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W.P.No.16876 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.16876 of 2016

And

W.M.P.No.14465 of 2016

Pattammal

... Petitioner

Vs.

1.The District Collector,
Perambalur District.

2.The Special Tahsildar (ADW),
Perambalur,
Perambalur District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration to declare that the land acquisition proceedings initiated under Land Acquisition Act, 1894, in respect of the lands comprised in Survey Nos.582/5 measuring to an extent of 0.29.5 Hectares, Survey Nos.582/6 measuring to an extent of 0.39.5 Hectares and Survey Nos.582/7 measuring to an extent of 0.29.5 Hectares, situate at Keelakarai Village, Perambalur Taluk, then Trichy District, now Perambalur District, deemed to have been lapsed as per



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sub section (2) of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioner : Mr.M.Pradeep Shankar
For Respondents : Mr.P.Sathish
Additional Government Pleader

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Declaration to declare that the land acquisition proceedings initiated under Land Acquisition Act, 1894, in respect of the lands comprised in Survey No.582/5 measuring to an extent of 0.29.5 Hectares, Survey No.582/6 measuring to an extent of 0.39.5 Hectares and Survey No.582/7 measuring to an extent of 0.29.5 Hectares, situate at Keelakarai Village, Perambalur Taluk, then Trichy District, now Perambalur District, deemed to have been lapsed as per sub section (2) of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2.The case of the petitioner is that the petitioner is the owner of the subject properties and the same were sought to be acquired for the purpose of providing house sites for Adi Dravidars and Notification
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under Section 4(1) of the Central Act 1 of 1984 was issued during the year 1994. Thereafter notice under Form 3A was issued to the petitioner, however, without any further notification, the petitioner's lands were acquired and award was passed on 29.12.1995, however, till date the compensation amount has not been paid to the petitioner. Hence, the petitioner has filed this writ petition for the aforesaid relief.

3.The learned counsel appearing for the petitioner submitted that though award is alleged to have been passed as early as in the year 1995, the possession has not been taken and compensation amount was also not paid to the petitioner. Hence, the entire land acquisition proceedings gets lapsed in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act. Accordingly, he prayed for allowing the writ petition.

4.The second respondent has filed counter affidavit, wherein, it is stated that the Adi Dravidars of Vadakkumadevi hamlet of Keelakkarai Village applied for house sites stating that they are living in the existing natham in a congested manner with more than one family in single house and on verification, it was found that 242



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families are living in 125 houses. As per the yardstick provided by the Government, an extent of 1.77.0 hectare of land was required for providing a new colony for the above surplus family, whereas, there was only an extent of 0.11.5 hectare Government Assessed waste dry land and a further extent of 1.65.5 hectare of land had to be acquired. Hence, land acquisition proceedings were initiated.

5.It is further stated in the counter affidavit that draft Notification under Section 4(1) of the Central Act 1 of 1984 was approved by the Government in G.O.3D No.947, Adi Dravidar and Tribal Welfare Department, dated 22.11.1994 and it was published in Tamil Nadu Government Gazette on 14.12.1994. It was also published in two Tamil Dailies 'Malaimalar' and 'Madurai Mani' on 15.12.1994 and 16.12.1994 respectively. The enquiry under Section 5-A of the Act was conducted on 27.02.1995 after observing all the usual formalities. The objections raised by the land owners including the petitioner were found to be frivolous and hence, they were over – ruled and draft declaration under Section 6 of the Act was recommended to the Government on 15.05.1995 through the District Adi Dravidar Welfare Officer, Tiruchirapalli.

6.It is further stated in the counter affidavit that before its



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approval by the Government, there was a Supreme Court's judgment restoring the validity of the 'Tamil Nadu Acquisition of lands for Harijan Welfare Schemes Act, 1978 [Tamil Nadu Act 31/78] communicated by the Government in G.O.Ms.No.143 dated 01.08.1995. Hence, as contemplated under Section 22 of that Act which provides for taking further action in all pending cases, under the Tamil Nadu Act 31/78 as if Section 4(1) Notification already issued under the Central Act shall be construed as a show cause notice served under Section 4(2) of the Tamil Nadu Act 31/78, the 4(1) Notification under the later Act was published in the District Gazette, Tiruchirapalli on 20.10.1995 and Notice in Form 3 was issued to the land owners for the award enquiry under Section 7(3) of the Act.

7.It is further stated in the counter affidavit that award was passed on 29.12.1995. The compensation amount of Rs.77,205/- was already deposited on 22.07.1997 at Sub-Treasury, but the petitioner has not taken steps to withdraw the same from the deposit. Possession was taken by the second respondent and name was mutated in the revenue records and the same was allotted to Adi Dravidar Family.

8.Heard the arguments advanced on either side and perused the



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materials available on record.

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9.The issued involved in the present case is no longer *res integra*. The issue involved in this writ petition has already been considered by the Hon'ble Apex Court in its decision reported in **(2020) 8 SCC 129 [Indore Development Authority Vs. Manoharlal and Others]**, the relevant portion of which reads as follows:

"366.3.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."



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10.Perusal of the decision cited supra makes it clear lapse of land acquisition proceedings under Section 24(2) of the 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.

11.In the present case, respondents claim that award was passed on 29.12.1995. The compensation amount of Rs.77,205/- was already deposited on 22.07.1997 at Sub-Treasury, but the petitioner has not taken steps to withdraw the same from the deposit. Possession was taken by the second respondent and name was mutated in the revenue records as Adi Dravidar Colony and the same was allotted to Adi Dravidar Family. Hence, applying the ratio laid down in the decision cited supra, the relief sought for in this writ petition cannot be considered.

12.At this juncture, the learned counsel appearing for the petitioner prayed that this Court may issue direction to the



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respondents to re-validate the entire compensation amount and to disburse the compensation amount to the petitioner within a reasonable time frame.

13.Considering the request now made by the learned counsel appearing for the petitioner, this Court directs the respondents to re-validate the entire compensation amount, within a period of four weeks from the date of receipt of a copy of this order and to disburse the compensation amount with interest as per Act to the petitioner, within a period of four weeks thereafter.

14.With the above observations and directions, the writ petition stands dismissed. No costs. Consequently the connected miscellaneous petition is closed.

23.06.2022

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No



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To

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Perambalur District.
- 2.The Special Tahsildar (ADW),
Perambalur,
Perambalur District.



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M.DHANDAPANI,J.
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