



W.P.No.6555 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2022

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.6555 of 2018

and

W.M.P.No.8147 of 2018

C.Palaniappan

. . . Petitioner

Vs.

1. The Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Chennai-600 009.
2. The Managing Director,
Tamil Nadu Housing Board,
No.493, Annasalai, Nandanam,
Chennai-600 035.
3. The Executive Engineer,
Administrative Officer,
Salem Housing Unit,
Ayyanthirumaligai,
Salem-636 008.
4. The Special Tahsildar,
Land Acquisition,
Neighbourhood Scheme,
Ayyabthirumaligai.

. . . Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ or Order or direction particularly in the nature of Writ of Declaration to declare that the Land Acquisition Proceedings initiated by the Respondent, in respect of the Petitioner's land to an extent of 1.78 Acres comprised in Town Survey No.6/5 in Block No.3, Ward-A in Ayyaperumalpatty Revenue Village, Salem Taluk within the limit of Salem Corporation as abated null and void in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013 (Central Act No.30/2013).

For Petitioner : M/s. P.Jagadeesan

For Respondents : Mr.G.Krishna Raja,

Additional Government Pleader for R1 & R4

: Mr.D.Murugan for R2 & R3

ORDER

The present petition has been filed seeking to declare the Land Acquisition Proceedings initiated by the Respondent, in respect of the Petitioner's land to an extent of 1.78 Acres comprised in Town Survey No.6/5 in Block No.3, Ward-A in Ayyaperumalpatty Revenue Village, Salem Taluk within the limit of Salem Corporation as abated null and void



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in view of Section 24(2) of the Right to Fair Compensation and
Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act,
2013 (Central Act No.30/2013).

2. It is the case of the petitioners that the subject property is the joint family property of the petitioners in respect of which, the partition deed was executed among the family members, accordingly, the petitioners are in possession and enjoyment of the said property. The above said property was acquired by the 4th Respondent vide the notification issued under Section 4(1) of the repealed Land Acquisition Act, 1894 (Central Act No.1/1894) in Go.Ms.No.139 Housing and Urban Development Department followed by declaration under Section 6 of the said Act and Award was passed in Award No.8/86-87 dated 19.09.1986 fixing the compensation amount towards the Acquisition. Though the award was passed, however, neither the compensation amount was paid to the petitioners nor the physical possession was taken. While being so, the 3rd respondent is attempting to interfere with the petitioners' peaceful possession of the property. Hence the petitioners have come up with the present petition.



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3. Learned counsel for the petitioners submitted that though the Acquisition was made in the year 1982, however, till date, neither the compensation amount was paid to the petitioners nor the possession was taken and the petitioners are continued to be in possession of the property. In view of the above said reasons, the Acquisition proceedings initiated under the repealed Act deemed to have lapsed.

4. Learned Additional Government Pleader appearing for respondents 1 to 4 relying upon the counter affidavit filed by the 4th Respondent reiterates that, subsequent to the subject Acquisition, Award was passed in Award No.8/86-87 dated 19.09.1986 fixing the compensation amount of Rs.81,460.25/-. Though the petitioners were issued with notices mandated under the Act, the petitioners have not appeared for the Award enquiry. Therefore, the compensation amount was deposited in the Sub Court, Salem in LAOP No.144/1988. Thereafter, the acquired land was handed over to the Tamil Housing Board on 12.11.1986. Such being the case, there is no



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question of lapse of the Land Acquisition Proceedings. Therefore, the claim of the petitioners in this Writ Petition is wholly impermissible and this Writ Petition is liable to be quashed.

5. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

6. In the case on hand, the claim of the petitioners is that, subsequent to the acquisition of the subject property, the petitioners were neither paid with the compensation amount nor the respondents have taken the physical possession. However, it is seen from the records that, as per the Award passed by the 4th respondent, compensation amount has been deposited in the competent civil court and physical possession was taken. In view of the fact that, compensation amount has been deposited in the competent civil court, the benefit of Section 24(2) of the Act, is not applicable to the petitioner as has been held by the Hon'ble Supreme Court in ***Indore Development Authority Vs. Manoharlal and ors etc.*** Hence, the claim of



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the petitioner seeking to declare the acquisition proceedings deemed to have been lapsed is wholly unsustainable.

7. In view of the above, this Writ Petition is devoid on merits and the same is accordingly dismissed. No Costs. Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes / No

Internet : Yes / No



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