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W.P.No.11164 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.11164 of 2021

And

W.M.P.No.11802 of 2021

A.Chamundeeswari

... Petitioner

Vs.

- 1.The State of Tamilnadu
Rep. by its Secretary to Government,
Department of Housing and Urban Development,
Fort St.George,
Chennai – 600 009.
- 2.The District Collector
Thiruvallur District,
Thiruvallur.
- 3.The Tamilnadu Housing Board,
Rep. by its Chairman,
Nandanam,
Chennai – 600 035.
- 4.The Special Tahsildar (LA),
Tamilnadu Housing Board,
Ponneri Division,
Nandanam,
Chennai – 600 035.
- 5.The Executive Engineer & Administrative Officer,
Ponneri Housing Unit,
Tamilnadu Housing Board,
Chennai.



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6.The Superintending Engineer,
Tamilnadu Housing Board,
Ponneri Division,
Tiruvellore District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring that the acquisition proceedings over said under the impugned notice G.O.Ms.138/97 dated 27.03.1997 in petitioner land in S.No.443/2, Ponneri Village, Thiruvallur, has lapsed in the eyes of law as per Section 24 (2) of the New Act.

For Petitioners : Ms.Rita Chandrasekar

For Respondents : Mr.U.Baranidharan for R1, R2 & R4
Additional Government Pleader
M/s.A.M.Ravindranath Jeyapaul
for R3, R5 & R6

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Declaration declaring that the acquisition proceedings over said under the impugned notice G.O.Ms.138/97 dated 27.03.1997 in petitioner land in S.No.443/2, Ponneri Village, Thiruvallur, has lapsed in the eyes of law as per Section 24 (2) of the New Act.



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2.The case of the petitioner is that the petitioner's husband owned 2.70 acres of land in S.No.443/2, Ponneri Village, Thiruvallur. The first respondent vide G.O.Ms.No.138 dated 27.03.1997 sought to acquire vast extent of land including the subject property and one of the land owners filed W.P.No.2165 of 2000 challenging the acquisition proceedings and this Court vide order dated 06.03.2002 allowed the said writ petition and quashed the entire acquisition proceedings. The petitioner's husband died on 06.12.2002 and the petitioner continued to be in possession of the property.

3.The further case of the petitioner is that thereafter the petitioner came to know about the acquisition proceedings and made representation to the respondents seeking re-conveyance of the land and since there was no response, filed W.P.No.4977 of 2013 before this Court and pursuant to the order of this Court made in the said writ petition her request was rejected. Challenging the rejection order, the petitioner filed W.P.No.30675 of 2013 and the said writ petition was dismissed at the admission stage itself. Though the land was acquired, possession was not taken and compensation was not



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paid. Hence this writ petition for the aforesaid relief.

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4.The learned counsel appearing for the petitioner submitted that the petitioner's land was acquired under the Land Acquisition Act [hereinafter referred to as 'Act'] for Area Development Scheme and Notification under Section 4(1) of the Act was issued in the year 1991, Declaration under Section 6 of the Act was published in the year 1998 and Award was passed on 10.05.2000 in Award No.1 of 2000, however, even after a lapse of two decades, the compensation amount was not deposited and possession was not taken. Hence, the entire land acquisition proceedings initiated under the Land Acquisition Act get lapsed in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act [hereinafter referred to as 'New Act']. Accordingly, she prayed for allowing the writ petition.

5.The learned Additional Government Pleader appearing for the respondents 1, 2 and 4 submitted that immediately after passing of the award, notice under Section 12 (2) of the Act was served on the petitioner's husband through RPAD and he received the same on 24.05.2000 and physical possession of the land was taken on



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10.02.2001. Compensation for the subject land was fixed at

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Rs.8,96,977/- and since the petitioner's husband refused to receive the compensation, the said amount was deposited before the Civil Court vide D.D.No.341076, dated 17.11.2000 and the amount is now lying in the credit of Sub Court, Ponneri in L.A.O.P.No.148 of 2000.

6.The learned Additional Government Pleader appearing for the respondents 1, 2 and 4 further submitted that the land was acquired in the year 2000 and the petitioner has filed this writ petition after a lapse of two decades, which is un-sustainable one. He further submitted that even if the petitioner have any grievance, she should have filed writ petition atleast immediately after the New Act came into force, however, the petitioner has filed this writ petition belatedly and such a belated claim cannot be entertained.

7.The learned counsel appearing for the respondents 3, 5 and 6 submitted that Notification under Section 4(1) of the Act was issued vide G.O.Ms.No.138, Housing and Urban Development Department (LA – 1) dated 27.03.1997; Declaration under Section 6 of the Act was issued vide G.O.Ms.No.229, Housing and Urban



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Development Department dated 22.06.1998 and Award was passed on 10.05.2000

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in Award No.1 of 2000. Subsequent to the passing of the award, patta was mutated in the name of Tamil Nadu Housing Board and Tamil Nadu Housing Board is in actual and physical possession of the subject land.

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

9.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



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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."

10.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 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.

11.In the present case, the respondents claim that after the entire land acquisition proceedings are over and immediately after



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passing of the award, notice under Section 12 (2) of the Act was served on the petitioner's husband through RPAD and he received the same on 24.05.2000 and compensation for the subject land was fixed

and since the petitioner's husband refused to receive the compensation, the amount was deposited before the Civil Court and patta was mutated in the name of Tamil Nadu Housing Board and Tamil Nadu Housing Board is in actual and physical possession of the subject land. Hence, applying the ratio laid down by the Hon'ble Apex Court in its decision reported in **(2020) 8 SCC 129 [Indore Development Authority Vs. Manoharlal and Others]**, the relief sought for in this writ petition cannot be considered.

12.At this juncture, the learned counsel appearing for the petitioner prayed that this Court may permit the petitioner to file appropriate petition before the Sub Court, Ponneri in L.A.O.P.No.148 of 2000 for withdrawal of the amount.

13.Considering the request now made by the learned counsel appearing for the petitioner, this Court permits the petitioner to file appropriate petition before the Sub Court, Ponneri in L.A.O.P.No.148



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of 2000. If any such petition is filed by the petitioner, the Sub Court, Ponneri, shall consider the same and pass appropriate orders, as expeditiously as possible.

14. With the above observations and directions, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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

To

1. The Secretary to Government,
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2. The District Collector
Thiruvallur District,
Thiruvallur.
3. The Tamilnadu Housing Board,
Rep. by its Chairman,
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4. The Special Tahsildar (LA),
Tamilnadu Housing Board,
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5. The Executive Engineer & Administrative Officer,
Ponneri Housing Unit,
Tamilnadu Housing Board,

9/10



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6. The Superintending Engineer,
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M.DHANDAPANI,J.
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