



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.30197 of 2015

S.Shiva

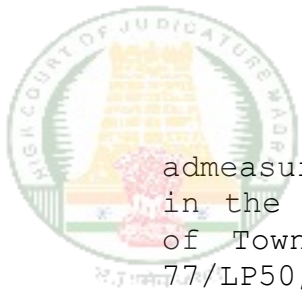
...Petitioner

Vs.

- 1.The State of Tamilnadu
Rep. by its Secretary to Government,
Fort St.George,
Chennai - 600 009.
- 2.The District Collector
Office of the District Collector,
Kanchipuram District,
Kanchipuram - 631 501.
- 3.The Special Tahsildhar (LA),
SIPCOT, TACID Division,
Oragadam Existing Scheme,
Sipcot Project Office,
Irrungattukottai - 602 105.
- 4.The Special District Revenue Officer (LA),
SIPCOT Oragadam & Irungattukottai Expansion Schemes,
No.39-A, Nehru Street,
SASK Illam, CSI School Lane,
Sriperumbudur - 602 105.
- 5.The Chairman of the SIPCOT,
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai.
(R5 - Suo motu impleaded as per
order dt.13.12.2017 by NSSJ in
WP.30197/2015)

...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 the Land Acquisition Act, 1894, in respect of the Petitioner's house site



admeasuring an extent of about 1800 Sq.ft., bearing Plot No.73, in the layout named as Dr.T.N.K.Nagar, approved by the Director of Town and Country Planning vide Approval No.CSAR/DTCP M88-77/LP50, comprised in Survey No.5 of Oragadam Village, Sriperumbudur Taluk, Kanchipuram District, as lapsed in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act.30/2013) and consequently direct the respondents to hand over the vacant possession of the above said property to the petitioner within the time prescribed by this Hon'ble Court.

For Petitioner : Ms.A.V.Bharathi

For Respondents: Mr.V.Veluchamy

Additional Government Pleader

for RR1 to 4

Mrs.Sudharshana Sundar for R5

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Declaration declaring that the entire land acquisition proceedings initiated under the Land Acquisition Act, 1894, in respect of the petitioner's house site admeasuring an extent of about 1800 sq.ft., bearing Plot No.73, in the layout named as Dr.T.N.K.Nagar, approved by the Director of Town and Country Planning vide Approval No.CSAR/DTCP M88-77/LP50, comprised in Survey No.5 of Oragadam Village, Sriperumbudur Taluk, Kanchipuram District, as lapsed in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act.30/2013) and to consequently direct the respondents to hand over the vacant possession of the above said property to the petitioner within the time prescribed by this Court.

2.The case of the petitioner is that the petitioner's land was acquired by the first respondent for TACID Scheme. Notification under Section 4(1) of the Land Acquisition Act was issued to the petitioner on 25.11.1999. The petitioner attended the enquiry, however, without any further notification, the petitioner's land was acquired and award was passed awarding a meagre sum of Rs.1,730/- as compensation. The petitioner came to know about the award only after he filed application for obtaining information under the Right to Information Act during the year 2015. According to the petitioner, at the time of purchase of the land during the year 1990, the market value of the land was Rs.2,700/-. Though award is alleged to have been



passed during the year 2002, 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 2002, the award copy was not furnished to the petitioner to enable him to work out the remedy in the manner known to law and the compensation amount also not paid to the petitioner. Only after the petitioner made application for obtaining information under the Right to Information Act, 2005 on 04.08.2015, award copy was furnished to the petitioner on 13.08.2015. Hence, the entire land acquisition proceedings initiated under the Land Acquisition Act [hereinafter referred to as 'Act'] gets lapsed in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act. Accordingly, she prayed for allowing the writ petition.

4.Per contra, the learned Additional Government Pleader submitted that since Notification under Section 4(1) of the Act was published by invoking the urgency provision under Section 17(1) of Act, enquiry under Section 5 - A of the Act was dispensed with in the case. Draft Declaration under Section 6 of the Act was approved by the Government during the year 2000 and the same was also published in the Tamil Nadu Government Gazette. Award enquiry was conducted on 21.11.2001 by the third respondent after publication of notice under Sections 9(1) and 10 of the Act and award was passed on 07.02.2002.

5.The learned Additional Government Pleader further submitted that notices under Section 12 (2) of the Act were issued to all the land owners including the petitioner and the compensation payable to the petitioner has been deposited at the Sub - Treasury, Tambaram in work deposit. The compensation amount will be paid to the petitioner soon after he file claim petition before the Land Acquisition Officer with the original sale deed and other required documents. Physical possession of the petitioner's land was taken over by the third respondent and was handed over to SIPCOT Officials on 12.03.2003. He further submitted that the non payment of compensation to the petitioner is due to the fault of the petitioner. Accordingly, he prayed for dismissal of the writ petition.

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



7.The issue 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."

8.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.

9.In the present case, respondents claim that award was passed on 07.02.2002 and the compensation payable to the petitioner has been deposited at the Sub - Treasury, Tambaram in work deposit. The compensation amount will be paid to the petitioner soon after he file claim petition before the Land Acquisition Officer with the original sale deed and other required documents. Physical possession of the petitioner's land was taken over by the third respondent and was handed over to SIPCOT Officials on 12.03.2003. Hence, applying the ratio laid down in the decision cited supra, the relief sought for in this writ petition cannot be considered.

10.However, it appears that only after the petitioner made application for obtaining information under the Right to Information Act, 2005 on 04.08.2015, award copy was furnished to the petitioner on 13.08.2015. Soon after receiving the award



copy, the petitioner has filed this writ petition on 18.09.2015 in order to avail the benefit under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

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11. Perusal of Section 18 of the Act reveals that the petitioner has to make application to the Land Acquisition Officer to refer the matter to the jurisdictional Civil Court under Section 18 of the Land Acquisition Act, within a period of six weeks from the date of receipt of award. In the present case, award copy was furnished to the petitioner on 13.08.2015 and the petitioner has filed this writ petition on 18.09.2015, which is well within the period of six weeks.

12. In view of the above, this Court permits the petitioner to make application before the third respondent to refer the matter to the jurisdictional Civil Court under Section 18 of the Land Acquisition Act, within a period of two weeks from the date of receipt of a copy of this order. If any such application is made by the petitioner, the third respondent is directed to refer the petitioner's case to the jurisdictional Civil Court under Section 18 of the Land Acquisition Act, 64 of Fair Compensation Act, within a period of twelve weeks from the date of receipt of such application. The period during which the writ petition was pending before this Court is excluded for the purpose of limitation.

13. The writ petition is disposed of with the above directions. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Secretary to Government,
Fort St. George,
Chennai - 600 009.



2.The District Collector
Office of the District Collector,
Kanchipuram District,
Kanchipuram - 631 501.

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3.The Special Tahsildhar (LA),
SIPCOT, TACID Division,
Oragadam Existing Scheme,
Sipcot Project Office,
Irrungattukottai - 602 105.

4.The Special District Revenue Officer (LA),
SIPCOT Oragadam & Irungattukottai Expansion Schemes,
No.39-A, Nehru Street,
SASK Illam, CSI School Lane,
Sriperumbudur - 602 105.

5.The Chairman of the SIPCOT,
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai.

+1 CC to M/s.A.V. Bharathi, Advocate sr 20773.

+1 CC to Mr. Sudharsana Sundar, Advocate sr 20753.

+1 CC to The Government Pleader sr 21391.

W.P.No.30197 of 2015

AJS (CO)
SP(18/04/2022)