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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.31958 of 2014
and M.P.No.1 of 2014

P.Ammasi

... Petitioner

Vs.

- 1.The State of Tamil Nadu
rep.by its Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Chennai 600 009.
- 2.The Special Tahsildar (Land Acquisition),
Salem Neighbourhood Scheme,
Salem 8.
- 3.The Tamil Nadu Housing Board,
rep.by its Executive Engineer,
Salem Housing Unit,
Iyyan Thirumaligai,
Salem 8.
- 4.The Tahsildar,
Taluk Office,
Omalur Taluk, Salem District.
- 5.The Village Administrative Officer,
Kottagoundampatti Village,
Omalur Taluk, Salem District 636 011.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring the Land Acquisition proceedings initiated by the respondents 1 & 2 in respect of land in S.Nos.88/4A, 88/4C, 89/1C, 91/2, 89/1B and 90/1 admeasuring about 1 Acre 70 cents under G.O.Ms.No.902, dated 31.5.1991, U/s.4(1) of the Act as lapsed in view of section 24(2) Act 2013.



For Petitioners : Mr.M.Elango

For RR1, 2, 4 and 5 : Mr.P.Sathish

Additional Government Pleader

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For RR3

: Mr.I.Sathish

O R D E R

The petitioner has filed this Writ Petition seeking issuance of writ of declaration declaring the Land Acquisition proceedings initiated by the respondents 1 & 2 in respect of land in S.Nos.88/4A, 88/4C, 89/1C, 91/2, 89/1B and 90/1 admeasuring about 1 Acre 70 cents under G.O.Ms.No.902, dated 31.5.1991, U/s.4(1) of the Act as lapsed in view of section 24(2) Act 2013.

2. The case of the petitioners is that the petitioner owned agricultural land comprised in S.Nos.88/4A, 88/4C, 89/1C, 91/2, 89/1B and 90/1 of Kottagoundampatti Village, Omalur Taluk, Salem District. While being so, the 1st respondent issued notification under Section 4(1) of the Land Acquisition Act, for the purpose of construction of houses by Tamil Nadu Housing Board, followed by a Declaration under Section 6 of the Act, and thereafter, the 2nd respondent has passed an award on 07.09.1995. Since the respondents had not taken actual possession of the land as per the law declared by the Hon'ble Supreme Court, the entire acquisition proceedings stood lapsed on 01.01.2014 as per Section 24(2) of the Act, 2013. Hence the petitioner is before this Court.

3. The learned counsel for the petitioner raised the ground that the possession of the subject property has not been taken over till today. That apart, the petitioner is in possession and enjoyment of the subject property and cultivating the subject property.

4. The learned Additional Government Pleader appearing for the respondents submitted that the petitioner's brother, for the very same relief, had earlier filed W.P.No.25263 of 2014, before this Court and this Court vide order dated 23.08.2021 had dismissed the said Writ Petition and subsequently he filed Writ Appeal in W.A.No.230 of 2022 and the Hon'ble Division Bench of this Court has dismissed the said Writ Appeal. Since the very same relief was already been negatived by this Court, the present petition is not sustainable and prays for dismissal of this



petition.

5. It appears that on an earlier occasion, for the very same prayer sought herein, one P.Subramani, had filed WP.No.25263 of 2014 and the same got dismissed on 23.08.2021. When it was challenged before this Court in Writ Appeal in W.A.No.230 of 2022, the Hon'ble Division Bench has dismissed the same and confirmed the order of the learned Single Judge and it is relevant to extract paragraph no.10 of the said judgment:

'10. In our considered view, the learned Single Judge discussed the issues threadbare with reference to the counter filed by the respondents. It was stated that the possession certificate was issued on 05.3.1999 and thereby the allegation of possession with the appellant itself was not accepted and otherwise, referring to the judgment of the Supreme Court in the case of Indore Development Authority Vs. Manoharlal & others [reported in (2020) 8 SCC 129], the arguments were not accepted. Not only the panchnama was prepared by the official respondents to take possession of the land, but also the amount of compensation was deposited into court, which is taken to be a valid tender. The appellant did not take the amount of compensation on his own fault and it cannot be taken to be a ground to challenge the acquisition proceedings with reference to Section 24 of the Act of 2013. It is more so when, after taking possession through panchnama/certificate, the appellant putting himself again in possession would amount to trespass on the land. Analyzing the issue from all the corners, the learned Single Judge dismissed the present writ petition, which, otherwise was after three earlier litigations with regard to the same acquisition. Taking overall facts into consideration, we do not find any merit in this writ appeal and it is more so when the findings have been recorded with regard to possession and even tendering of the amount by deposit of the amount into court.'

6. In view of the fact that very same issue has been considered by this Court and held against the petitioner therein, the present petition attracts the principle of res judicata and, therefore, the same contention cannot be agitated once over, which has already attained finality.



7. For the reasons aforesaid, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CCC)

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// True Copy //

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Chennai 600 009.
- 2.The Special Tahsildar (Land Acquisition),
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Omalur Taluk, Salem District.
- 5.The Village Administrative Officer,
Kottagoundampatti Village,
Omalur Taluk, Salem District 636 011.

+1cc to Mr.I.Sathish, Advocate SR.No.20047
+1cc to Mr.M.Elango, Advocate SR.No.19659
+1cc to the Government Pleader, SR.No.19491

W.P.No.31958 of 2014

PMK(CO)
CB(18/04/2022)