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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.9017 to 9019 of 2015
and
M.P.Nos.1, 1 and 1 of 2015

Maadhavan Naidu

... Petitioner in W.P.Nos.9017
and 9018 of 2015

Veeraraghavan Naidu

... Petitioner in
W.P.Nos.9019 of 2015

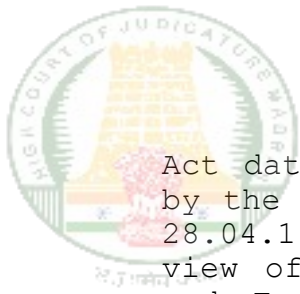
Vs

1. The Government of Tamil Nadu,
Rep.by its Secretary to Government,
Housing and Urban Development Department,
Fort.St.George, Chennai - 600 009.
2. The District Collector,
Kancheepuram District,
Kancheepuram.
3. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore,
Chennai - 600 008.
4. The Sub Collector/Revenue Divisional Authority,
Chengalpet Sub Collector's Office,
Chengalpet.
5. The Special Tahsildar, (Land Acquisition)
Maraimalai Nagar Scheme,
Kattankolathur,
Kancheepuram District.

... Respondents in all W.Ps

Prayer in W.P.No.9017 of 2015:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, declaring that acquisition of lands in respect of the petitioner herein of an extent of 28 cents at Survey Nos.140/23, 140/24, 140/24, 140/29 and 140/31 of Keelkaranai Village, Kancheepuram District, pursuant to Section 4 (1) Notification of the Land Acquisition



Act dated 16.10.1974 and Section 6 Declaration dated 14.10.1977 by the first respondent herein and the Award No.1 of 1981 dated 28.04.1981 passed by the fifth respondent herein stand lapsed in view of Section 24 Clause 2 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013.

Prayer in W.P.No.9018 of 2015:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, declaring that acquisition of lands in respect of the petitioner herein of an extent of 32 cents in Survey No.146/1A3 in Keelkaranai Village, Kancheepuram District, pursuant to Section 4 (1) Notification of the Land Acquisition Act dated 16.10.1974 and Section 6 Declaration dated 14.10.1977 by the first respondent herein and the Award No.1 of 1981 dated 28.04.1981 passed by the fifth respondent herein stand lapsed in view of Section 24 Clause 2 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013.

Prayer in W.P.No.9019 of 2015: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, declaring that acquisition of lands in respect of the petitioner herein of an extent of 32 cents in Survey No.146/1A3 in Keelkaranai Village, Kancheepuram District, pursuant to Section 4 (1) Notification of the Land Acquisition Act dated 16.10.1974 and Section 6 Declaration dated 14.10.1977 by the first respondent herein and the Award No.1 of 1981 dated 28.04.1981 passed by the fifth respondent herein stand lapsed in view of Section 24 Clause 2 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013.

For Petitioners

in all W.Ps : Mr.AR.Karthik Lakshmanan
for Mrs.AL.Ganthimathi

For Respondents

in all W.Ps : Mr.G.Ameedius
Government Advocate
(for R1, R2, R4 & R5)
: M/s.P.Veena Suresh
Standing Counsel for CMDA (for R3)

C O M M O N O R D E R

These Writ Petitions are filed to issue a Writ of Declaration to declare that acquisition of lands in respect of the petitioners respective lands, situated at Keelkaranai Village, Kancheepuram District, pursuant to Section 4 (1)



Notification of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act', for short) dated 16.10.1974 and Section 6 Declaration dated 14.10.1977 by the first respondent herein and the Award No.1 of 1981 dated 28.04.1981 passed by the fifth respondent herein stand lapsed in view of Section 24 Clause 2 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (hereinafter referred to as 'the New Act', for short).

2. The case of the petitioners is that the petitioners owned the properties in Survey Nos.140/24, 140/24, 140/29 and 140/31, ad-measuring an extent of 28 cents and the properties in Survey No.146/1A3, ad-measuring an extent of 32 cents each, situated at Keelkaranai Village, Kancheepuram District. While that being so, the petitioners' lands were acquired for the purpose of formation of New Town known as Maraimalai Nagar near Kattankolathur by the third respondent by issuance of Notification under Section 4(1) of the Act and published on 16.10.1974. Thereafter, Section 6 Declaration notice was issued on 14.10.1977. After completion of all formalities, an award was passed in Award No.1 of 2018, dated 28.04.1981. However, the petitioners raised a ground that the possession of the subject lands, have not been taken over and they were not paid any compensation as per the Award. Therefore, the petitioners filed these Writ Petitions on the ground that they are entitled to the relief as contemplated under Section 24(2) of the New Act.

3. On a perusal of the counter affidavit filed by the respondents 2 4 and 5th respondents, it reveals that the Government, in their order in G.O.Rt.1938, R.D and L.A, dated 22.08.1974 approved a Master Plan for the formation of Maraimalai Nagar Satellite Town in Chengalpattu Taluk to ease the congestion in Chennai City and acquired land of an extent of 106.53 acres comprising in six blocks in Chithamanur, Keelakaranai, Sengundram Villages. Notification under Section 4 (1) of the Act was approved in the said G.O, dated 22.08.1974 and published in the Tamil Nadu Government Gazette, dated 16.10.1974. The Draft declaration was approved in G.O.Ms.No.1657, R.D & L.A, dated 11.10.1977 and published in the Tamil Nadu Government Gazette, dated 14.10.1977. The Award for the lands referred to by the petitioners was passed in Award No.1 of 1981, dated 28.04.1981. The lands were handed over to Chennai Metropolitan Development Authority on 18.09.1981.

4. As per the award, the petitioners were awarded the compensation as follows:-

5. The petitioners did not choose to receive the compensation amount and hence the compensation had been deposited under the Revenue Deposit in Chengalpattu Sub



Treasury. Insofar as the possession of the subject lands is concerned, the same was already handed over to the third respondent and as such, after deposit of the award amount, the compensation of the said lands devolved on the third respondent. That apart, though the petitioners raised the specific ground that they are in possession and enjoyment of the subject properties, there is absolutely no piece of evidence to show that they are in possession and enjoyment of the subject properties. They have not filed any piece of evidence to show that the award dated 28.04.1981 passed in Award No.1 of 1981 was passed in respect of their properties. These Writ Petitions have been filed after a period of 35 years and the petitioners have raised a claim under the New Act, that too without any evidence to show that they are in possession and enjoyment of the subject properties.

6. That apart, the grounds raised by the petitioners in these Writ Petitions, have already been settled by the Hon'ble Supreme Court of India in the judgment reported in (2020) 8 SCC 129 in the case of Indore Development Authority Vs. Manoharlal and ors etc., in which it was held as follows:-

"366. In view of the aforesaid discussion, we answer the questions as under:

1. Under the provisions of Section 24(1) (a) in case the award is not made as on 1.1.2014 the date of commencement of Act of 2013, there is no lapse of proceedings. Compensation has to be determined under the provisions of Act of 2013.

2. In case the award has been passed within the window period of five years excluding the period covered by an interim order of the court, then proceedings shall continue as provided under Section 24(1)(b) of the Act of 2013 under the Act of 1894 as if it has not been repealed.

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 Act of 2013 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



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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.

4. The expression 'paid' in the main part of Section 24(2) of the Act of 2013 does not include a deposit of compensation in court. The consequence of non-deposit is provided in proviso to Section 24(2) in case it has not been deposited with respect to majority of land holdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the Act of 1894 shall be entitled to compensation in accordance with the provisions of the Act of 2013. In case the obligation under Section 31 of the Land Acquisition Act of 1894 has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the Act of 2013 has to be paid to the "landowners" as on the date of notification for land acquisition under Section 4 of the Act of 1894.

5. In case a person has been tendered the compensation as provided under Section 31(1) of the Act of 1894, it is not open to him to claim that acquisition has lapsed under Section 24(2) due to non-payment or non-deposit of compensation in court. The obligation to pay is complete by tendering the amount under Section 31(1). Land owners who had refused to accept compensation or who sought reference for higher compensation, cannot claim that the acquisition proceedings had lapsed under Section 24(2) of the Act of 2013.

6. The proviso to Section 24(2) of the Act of 2013 is to be treated as part of Section 24(2) not part of Section 24(1)(b).

7. The mode of taking possession under the Act of 1894 and as contemplated under Section 24(2) is by drawing of inquest report/memorandum. Once award has been passed on



8. In the result, these Writ Petitions stand dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
The Government of Tamil Nadu,
Housing and Urban Development Department,
Fort.St.George, Chennai - 600 009.
2. The District Collector,
Kancheepuram District,
Kancheepuram.
3. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore,
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4. The Sub Collector/Revenue Divisional Authority,
Chengalpet Sub Collector's Office,
Chengalpet.
5. The Special Tahsildar, (Land Acquisition)
Maraimalai Nagar Scheme,
Kattankolathur,
Kancheepuram District.

+1cc to Mrs.AL.Ganthimathi, Advocate, S.R.No.3924

+1cc to M/s.P.Veena Suresh CMDA Standing Counsel, S.R.No.3924

W.P.Nos.9017 to 9019 of 2015

GJ(CO)
CT 10/02/2022