



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.703 of 2022

Lalitha

..Appellant

Vs.

1.Government of Tamil Nadu
Rep. by its Secretary to Government
Housing Department, Fort St. George
Chennai 600 009.

2.The Managing Director / Convenor /
Committee for the Disposal of Board's Properties
Tamil Nadu Housing Board
Nandanam
Chennai 600 035.

3.The Public Information Officer
Tamil Nadu Housing Board
Nandanam
Chennai 600 035.

4.The District Collector
Kancheepuram
Kancheepuram District.

..Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 14.09.2021 made in W.P.No.11329 of 2014.

Prayer in W.P.No.11329 of 2014: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to award No.1/95 dated 28.04.1995 passed by the 2nd respondent in so far as the petitioner's land is concerned viz. Plot No.22 comprised in S No.1225/4D & 9D in Konneri Kuppam (Sivakanchi) kancheepuram Taluk and District to an extent of 1300 sq.ft and to quash the same and consequently direct the respondents to put the petitioner into possession of the property within a time frame to be stipulated by this Court.



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For the Appellant : Mr.K.A.Ravindran
For the Respondents : Mr.K.M.D.Muhilan
Government Advocate
for respondents 1 & 4
Dr.R.Gouri
for respondents 2 & 3

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

In this writ appeal, a challenge has been made to the order dated 14.09.2021, whereby, the writ petition challenging the acquisition of land and the award of Rs.1,50,502/- dated 28.04.1995 was not accepted.

2. The facts of the case shows that the appellant had purchased a vacant site in plot No.22 in survey No.1225/4D and 9D measuring 1300 sq.ft. by registered sale deed dated 16.04.1987. The said land, apart from the other lands, were proposed to be acquired for the Tamil Nadu Housing Board. Accordingly, a notification under Section 4 of the Land Acquisition Act, 1894 was issued, followed by declaration under Section 6 of the Act. Some of the land owners had challenged the land acquisition proceedings by maintaining a writ petition bearing No.16713 of 1993, but it was dismissed. As far as the appellant is concerned, she received the notice under Section 9 (3) and 10 of the Act of 1894 calling upon her to appear for the award enquiry for fixing the compensation. The award was then passed on 28.04.1995 awarding a sum of Rs.1,50,502/- for the lands of the total extent of 38 cents.

3. The case of the appellant before the learned Single Judge was that she had not been paid the compensation till then. In fact, she sent earlier objection on 10.07.1995 for reference under Section 18 of the Act. The reference was not made and at the same time, the award amount was neither deposited in the Court nor paid to the appellant. The appellant was never tendered to receive the amount of compensation as contemplated under Section 12(2) of the Act.

4. The appellant, therefore, filed a writ petition before this Court for re-conveyance of the said land, wherein, a direction was given to the first respondent to consider the application of the appellant for re-conveyance. But, the same was rejected by an order dated 18.10.2005. The appellant thereupon filed an application under the Right to Information Act seeking information regarding the details of compensation. Under the Right to Information Act, it was informed that the amount had been deposited in the Court after the initial deposit with the Revenue.



5. The appellant then filed a writ petition after the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 came into force, on the ground that neither compensation has been paid to her nor the possession of the land has been taken. The writ petition was dismissed by the impugned order finding that the possession of the land has already been taken by the respondents and at the same time, the amount was deposited in the Court and therefore, a case is not made out under Section 24(2) of the Act of 2013.

6. Reference to the judgment cited by the appellant in K.Saraswathi v. State of Tamil Nadu [2021 (2) CTC 300] was given. However, now the issue is covered by the judgment of the Apex court in the case of Indore Development Authority v. Manoharlal [(2020) 8 SCC 129]. It is otherwise a case that not only the possession of the land was taken by the respondents, but even the amount was deposited in the Court. Thus, both the conditions as stipulated under the Act has been complied and therefore, Section 24(2) would not attract, even if the judgment in the case of Indore Development Authority is not applied.

7. The learned Single Judge found that the appellant was duly served with the notice under Section 12(2) of the Act of 1894 to receive the amount of compensation on 10.05.2015 itself. Despite that, the appellant failed to collect the compensation and therefore, initially it was deposited with the revenue. After the period of deposit expired, the amount then was deposited in the Civil Court as contemplated under Sections 30 and 31(2) of the Act of 1894. Thus, the compliance of the provisions of the Act was made and the appellant failed to prove his possession because the possession of the land has already been taken to develop the colony.

8. In view of the above, we do not find any reason to cause interference with the order of the learned Single Judge as there is no error in the order. Accordingly, the writ appeal is dismissed. However, as prayed, the appellant is given liberty to collect the amount of compensation so lying with the Civil Court and if an application to this effect is made, the Court concerned would immediately release the amount in favour of the appellant, if there is no other objection by the land owners for the same property. It would be with interest, if earned on deposit of the amount in the Court. There will be no order as to costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government
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4.The District Collector
Kancheepuram
Kancheepuram District.

+1cc to Mr.K.A.Ravindran, Advocate SR. No. 21259
+1cc to Government Pleader SR. No. 20668

W.A.No.703 of 2022

RGN (CO)
PR (06/05/2022)