the title when the purchase was made; they cannot claim "possession" and challenge the acquisition as having lapsed under Section 24 by questioning the legality or regularity of proceedings of taking over of possession under the 1894 Act. It would be unfair and profoundly unjust and against the policy of the law to permit such a person to claim resettlement or claim the land back as envisaged under the 2013 Act. When he has not been deprived of his livelihood but is a purchaser under a void transaction, the outcome of exploitative tactics played upon poor farmers who were unable to defend themselves.

21. Thus, under the provisions of Section 24 of the 2013 Act, challenge to acquisition proceeding of the taking over of possession under the 1894 Act cannot be made, based on a void transaction nor declaration can be sought under Section 24(2) by



such incumbents to obtain the land. The declaration that acquisition has lapsed under the 2013 Act is to get the property back whereas, the transaction once void, is always a void transaction, as no title can be acquired in the land as such no such declaration can be sought. It would not be legal, just and equitable to give the land back to purchaser as land was not capable of being sold which was in process of acquisition under the 1894 Act. The 2013 Act does not confer any right on purchaser whose sale is ab initio void. Such void transactions are not validated under the 2013 Act. No rights are conferred by the provisions contained in the 2013 Act on such a purchaser as against the State.

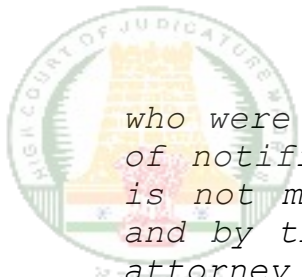
22. "Void is, ab initio," a nullity, is inoperative, and a person cannot claim the land or declaration once no title has been conferred upon him to claim that the land should be given back to him. A person cannot enforce and ripe fruits based on a void transaction to start claiming title and possession of the land by seeking a declaration under Section 24 of the 2013 Act; it will amount to conferment of benefit never contemplated by the law. The question is, who can claim declaration/rights under Section 24(2) for the restoration of land or lapse of acquisition. It cannot be by a person with no title in the land. The provision of the 2013 Act cannot be said to be enabling or authorising a purchaser after Section 4 to question proceeding taken under the Act of 1894 of taking possession as held in U.P. Jal Nigam [U.P. Jal Nigam v. Kalra Properties (P) Ltd., (1996) 3 SCC 124] which is followed in M. Venkatesh [M. Venkatesh v. BDA, (2015) 17 SCC 1 : (2017) 5 SCC (Civ) 387] and other decisions and consequently claim declaration under Section 24 of the 2013 Act. What cannot be done directly cannot be permitted in an indirect method.

... ..

24. The intendment of the 2013 Act is to benefit farmers, etc. Subsequent purchasers cannot be said to be landowners entitled to restoration of land and cannot be termed to be affected persons within the provisions of the 2013 Act. It is not open to them to claim that the proceedings have lapsed under Section 24(2)."

9. That apart, a Constitution Bench of the Hon'ble Supreme Court, in **Indore Development Authority v. Manoharlal and others, etc.**, reported in **2020 (5) SCALE 34**, has held that the beneficiaries contemplated under Section 24(2) of the Act are the ones who were so recorded as beneficiaries as on the date of the issuance of notification under Section 4 of the Act and not the subsequent purchasers. For better appreciation, the relevant portion is extracted as under:

"337. The beneficiaries i.e. landowners contemplated under the proviso to Section 24(2), are the ones

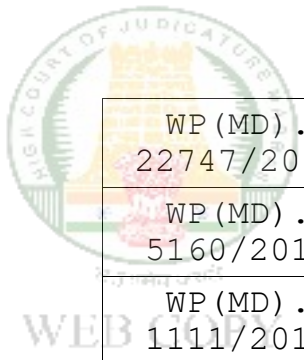


who were so recorded as beneficiaries as on the date of issuance of notification under Section 4 of the 1894 Act. The provision is not meant to be invoked on the basis of void transactions, and by the persons who have purchased on the basis of power of attorney or otherwise, they cannot claim the benefit under Section 24 as is apparent from the proviso to Section 24(2) and the decision in Shiv Kumar v. Union of India [Shiv Kumar v. Union of India, (2019) 10 SCC 229 : (2020) 1 SCC (Civ) 82 : (2019) 13 Scale 698].”

10. Even according to the petitioners, they have purchased the subject properties subsequent to the issuance of notifications by the Government under Sections 4 & 6 of the Act. In view of the aforesaid decisions of the Hon'ble Supreme Court, this Court is of the opinion that the transaction itself is void, as such, the petitioners, being the subsequent purchasers, cannot maintain these writ petitions to declare the impugned land acquisition proceedings as lapsed.

11. It is also represented by the learned Additional Advocate General that with regard to the subject properties, award has been passed as early as in the year 2003 and the compensation has also been deposited as follows:

Case Number	Date of Award	Deposit of Compensation
WP (MD) . 5253/2015	28.03.2003	Treasury Deposit - 20.03.2003 Court Deposit - 31.08.2015
WP (MD) . 5254/2015	28.03.2003	Treasury Deposit - 20.03.2003 Court Deposit - 31.08.2015
WP (MD) . 5255/2015	28.03.2003	Treasury Deposit - 20.03.2003 Court Deposit - 31.08.2015
WP (MD) . 5867/2015	28.03.2003	Treasury Deposit - 20.03.2003 Court Deposit - 31.08.2015
WP (MD) . 6070/2015	28.03.2003	Treasury Deposit - 20.03.2003 Court Deposit - 31.08.2015
WP (MD) . 7220/2015	28.03.2003	Treasury Deposit - 20.03.2003 Court Deposit - 31.08.2015
WP (MD) . 7221/2015	28.03.2003	Treasury Deposit - 20.03.2003 Court Deposit - 31.08.2015
WP (MD) . 7222/2015	28.03.2003	Treasury Deposit - 20.03.2003 Court Deposit - 31.08.2015
WP (MD) . 19380/2015	28.03.2003	Treasury Deposit - 20.03.2003 Court Deposit - 31.08.2015
WP (MD) . 19381/2015	28.03.2003	Treasury Deposit - 20.03.2003 Court Deposit - 31.08.2015



WP (MD) . 22747/2015	28.03.2003	Treasury Deposit - 20.03.2003 Court Deposit - 31.08.2015
WP (MD) . 5160/2016	28.03.2003	Treasury Deposit - 20.03.2003 Court Deposit - 31.08.2015
WP (MD) . 1111/2017	03.04.1997	Treasury Deposit - 15.03.1997 & 23.03.1997

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

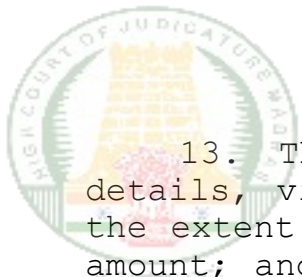
12. In **Indore Development Authority's** case (supra), the Hon'ble Supreme Court has held that the term 'paid' does not include 'deposit'. But, in the event of the authority being prevented from making payment, the available option is to deposit the compensation amount. The Court has further held that such deposit in treasury instead of Court causes no prejudice to the landowners, 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.

... ..

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

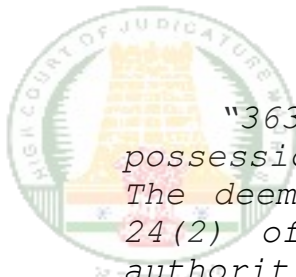
<https://hcservices.courts.gov.in/hcservices/> violate the act."



13. 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; the details as to the deposit of award amount; and the present status of the project. The relevant details from the memo filed by the Government are extracted as under:

Case No.	Possession Taken on	Patta Change effected on	Present stage
WP (MD) . 5253/2015	20.02.2000	06.12.2000	Layout has been approved by the Local Planning Authority, Sivagangai, vide DTCP No.04/2013, dated 28.06.2013, in the name of Sakkarai-kottai Area Development Scheme.
WP (MD) . 5254/2015	20.02.2000	06.12.2000	
WP (MD) . 5255/2015	20.02.2000	06.12.2000	
WP (MD) . 5867/2015	20.02.2000	06.12.2000	
WP (MD) . 6070/2015	20.02.2000	06.12.2000	
WP (MD) . 7220/2015	20.02.2000	06.12.2000	
WP (MD) . 7221/2015	20.02.2000	06.12.2000	
WP (MD) . 7222/2015	20.02.2000	06.12.2000	
WP (MD) . 19380/2015	20.02.2000	06.12.2000	
WP (MD) . 19381/2015	20.02.2000	06.12.2000	
WP (MD) . 22747/2015	20.02.2000	06.12.2000	Layout has been approved by the Local Planning Authority, Sivagangai, vide DTCP No.10/2013, in the name of Pattinamkathan Area Development Scheme.
WP (MD) . 5160/2016	20.02.2000	06.12.2000	
WP (MD) . 1111/2017	14.11.1997	22.01.2012	

14. The Hon'ble Supreme Court in **Indore Development Authority's** case (supra), 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."

15. In the cases on hand, though the petitioners have denied the factum of compensation, it is evident from the submission made by the learned Additional Advocate General that the compensation amount has been deposited and possession has also been taken, as such, even on merits, these writ petitions would not stand.

16. In fact, some of 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 contention, inasmuch as it is 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. With regard to the plea of possession, this Court is of the opinion that once possession has been taken by the State, these subsequent purchasers cannot have any claim. In fact, 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:

"... .."

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 is not 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 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."

17. In view of the foregoing discussions and reasonings and taking note of the aforesaid decisions of the Hon'ble Supreme Court, this Court is not inclined to entertain these writ petitions.

18. 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.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gk

To

1. The Secretary to Government,
State of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Chennai - 600 009.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Revenue Divisional Officer - cum -
Land Acquisition Officer,
Ramanathapuram.

3.The Executive Engineer,
Tamil Nadu Housing Board,
Ramanathapuram Housing Unit,
Ramanathapuram-623 501.

+1 CC to Mr.A.S.MUJIBUR RAHMAN, Advocate (SR-5859[F] dated
18/02/2021)

+1 CC to Mr.R.JANARTHANAN, Advocate (SR-6203[F] dated 19/02/2021)

**W.P. (MD) Nos.5253 to 5255, 5867, 6070,
7220 to 7222, 19380, 19381, 22747 of 2015,
5160 of 2016 & 1111 of 2017
17.02.2021**

VB (03.03.2021) 15P 6C