



WEB COPY



W.P.No.6588 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.6588 of 2019

1.Mythiliammal
2.Padmavathy
3.Venkatarangan
4.Rani
5.Jaganathan

... Petitioners

Vs.

1.The Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai – 600 009.

2.The Chairman,
Tamil Nadu Housing Board,
No.331, Anna Salai,
Nandanam,
Chennai – 600 035.

3.The Tahsildar,
Poonamallee,
Thiruvallur District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to
issue a Writ of Declaration declaring that the entire Land Acquisition
Proceedings initiated under Section 4(1) Notification under Land



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Acquisition Act, 1894 in G.O.Ms.No.449, Housing and Urban Development L.A.1(2), dated 21.10.1999 and Section 6 Declaration in G.O.(Ms) No.495, Housing and Urban Development Department (L.A.(1)), dated 06.12.2000 under the Land Acquisition Act, 1894 shall be deemed to have been lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 i.e., the Central Act 30 of 2013 in respect of the petitioner's property situated S.Nos.26, 27/1, 27/2, 28/1, 33/1, 63 and 64 to an extent 0.02.5, 0.06.5, 0.62.0, 0.33.0, 0.39.5 and 0.05.5 hectares in Parvatharajapuram Village, Ponnammallee Taluk, Thiruvallur District.

For Petitioners : Mr.C.Veeraraghavan

For Respondents : Mr.G.Krishna Raja for R1
Additional Government Pleader
Mr.A.M.Ravindranath Jeyapaul for R2

O R D E R

The petitioners have filed this writ petition seeking issuance of Writ of Declaration declaring that the entire Land Acquisition Proceedings initiated under Section 4(1) Notification under Land Acquisition Act, 1894 in G.O.Ms.No.449, Housing and Urban Development L.A.1(2), dated 21.10.1999 and Section 6 Declaration in



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G.O.(Ms) No.495, Housing and Urban Development Department (L.A.(1)), dated 06.12.2000 under the Land Acquisition Act, 1894 shall be deemed to have been lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 i.e., the Central Act 30 of 2013 in respect of the petitioner's property situated S.Nos.26, 27/1, 27/2, 28/1, 33/1, 63 and 64 to an extent 0.02.5, 0.06.5, 0.62.0, 0.33.0, 0.39.5 and 0.05.5 hectares in Parvatharajapuram Village, Ponnammallee Taluk, Thiruvallur District.

2.The case of the petitioners is that the petitioners are the owners of the subject lands. The first respondent proposed to acquire the land for the purpose of development of Satellite Town by the second respondent in Narasingapuram and Parvatharajapuram Villages in Poonammallee Taluk and issued Notification under Section 4(1) of the Land Acquisition Act [hereinafter referred to as 'Act'] in G.O.Ms.No.449, Housing and Urban Development L.A.1(2), dated 21.10.1999 and Declaration under Section 6 of the Act in G.O.(Ms) No.495, Housing and Urban Development Department (L.A.(1)), dated 06.12.2000 and award was passed in the year 2002. Though the land acquisition proceedings are over, physical possession of the



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lands were not taken by the respondents. Hence, the petitioners have filed this writ petition for the aforesaid relief.

3.The learned counsel appearing for the petitioners submitted that though the petitioners received the award amount in the year 2003 itself, physical possession of the lands still continue with the petitioners. The learned counsel further submitted that the Government retained few acres of land and released the remaining acquired lands. Hence, this Court may consider the relief sought for in this writ petition.

4.The learned Standing Counsel appearing for the second respondent submitted that the petitioners have filed this writ petition in order to avail the benefit under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, however, recently, the Hon'ble Apex Court in its decision reported in **(2020) 8 SCC 129 [Indore Development Authority Vs. Manoharlal and Others]**, has held that if compensation has been paid and possession has not been taken then there is no lapse. In the present case, the entire land acquisition proceedings are over and the petitioners also received the



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award amount. Hence, the relief sought for in this writ petition, is not sustainable one.

5.Heard the arguments advanced on either side and perused the materials available on record.

6.The facts in the present case is not in dispute. Admittedly, the first respondent proposed to acquire the land for the purpose of development of Satellite Town by the second respondent in Narasingapuram and Parvatharajapuram Villages in Poonamallee Taluk and issued Notification under Section 4(1) of the Land Acquisition Act [hereinafter referred to as 'Act'] in G.O.Ms.No.449, Housing and Urban Development L.A.1(2), dated 21.10.1999 and Declaration under Section 6 of the Act in G.O.(Ms) No.495, Housing and Urban Development Department (L.A.(1)), dated 06.12.2000 and award was passed in the year 2002. The petitioners have also received the award amount in the year 2003 itself.

7.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



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(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."

8.Perusal of the above cited decision makes it clear that 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



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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.

9.In the present case, the petitioners have received the compensation. Hence, there is no lapse in the acquisition proceedings and the relief sought for in this writ petition cannot be considered.

10.The writ petition is accordingly dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

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

To

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M.DHANDAPANI,J.
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