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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2022

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.132 of 2022
and
W.M.P.Nos. 139 & 140 of 2022

T. Arumugam ...Petitioner

Vs

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

2. The Executive Engineer/Administrative Officer,
Tamil Nadu Housing Board,
Surampatty Nall Road,
Erode-9.

3. The Special Tahsildar,
(Land Acquisition),
Neighbourhood Scheme,
Tamil Nadu Housing Board, Brough Road,
Erode-1. ...Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records relating to the impugned G.O.Ms.No.292, Housing and Urban Development Department, dated 04.06.1992 issued by the first respondent and quash the same in so far relate to petitioners lands situated in Old S.No.37, New R.S.No.17/1, Muthampalayam Village, Erode Taluk and District, since as per under Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013) the entire acquisition proceedings become lapsed.

For Petitioners : Mr.C.Prakasam

For R1 & R3 : Mr.G.Krishnaraja
Additional Government Pleader

For R2 : Mr.I.Sathish
Standing Counsel

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ORDER

This writ petition is filed to issue a Writ of Certiorari, to call for the entire records relating to the impugned G.O.Ms.No.292, Housing and Urban Development Department, dated 04.06.1992 issued by the first respondent and quash the same in so far relate to petitioners lands situated in Old S.No.37, New R.S.No.17/1, Muthampalayam Village, Erode Taluk and District, since as per under Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013) the entire acquisition proceedings become lapsed.

2. In identical circumstances, this Court has passed the following order in W.P.Nos.31937 to 31945, 33006 to 33009, 33276 to 33277 & 32503 to 32509 of 2014, dated 04.10.2021:-

> "5.The notification under Section 4(1) of the Act was approved by the Government in G.O.Ms.No.675 and 676 Housing and Urban Development Department dated 16.04.1991. Thereafter, notices were issued to the land owners and also to the interested persons as contemplated under Section 5-A of the Act and the enquiry was conducted on 19.08.1981. During the enquiry held on 19.08.1981, the petitioners and the interested persons appeared and stated that some of the land owners filed writ petition in WP.No.17514 of 1993 challenging the acquisition proceedings and obtained interim orders. Thereafter, award has been passed on 10.06.1994 in Award Nos.3 and 4 of 1994. Thereafter, award amount has been handed over by the requisition body to the acquisition officer. However, due to the pendency of the writ petitions filed by the association, the requisition body requested to return the amount. Accordingly, the entire award amount has been returned to the requisition body by the acquisition officer. Therefore, award has not been deposited in the civil court as contemplated under Section 30 of the Act. The possession of the lands covered under the Act was also not taken over due to existence of the order of this Court. However, the award amount again returned by the Revenue Divisional Officer to the requisition body by the letter dated 04.07.1994. After dismissal of the writ petitions dated 16.11.2001, the requisition body deposited the entire award amount in the account of the Revenue Divisional Officer, Erode. In the meantime, the Special Tahsildhar, Land Acquisition, Erode was disbanded w.e.f. 30.06.2005. Therefore, the Revenue Divisional Officer, Erode is not able to maintain amounts which was deposited in his name by the requisition body for the acquisition of the lands

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as per the award Nos.3 and 4 of 1994 covered to an extent of 153 acres. In fact, the Revenue Divisional Officer also requested the Government to appoint Special Tahsildar for follow up action in this regard. Counter also revealed that after disposal of the writ petition, the authority prayed before the Sub Court, Erode to keep the deposit in the name of the land owners towards deposit amount of compensation. Further, the Sub Court, Erode returned the cheques on 26.03.2016 questioning the deposit being belated and also questioned about the pendency of the writ petitions. Subsequently, the cheques were returned to the Executive Engineer & Administrative Officer, Tamil Nadu Housing Board by way of cheque on 15.04.2016.

6.Therefore, admittedly the entire award amount now returned to the requisition body i.e. Tamil Nadu Housing Board and the award amount has not been deposited in any civil court or revenue deposit. Insofar as possession of the respective properties of the petitioners are concerned, they are still in possession and enjoyment of their respective lands and doing cultivation. There is no record to show that the physical possession of the property has been taken over by the respondents. That apart, insofar as the total extent of the land admeasuring 153 acres are concerned, the respondents did not take any steps to execute the neighbourhood scheme at Muthampalayam. In fact, some of the land owners have already laid out the entire land and converted into house plots. Further Erode Taluk Small Farmers Association, Muthampalayam of Erode filed writ petitions in WP.No.17514 of 1993, 14230 of 2000 and obtained interim order as against the acquisition proceedings. All the writ petitions were dismissed by this Court on 16.11.2001. However, after dismissal of the writ petitions, the respondents did not take any steps to deposit the award amount before the Sub Court or in the revenue deposit. Insofar as the possession of the land also is concerned, no land has been taken over to implement the neighbourhood scheme. Thereafter, after period of many years, the present writ petitions have been filed by the individual land owners and obtained interim order. All these writ petitions have been filed challenging the land acquisition proceedings under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 as lapsed for the reason that the award amount has not been

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deposited and no land has been taken over. Therefore, all the petitioners have made out their case and admittedly no award amount has been deposited even till today before the civil court or in revenue deposit. All the petitioners are in possession and enjoyment of their respective lands which were acquired by the respondents and even till today they are doing cultivation. Therefore, the entire land acquisition proceedings have been lapsed

7.Therefore, all the writ petitions are allowed. The Tahsildar, Erode is directed to restore the revenue records in the name of the respective petitioners for their respective lands within a period of six weeks from the date of receipt of copy of this order. Consequently, connected miscellaneous petitions are closed. No order as to costs."

3.Following the above order,this Writ Petition is also allowed in the same terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-I)

//True Copy//

Sub Assistant Registrar

Lpp
To
1. The Secretary to Government,
   Housing and Urban Development Department,
   Fort St.George,Chennai - 600 009.

2. The Executive Engineer/
   Administrative Officer,
   Tamil Nadu Housing Board,
   Surampatty Nall Road,Erode-9.

3. The Special Tahsildar,
   (Land Acquisition),
   Neighbourhood Scheme,
   Tamil Nadu Housing Board, Brough Road,
   Erode-1.

+1cc to Mr.I.Sathish, Advocate, S.R.No.1772
+1cc to the Government Pleader, S.R.No.2275

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PCH(CO)
RGA(08/02/2022)

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