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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.19202 OF 2015

AND

M.P.NOS.1 & 2 OF 2015

P.A.Anbarasan

.. Petitioner

Vs.

1. The Government of Tamilnadu  
The Secretary to Government,  
Backward Class & Most Backward  
Classes Department,  
Secretariat, Chennai-9.
2. The District Collector,  
Dharmapuri District, Dharmapuri.
3. The Tahsildar (Adi Dravidar Welfare)  
Harur Taluk, Dharmapuri District.

.. Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of Writs of Declaration declaring that the Land Acquisition proceedings initiated under the Land Acquisition Act 1 of 1894 in respect of the petitioner's land situated in Survey No.177/1A and 177/3A measuring an extent of 1.96.00 hectares in Pappireddipatty Village, Harur Taluk, Dharmapuri District has lapsed by virtue of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition and Re-settlement Act 2014.

For Petitioner : Mr. M.Sriram  
For Respondent : Mr. Akila Rajendran, GA

O R D E R

This petition has been filed for declaring that the Land Acquisition proceedings initiated under the Land Acquisition Act 1 of 1894 in respect of the petitioner's land situated in Survey No.177/1A and 177/3A measuring an extent of 1.96.00 hectares in Pappireddipatty Village, Harur Taluk, Dharmapuri District has lapsed by virtue of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition and Re-settlement Act 2014.



2. Heard, the learned counsel for the petitioner, the learned Government Advocate appearing for the respondents.

3. The petitioners father was the owner of the land in S.Nos.177/1A and 177/3A in Pappireddypatty Village, Harur Taluk, Dharmapuri District. From the date of purchase, the petitioner's father was in possession and enjoyment of the property. The first respondent has issued notification under the Land Acquisition Act 1894 for acquiring lands for providing house sites to the most backward class people living in Pappireddypatty Village. The Government of Tamil Nadu initiated land acquisition proceedings including the subject land under Land Acquisition Act, 1894 for providing house sites.

4. Pursuant to the acquisition, award was passed and the award amount was deposited in the Court. The petitioner's father was not received the compensation amount and the possession was not taken from the Government. Based on the objecting made by the petitioner, the Land Acquisition Officer referred the dispute to the Subordinate Court, Dharmapuri for fixing the fair compensation under Section 18 of the Land Acquisition Act. The said case was taken on file in LAOP No.11 of 1993 and the learned Judge had enhanced the compensation. But the respondents have not settled the amount. Thereafter, the petitioner sent a representation dated 17.03.1999 made to the Government for re-conveying the land and the same was not considered by the Government. Thereafter, the petitioner has filed a writ petition before this Court in W.P.no.13203 of 2001 and this Court by its order dated 04.01.2011 was pleaded to dismiss the same.

5. According to the petitioner, admittedly, an award was passed on 10.03.1992, possession of the subject land has not been taken so far and the same still remains with the petitioner and no compensation amount has been paid to the petitioner. Therefore, the land acquisition proceedings initiated under the Central Act 1894 have been lapsed in view of the non compliance of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition and Re-settlement Act 2013. Therefore, the petitioner made a representation to the respondents to drop the acquisition proceedings. Till date, no action was taken, hence, the present writ petition has been filed before this Court seeking appropriate remedy.

6. When the matter is taken up for hearing, it is brought to the notice of this Court that issue raised in this writ petition is no longer res integra as the same stands



settled by the Hon'ble Supreme Court in Indore Development Authority Vs. Manoharlal and ors etc., (2020 SCC Online SC 316), wherein, the Apex Court held as follows:-

'374. Before proceeding further, in our opinion, Section 24 contemplates pending proceedings and not the concluded ones in which possession has been taken, and compensation has been paid or deposited. Section 24 does not provide an arm or tool to question the legality of proceedings, which have been undertaken under the Act of 1894 and stood concluded before five years or more. It is only in cases where possession has not been taken, nor compensation is paid, that there is a lapse. In case possession has been taken, and compensation has not been deposited with respect to majority of landholdings, the beneficial provision of the statute provides that all beneficiaries shall be paid compensation as admissible under the Act of 2013. 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 Act of 1894. 227 (2006) 3 SCC 286 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 proviso to Section 24 (2) and the decision in Shiv Kumar & Ors. v. Union of India and Ors.'

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402. In view of the aforesaid discussion, we answer the questions as under:

1. Under the provisions of Section 24(1)(a) in case the award is not made as on 1.1.2014 the date of commencement of Act of 2013, there is no lapse of proceedings. Compensation has to be determined under the provisions of Act of 2013.

2. In case the award has been passed within the window period of five years excluding the period covered by an interim order of the court, then proceedings shall continue as provided under Section 24(1)(b) of the Act of 2013 under the Act of 1894 as if it has not



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been repealed.

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 Act of 2013 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.

4. The expression 'paid' in the main part of Section 24(2) of the Act of 2013 does not include a deposit of compensation in court. The consequence of non-deposit is provided in proviso to Section 24(2) in case it has not been deposited with respect to majority of land holdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the Act of 1894 shall be entitled to compensation in accordance with the provisions of the Act of 2013. In case the obligation under Section 31 of the Land Acquisition Act of 1894 has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the Act of 2013 has to be paid to the "landowners" as on the date of notification for land acquisition under Section 4 of the Act of 1894.

5. In case a person has been tendered the compensation as provided under Section 31(1) of the Act of 1894, it is not open to him to claim that acquisition has lapsed under Section 24(2) due to non-payment or non-deposit of compensation in court. The obligation to pay is complete by tendering the amount under Section 31(1). Land owners who had refused to accept compensation or who sought reference for higher compensation, cannot claim that the acquisition proceedings had lapsed under Section 24(2) of the Act of 2013.

6. The proviso to Section 24(2) of the Act of



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2013 is to be treated as part of Section 24(2) not part of Section 24(1)(b).

7. The mode of taking possession under the Act of 1894 and as contemplated under Section 24(2) is by drawing of inquest report/memorandum. Once award has been passed on taking possession under Section 16 of the Act of 1894, the land vests in State there is no divesting provided under Section 24(2) of the Act of 2013, as once possession has been taken there is no lapse under Section 24(2).

8. The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the Act of 2013 came into force, in a proceeding for land acquisition pending with concerned authority as on 1.1.2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years.

9. Section 24(2) of the Act of 2013 does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the Act of 2013, i.e., 1.1.2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition."

7. From the above, it is evident that the Hon'ble Supreme Court has settled all the issues, including the grounds raised by the petitioner. That apart, the acquisition proceedings have been completed and the subject land was taken over by the government and the same was handed over to the requisitioning body. Further the requisitioning body also deposited the compensation as awarded by the Land Acquisition Officer. Therefore, the petitioner failed to satisfy the twin requirements under Section 24 (2) of the Act, i.e., the physical possession of the land was not taken and the compensation has not been paid/tendered/deposited in accordance with law. In view of the dictum laid down by the Hon'ble Supreme Court, the issues raised by the petitioner having been settled, the acquisition proceedings have not lapsed by operation of law under Section 24 (2) of the new Act i.e., Right to Fair



Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. In view of the settled position of law, the writ petition is devoid of merits and is liable to be dismissed.

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8. Accordingly, the writ petition is dismissed. There shall be no order as to costs. Consequently, connected M.P.s' are also closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,  
Backward Class & Most Backward  
Classes Department,  
Secretariat, Chennai-9.
2. The District Collector,  
Dharmapuri District, Dharmapuri.
3. The Tahsildar (Adi Dravidar Welfare)  
Harur Taluk, Dharmapuri District.

+1cc to the Government Pleader, S.R.No.35521

W.P. No.19202 of 2015

SV(CO)  
PM/06/07/2022