



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2022

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.1013 of 2015

1. R. Rajaram
2. K.Rakkianna Gounder
3. R. Murugesan
4. S. Selvamani
5. S. Selvamurali
6. S. Selvananth

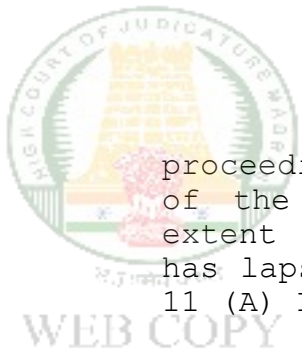
...Petitioners

Versus

1. The Secretary to Government
Housing and Urban Development Dept.,
Fort St. George,
Chennai - 600 009.
2. The Special Tahsildar (Land Acquisition)
Neighbourhood Scheme
Salem - 600 008.
3. The Tamilnadu Housing Board
Rep. by its Executive Engineer
& Administrative Officer
Salem Housing Unit,
Salem - 636 008.
4. The Tahsildar
Taluk Office,
Omalur Taluk,
Salem District.
5. The Village Administrative Officer,
Kotta Goundampatti Village,
Omalur Taluk,
Salem District - 636 011.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Declaration, declaring the possession certificate dated 09.12.2013 passed by the 2nd respondent as null and void and consequently declare the entire land acquisition



proceedings initiated in G.O. No.147, dated 29.03.2000 u/s. 4(1) of the Act in respect of petitioners' land in S.No.26/4 an extent of 0.58.0 Hec. and in S. No.69/5C extent of 0.90.0 Hec. has lapsed in view of section 24 (2) of the Act 2013 and Section 11 (A) L.A. Act 1894.

For Petitioners :Mr.M.Elango

For Respondents :Mr.M.Murali,
Govt. Advocate
Mr.I.Sathish, TNHB for R3

ORDER

This writ petition has been filed to declare the possession certificate dated 09.12.2013 passed by the 2nd respondent as null and void and consequently declare the entire land acquisition proceedings initiated in G.O. No.147, dated 29.03.2000 u/s 4(1) of the Act in respect of petitioners' land in S. No.26/4 an extent of 0.58.0 Hec. and in S. No.69/5C extent of 0.90.0 Hec. has lapsed in view of section 24 (2) of the Act 2013 and Section 11 (A) L.A. Act 1894.

2.It is the case of the petitioners that they are the joint owners of the respective properties mentioned in the affidavit filed in support of this writ petition. The 1st respondent issued notices under Section 4(1) to acquire several pieces of lands comprised in various survey numbers including the lands belonging to the petitioners. After issuance of 4(1) Notification, the 2nd respondent issued notice under Section 5A of the Act and after conducting enquiry as contemplated under 3 (b) of the rule, forwarded his recommendation to the 1st respondent. However, it is the case of the petitioner that the 1st respondent without considering the report of the 2nd respondent had published Section 6 Declaration.

3.Thereafter, petitioners herein along with similarly situated persons filed writ petition before this Court in W.P. No.13370 of 2002. While admitting the said writ petition, this Court granted stay of dispossession alone and when such being the position, the 2nd respondent passed the original Award vide his proceeding in Roc. No.929/98, (Award No.1/2003-2004), dated 30.04.2003. Subsequently, the said writ petition was dismissed by this Court on 13.12.2012. Aggrieved by the said order, they filed Writ Appeal in W.A. No.788 of 2013 and the same was also dismissed on 29.11.2013 by the Hon'ble Division Bench of this Court. Challenging the same, they preferred SLP in the year 2004 viz., SLP No.7426-27 before the Hon'ble Apex Court, which is pending by granting status quo.



4. Thereafter, the 2nd respondent passed the consequential award, dated 13.05.2003, which according to the petitioners is in violation of Section 11 of the Land Acquisition Act as the same was passed without conducting enquiry, against which, the petitioners filed another Writ Petition in W.P. No.33337 of 2013 seeking prayer for quashment of the said award. Subsequently, the writ petition came to be dismissed on 29.01.2014 and aggrieved over the same, they preferred Writ Appeal in W.A. No.1693 of 2014, which is now pending.

5. It is the further case of the petitioners that that pursuant to notification of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, particularly while referring to Section 24(2) of the Act, the entire land acquisition proceedings in respect of their lands have lapsed on 01.01.2014, as it is claimed that the respondents have not taken physical possession of their lands. That being the position, it is the grievance of the petitioners that the impugned possession certificate dated 09.12.2013 is null and void and hence, this writ petition has been filed seeking appropriate directions.

6. Learned counsel for the petitioners submit that on the alleged date of possession, the petitioners have raised various crops in the subject land. He further submitted that since the physical possession has not taken place, the petitioners are vested with right to avail the benefit under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which is applicable to the case on hand. Further quoting Section 11(A) of the Land Acquisition Act, 1894, he vehemently argued that the entire land acquisition proceedings in respect of petitioners land stood lapsed during the month of December 2013 itself. Further, he submitted that the petitioners preferred SLP against the original award and as one of the parties in the said SLP, passed away, it is in the stage of filing substitution petition before the Hon'ble Apex Court. Hence, he prays before this Court for appropriate directions in the above regard.

7. Per contra, Mr.M.Murali, learned Government Advocate for respondents 1 and 2 submitted that Award was passed on 13.05.2003 and after disposal of the writ petition and writ appeal, the respondents have taken possession of the petitioners land on 09.12.2013. Hence, Section 24(2) of the Fair Compensation Act is not applicable to the instant case. Further, he submits that pending SLP, this Court issued directions to the petitioners to canvass all those points raised in this writ petition before the Hon'ble Apex Court.

8. This Court heard the undivided arguments made by the



learned counsel on either side and perused the materials placed on record.

9.A perusal of the materials available on record reveal that pursuant to the acquisition proceedings, the matter was agitated before the tiers of the judiciary ultimately culminating in the filing of the Special Leave Petition before the Hon'ble Apex Court. It is fairly submitted by the learned counsel appearing on either side that the said Special Leave Petition is pending consideration of the Hon'ble Supreme Court. That being the position, without any orders being passed in the said Special Leave Petition, it would not be proper for this Court to pass any orders in the writ petition. In such view of the matter, this Court is of the opinion that the petitioner has to await the decision of the Hon'ble Supreme Court before agitating his rights as claimed for in this writ petition.

10.Accordingly, for the reason aforesaid, this writ petition is disposed of granting liberty to the petitioner to seek appropriate remedy in the manner known to law subject to the outcome of the Special Leave Petition. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi2

To

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5. The Village Administrative Officer,
Kotta Goundampatti Village,
Omalur Taluk,
Salem District - 636 011.

+1cc to Mr.M.Elango, Advocate, S.R.No.26492

+1cc to Mr.I.Sathish, Advocate, S.R.No.26848

+1cc to the Government Pleader, High Court, Madras, S.R.No.26775

W.P. No.1013 of 2015

SS(CO)

RGA(30/05/2022)