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W.P.Nos.13810 of 2019 & 19564 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.13810 of 2019 & 19564 of 2022
and W.M.P.Nos.13883 of 2019 & 18856 of 2022

W.P.No.13810 of 2019

1.P.Soundararaj
2.G.Rajendran
3.V.Sathishkumar
4.G.Dhamodaran
5.D.Balasundaram
6.V.Maheshgiri
7.V.Soundararaj
8.R.Soundarrajan
9.K.Chandrasekar
10.G.Ramasamy
11.N.Babu Rajendran

.. Petitioners

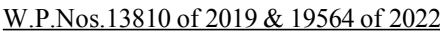
Versus

1.The State of Tamil Nadu,
Represented by its Chief Secretary to Government
Fort St.George, Chennai - 600 009.

2.The Secretary to Government
Industries Department
Fort St.George, Chennai - 600 009.

3.The Chairman
Tamil Nadu Cements Corporation Ltd
L.L.A.Buiding
735, Anna Salai
Chennai – 600 002

.. Respondents



1.K.Muthukumar

2.R.Rajendran

3.T.Jayashankar

4.V.Soundararajan

5.G.Subramanian

6.S.Velusamy

7.R.Gunarajan

8.M.Santhamani

9.C.Sasikala

.. Petitioners

Versus

1.The State of Tamil Nadu

Rep. by its Secretary to Government

Industries Department Fort St. George

Chennai 09

2.Tamil Nadu Industrial Development Corporation

Rep. by its Managing Director

No. 19-A Rukmani Lakshmipathy Road

Egmore Chennai 08

3.Tamil Nadu Cements Corporation

Rep. by its Managing Director Aavin

Illam, Nandanam Chennai 35

4.The District collector

Tiruppur District Tiruppur

5.The Sub Collector/ Revenue Divisional officer

Tiruppur

6.The Thasildar

Udumalaipettai Taluk Tiruppur District

Formerly Spl. Thasildaar (Gypsum) Pollachi

Taluk Coimbatore District

.. Respondents



Prayer in W.P.No.13810 of 2019: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents or to treat the acquisition of the lands agricultural lands situated in of 136/1, 136/3, 152/2B and 153/2, 121, 150/2 and 151/2, 7/1 131/3b, 1/1, 6, 7/2 and 13/1 124/1 and 134B in Pudupalayam Village Udumalpet Taluk Tiruppur District (formerly Coimbatore District) pursuant to Sec.4(1) notification issued under the Land Acquisition Act, 1894 and published in TamilNadu Government Gazette, dated 01.03.1972, Part-II-seccion-1 , II-1 No.789, as lapsed by operation of Sec.24 of 2013 Central Act and consequently to mutate the revenue records in respect of the lands by replacing the 3rd respondent with the names of the petitioners viz ., (i) Lands situated in S.Nos.136/1, 136/3, 152/2 [now S.No.152/2B], 153 [now S.No.153/2] in the name of the 1st petitioner; (ii) Lands situated in S.Nos.121 part, 150/2, 151/2 in the name of the petitioners 2 & 3; (iii) Lands situated in S.No.7/ 1 in the name of the 4th petitioner; (iv) Lands situated in S.Nos.131/1 part [now S.No.131/1B] 131/3B in the name of the 5th petitioner; (v) Lands situated in S.Nos.1 [now S.No.1/ 1], 6, 7/2, 13/1 in the name of the petitioners 6 & 7; (vi) Lands situated in S.Nos.117/A2A [now S.No.117/A2A], 117/A2C1 in the name of the 8th petitioner; (vii) Lands situated in S.No.124/1 in the name of the 9th petitioner; (viii) Lands situated in S.Nos.125 pt [now S.No.125/1], 126/B, 12/1 in the name of the 10th petitioner; and (ix) Lands situated in S.No. 135 in the name of the 11th petitioner, or, alternatively to re-convey to the petitioners the agricultural lands situated in of 136/1, 136/3, 152/2B & 153/2, 121, 150/2 & 151/2, 7/1, 131/3b, 1/1, 6, 7/2 & 13/1, 124/1 and 134B in Pudupalayam Village, Udumalpet Taluk, Coimbatore District (Now Tiruppur District) which were acquired from their ancestors pursuant to sec.4(1) notification issued under the Land Acquisition Act, 1894 and published in TamilNadu Government Gazette, dated 01.03.1972, Part-II-seccion-1 , II-1, No.789 , viz., (i) Lands situated in S.Nos. 136/1, 136/3, 152/2 [now S.No. 152/2B], 153 [now S.No.153/2] in the name of the 1st petitioner; (ii) Lands situated in S.Nos. 121 part, 150/2, 151/2 in the name of the petitioners 2 & 3; (iii) Lands situated in S.No.7/1 in the name of the 4th petitioner; (iv) Lands situated in S.Nos.131/1 part [now S.No.131/1B] 131/3B in the name of the 5th petitioner; (v) Lands situated in S.Nos.1 [now S.No.1/1], 6, 7/2, 13/1 in the name of the petitioners 6 & 7; (vi) Lands situated in S.Nos.117/A2A [now S.No.117/A2A], 117/A2C1 in the name of the 8th petitioner; Lands situated



in S.No.124/1 in the name of the 9th petitioner; (viii)Lands situated in S.Nos.125 pt [now S.No.125/1], 126/B, 12/1 in the name of the 10th petitioner; and (ix) Lands situated in S.No.135 in the name of the 11th petitioner after receiving back the compensation if any paid for acquisition of the said lands.

Prayer in W.P.No.19564 of 2022: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to re-convey to the petitioners the agricultural lands situated in of S.Nos. 121 123 134/A (now 134/A2) 125 (Now 125/1) 132/1A (now 132/1A2) 119/B 126/A 117/B1 and 132/2B in Pudupalayam Village Udumalpet Taluk Tiruppur District (formerly Coimbatore District) which were acquired from their ancestors pursuant to sec 4(1) notification issued under the land acquisition Act 1894 and published in Tamil Nadu Government Gazette dated 01.03.1972 part II Section 1 II-1 No. 789 Viz (i) Lands situated in S.Nos. 121 part and 123 to the 1st petitioner (ii) Lands situated in S.No. 134/A part (Now S.No. 134/A2) to the 2nd petitioner; (iii) Lands situated in S.No.125 part [Now S.No.125/1] to the 3rd petitioner; (iv) Lands situated in S.No.132/1A part, [Now S.No.132/1A2] to the 4th petitioner (v) Lands situated in S.No.132/1A part, [Now S.No.132/1A2] to the 5th petitioner (vi) Lands situated in S.No.119/B to the 6th petitioner (vii) Lands situated in S.No.126/A to the 7th petitioner (viii) Lands situated in S.No.117/B1 to the 8th petitioner (ix) Lands situated in S.No.132/2B to the 9th petitioner receiving back the compensation if any paid for acquisition of the said lands.

W.P.No.13810 of 2019

For petitioners	: Mr.N.Subramanian for Mr.D.Raghu
For Respondents	: Mr.P.Sathish for R1 & R2 Additional Government Pleader Mr.A.Sivaji for R3

W.P.No.19564 of 2022

For petitioners	: Mr.N.Subramanian for Mr.D.Raghu
For Respondents	: Mr.P.Sathish for R1, R2 & R4 to R6 Additional Government Pleader Mr.A.Sivaji for R3



W.P.Nos.13810 of 2019 & 19564 of 2022

COMMON ORDER

WEB COPY These petitions are heard together, as they involve similar set of facts and this Order will govern them all.

2. The case of the petitioners are they are the owners of the agricultural lands situated at Pudupalayam Village, Udumalpet Taluk, Coimbatore District. Their lands were acquired by the Government of Tamil Nadu for the use of Tamil Nadu Industrial Development Corporation, Madras during the year 1972 for the purpose of mining/extracting gypsum. For which, notification under Sec.4(1) was issued on 01.03.1978 in G.O.Ms.No.789/1972, after following the procedure awards were passed by the Tamil Nadu Industrial Development Corporation, Madras to an extent of 112..98 acres in the petitioners' village and patta was also issued in Patta No.67. Further, after the formation of Tamil Nadu Cements Corporation Ltd,(herienafter referred to as 'TANCEM') the subject properties were transferred from Tamil Nadu Industrial Development Corporation Madras to TANCEM as per G.O.Ms.No.1224, Revenue Department dated 26.05.1981. The grievance of the petitioner is that the TANCEM has relinquished the acquired land as the landds were not required by them for the purpose for



which it was acquired. Further, they are in the possession of the subject lands. Hence, they made several representations to the respondents seeking re-conveyance of their lands expressing their willingness to take back the acquired lands. Therefore, they seek reconveyance under Section 48(B) of the Land Acquisition (Tamil Nadu Amendment Act) as the lands are not acquired for what is required. For substantiating the same, they relied on the proceedings of the Additional Collector, Coimbatore dated 18.01.1996 in Ref.No.12385/94/F2 directing the Tahsildar, Udumalpet to get the willingness of the land owners to take back the lands. Since, the said representations are pending without consideration. These writ petitions.

3. The learned counsel for the petitioner would submit that since the lands are not utilised for the purpose on which it was acquired, under Section 48(B) of the Land Acquisition (Tamil Nadu Amendment Act), reconveyance of the land to the original owners can be made. However, he fairly conceded that though they received the compensation at the relevant point of time, even then, they are still in possession of the acquired lands and the possession is not taken over by the respondents under the Act 1 of 1984, as such as per the present enactment 30 of 2013, the acquisition initiated



under the earlier acquisition Act cannot be proceeded and shall deem to have been lapsed. Hence, he prays to declare the said land acquisition proceedings have elapsed under Section 24(2) of the above said (Act 2013).

4. Mr.A.Sivaji, the learned counsel for the Tamil Nadu Cements Corporation Ltd would submit that the award amount was already deposited in favour of the petitioners and the said amount was also received, however, the physical possession could not be taken as they were unlawfully encroached the lands belonging to the TANCEM by way of cultivation. Hence, once award amount has been deposited before the Civil Court, there is no lapse under Section 24(2). He further relied upon the decision of the Hon'ble Apex Court in the case of **Indore Development Authority Vs. Manoharlal and others etc.**, reported in **(2020) 8 SCC 129**, wherein the relevant paragraph in the above said judgment is extracted hereunder:

“366. 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



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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 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



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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 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.”



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5. In view of the decision of the Hon'ble Apex Court in the case of *Indore Development Authority Vs. Manoharlal and ors etc.*, reported in *(2020) 8 SCC 129*, makes it clear that, once award amount has been deposited and disbursed in favour of the petitioners, there is no lapse under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('Act 2013'). Hence, the prayer sought by the petitioners in the present writ petitions can not be maintainable.

6. Accordingly, the present writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

08.09.2022

Index : Yes / No
Internet : Yes / No
Speaking Order/Non-Speaking Order
dhk

To

1.The Chief Secretary to Government
The State of Tamil Nadu,



W.P.Nos.13810 of 2019 & 19564 of 2022

Fort St.George, Chennai - 600 009.

2.The Secretary to Government

Industries Department

Fort St.George, Chennai - 600 009.

3.The Chairman

Tamil Nadu Cements Corporation Ltd

L.L.A.Buiding

735, Anna Salai

Chennai – 600 002

2.The Managing Director

Tamil Nadu Industrial Development Corporation

No. 19-A Rukmani Lakshmipathy Road

Egmore Chennai 08

3.The Managing Director

Tamil Nadu Cements Corporation

Aavin Illam, Nandanam

Chennai 600 035

4.The District collector

Tiruppur District

Tiruppur

5.The Sub Collector/ Revenue Divisional officer

Tiruppur

6.The Thasildar

Udumalaipettai Taluk Tiruppur District

Formerly Spl. Thasildaar (Gypsum) Pollachi

Taluk Coimbatore District

M.DHANDAPANI, J.



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