



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 23.04.2021

CORAM:

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

W.P. (MD) Nos. 17913 & 17914 of 2017

and

W.M.P. (MD) Nos. 14431 & 14432 of 2017

WEB COPY

S.M. Ananthanayaki ... Petitioner in W.P. (MD) No. 17913/2017

R. Chandrasekaran ... Petitioner in W.P. (MD) No. 17914/2017

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai - 600 009.
2. The Land Acquisition Officer / Special Tahsildar,
Ellis Nagar Land Development Scheme,
Ponmeni Village,
Madurai South Taluk,
Madurai District.
3. The Executive Engineer & Administrative Officer,
Madurai Housing Unit,
Tamil Nadu Housing Board,
Ellis Nagar, Madurai.

... Respondents in both WPs

COMMON PRAYER : Writ Petitions filed under Article 226 of the Constitution of India seeking issuance of a Writ of Declaration to declare the entire acquisition proceedings initiated under the Land Acquisition Act, 1894, with respect to the lands of an extent of 1.11 Acres (by excluding 54 cents taken for road) comprised in S.No. 11/1 of Ponmeni Village, Madurai South Taluk (Now at West Taluk), Madurai District, belonging to the petitioners, as lapsed, in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioners : Mr. A. Kannan

For Respondents : Mr. M. Rajarajan,
Additional Government Pleader
for R.1 & R.2
Mr. Mohammed Athiff
Standing Counsel for R.3
In both 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 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. The petitioners have come up with the present writ petitions to declare the impugned acquisition proceedings as lapsed on the grounds that they were not put on notice before the acquisition; the possession of the property was not taken away from them; and that they were neither offered nor paid with any compensation amount, till date, for the alleged acquisition.

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

4. Perusal of record shows that the petitioners have challenged the very same land acquisition proceedings before this Court in an earlier round of litigation in W.P.Nos.11409 of 1995 and 11416 of 1995 and the same was dismissed by this Court on 30.04.1997 with the following observations:-

"7. Admittedly, 4(1) Notification was published in the Tamil Nadu Government Gazette on 07.03.1979. Enquiry under Section 5-A was conducted after Notice to the parties from 16.04.1982 to 21.04.1982. Section 6 declaration was also published in the Gazette on 02.07.1980. Thereafter notices were sent to the parties concerned and award was passed. There is also no dispute that both petitioners have approached the Sub Court for higher compensation and obtained enhanced compensation as per award in LAOP No.48 & 49 of 88 on the file of Sub Court, Madurai. The Counter affidavit filed by the second respondent discussed the various factual position narrated above. It is also not disputed that the lands belong to the petitioners were handed over to the Tamil Nadu Housing Board on 04.12.1982. All the above facts have not been disputed.

... ..

9. Admittedly, the petitioners have not challenged the acquisition proceedings in any stage. As a matter of fact, they have participated in the acquisition proceeding and obtained higher compensation in pursuance to the award by the competent civil Court. As already stated, possession has been handed over to the Tamil Nadu Housing Board during the month of December 1982. In those circumstances, nothing prevented the petitioners, if they have any grievances with regard to acquisition proceedings to approach this Court or for any other relief immediately before taking over their



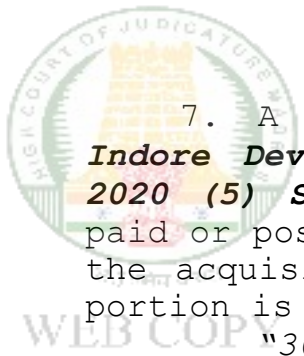
lands by the Tamil Nadu Housing Board. Having participated in the Acquisition proceedings without any objections and after handing over possession to the Tamil Nadu Housing Board in the year 1982 that too after receipt of reasonable compensation as awarded by the Civil Court, it is not open to the petitioners to approach this Court for any relief. The present Writ Petitions have to be dismissed on the ground of laches and inaction of the petitioners. On this aspect, considering all the earlier case laws of this Court, as well as Apex Court, reported in 1997(2) SCC 627 C.PADMA V.DY SECRETARY TO THE GOVERNMENT OF TAMIL NADU, wherein it is stated that the acquired land having vested in the state and compensation paid to the claimants, the claimants are not entitled to restitution of possession on the ground that either original public purpose had ceased to be in operation or the land could not be used for any other purpose."

5. This order itself would disclose that the petitioners have received the compensation amount pursuant to the impugned acquisition and the possession has also been taken by the Tamil Nadu Housing Board. The petitioner has not challenged the orders passed in W.P.Nos.11409 and 11416 of 1995 and therefore, the order becomes final.

6. Thereafter, it appears that the petitioners have filed subsequent writ petitions in W.P.Nos.12151 & 12152 of 1999 for reconveyance and the same were allowed by this Court on 06.12.1999. As against that order, Writ Appeal was filed before the first bench of this Court and the same was dismissed in the following terms:-

"2.It has been brought to our notice that the respondents had preferred writ petitions before this Court being W.P.Nos.11409 of 1995 and 11416 of 1995, seeking re-allotment of land to them under the same provision. These petitions were dismissed by the order dated 30.04.1997, which was not assailed further and became final. The findings arrived at in the said order are that the possession already stands taken over by the appellant, of course, compensation already stands received by the respondents.

3.There has been complete concealment of the earlier proceedings in the fresh proceedings, which have emanated in the impugned order. It is not even open to the respondents to plead whether possession is with them, because there is a finding against them qua this issue. Be that as it may, the earlier proceedings concluded the issue qua the respondents and there could not have been initiation of fresh proceedings."



7. A Constitutional Bench of the Hon'ble Supreme Court in **Indore Development Authority v. Manoharlal & Others**, reported in **2020 (5) SCALE 34**, 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."

8. Since the issue has already been settled and the petitioners have received the award amount as well as the possession has also been taken, the present petitions cannot be maintained under Section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, in view of the pronouncement in **Indore Development Authority's** case (supra).

9. In such view of the matter, this Court is not inclined to entertain these writ petitions. Accordingly, 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)

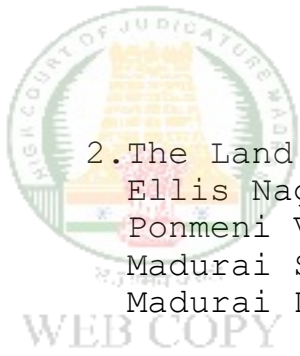
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Sub Assistant Registrar(CS)

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To

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



2.The Land Acquisition Officer / Special Tahsildar,
Ellis Nagar Land Development Scheme,
Ponmeni Village,
Madurai South Taluk,
Madurai District.

+1 CC to M/s.A.KANNAN, Advocate (SR-17503 and 17504[F] dated 26/04/2021)

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23.04.2021

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