



W.P.No.2169 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 10.11.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

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M.Anjappa

... Petitioner

VS.

1. The Government of Tamil Nadu
Represented by the Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Chennai – 9.
2. The Special Thasildar,
Land Acquisition,
Housing Project,
Hosur – 635109.
3. The Executive Engineer,
Tamil Nadu Housing Board,
Bagalur Road, Hosur.
4. The Managing Director,
Tamil Nadu Housing Board,
Nandanam,
Chennai – 35.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of declaration to declare the Acquisition of land in survey No.682 of Chennathur Village, Hosur Taluk, Krishnagiri District, made in



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pursuance of G.O.No.812 Housing and Urban Development dated 14th May 1991 issued under Section 4(1) and declare the proceedings as having lapsed by virtue of 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act.

For Petitioner : Mr.V.Raghavachari

For R1 and R2 : Mr.T.K.Saravanan
Government Advocate

For R3 and R4 : Mr.D.Murugan
Standing counsel

ORDER

This Writ Petition has been filed seeking issuance of a Writ of declaration to declare the Acquisition of land in S.No.682 of Chennathur Village, Hosur Taluk, Krishnagiri District, made in pursuance of G.O.Ms.No.812 Housing and Urban Development dated 14.05.1991 issued under Section 4(1) and declare the proceedings as having lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short 'new Act').

2. It is the case of the petitioner that he purchased the above said property from one David.J.Lobo vide sale deed dated 15.10.1984. The



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respondents decided to acquire the larger extent of lands for the purpose of constructing dwelling units. Notification u/s 4(1) of the Land Acquisition Act, 1894 (for short 'old Act') was approved vide G.O.Ms.No.812, Housing and Urban Development dated 14.05.1991 and Declaration u/s 6 of the old Act was issued on 14.10.1992. Subsequently, Award came to be passed in Award No.14 of 1994 dated 30.07.1994. However, till date neither the compensation was disbursed in favour of the petitioner nor possession has been taken. Hence, the petitioner has filed this Writ petition to declare the entire acquisition proceeding as having lapsed as per Section 24(2) of the new Act.

3. Learned counsel for the petitioner submitted that as per Section 24(2) of the new Act, if any award under section 11 has been made five years or more prior to the commencement of the new Act, but the physical possession of the land has not been taken or the compensation has not been paid, the said proceedings stands lapsed. In the present case on hand, though the award was passed in the year 1994, however, till date neither compensation was deposited in the competent civil Court nor the possession has been taken, hence the entire acquisition proceedings stands lapsed. Hence



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he prayed to allow the present writ petition.

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4. Learned standing counsel appearing for respondents 2 and 3 submitted that the petitioner participated in the award enquiry and received the award amount under protest. Further the petitioner requested the land acquisition officer to refer the matter to the competent civil Court under Section 18 of the old Act, pursuant to which, the matter was referred to Principal Subordinate Court, Hosur in L.A.O.P.No.513 of 1996 and the same was closed vide order dated 02.11.2020, which was produced before this Court. Since the petitioner's request seeking reference under section 18 of the old Act has already been made and pending on the file of Principal Subordinate Court, Hosur and the petitioner having received the compensation amount from the respondents, the prayer sought for by the petitioner becomes vitiated. Hence this writ petition deserves to be dismissed.

5. Heard the contention of learned Additional Government Pleader appearing for respondents 1 and 2 and perused the materials placed before this Court.



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6. In the case on hand, though it is the case of the petitioner that, till date, possession was not taken and the compensation was also not paid, but it is the case of the respondents that compensation amount has been received by the petitioner under protest and as per the petitioner's request reference has been made before the Principal Subordinate Court, Hosur in L.A.O.P.No.513 of 1996.

7. Taking into consideration the documents and upon a careful perusal of the records produced before this Court, it is evident that the petitioner received the entire compensation amount and his request seeking reference u/s 18 of the old Act was fulfilled before the Principal Subordinate Court, Hosur in L.A.O.P.No.513 of 1996. Therefore, the ingredients of Section 24(2) of the new Act stands fulfilled and there is no lapsation of acquisition proceedings. Hence, the prayer sought for by the petitioner is wholly misconceived.



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8. For the aforesaid reasons, this Writ Petition is dismissed. There shall be no order as to costs.

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RAP

Index : Yes/No

Speaking order : Yes/No

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