



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.04.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.22082 of 2014
W.M.P.No.1 and 2 of 2014

1.S.G.Krishnasamy((died)

2.B.Selvi

3.P.Shanthi

4.T.Lakshmi

...Petitioners

(P2 to P4 substitud of Lrs of Deceased

Sole petitioner vide order dated 08.04.2022

made in WMP.No.8226/2022 in W.P.No.22082/2014)

Vs.

1. The District Collector,
Vellore District, Vellore.

2. The Special Tahsildar,
Land Acquisition (Adi Dravida Welfare)
Vellore.

...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records on the file of the 2nd respondent relating to the impugned Land Acquisition proceedings order No.32/1996-97 dated 25.03.1997, bearing reference No.Na.a.93191/1996 passed as per the 4(i) notification issued u/s 41 of the Tamil Nadu Acquisition of Land for Harijan Welfare Act, 1978 (Tamil Nadu Act, 1978) in respect of the petitioner's land comprised in Survey No.97/1, Anaikattu Village, Vellore Taluk, admeasuring 0.40.5 Ares of land on the file of the respondents and quash the same.

For Petitioners : Mr.Palaniappan

For Respondents : Mr.V.Veluchamy
Additional Government Pleader.

O R D E R

This Writ Petition has been filed seeking for issuance of a Writ of Certiorari, to call for the records on the file of the 2nd respondent relating to the impugned Land Acquisition proceedings order No.32/1996-97 dated 25.03.1997, bearing reference No.Na.a.93191/1996 passed as per the 4(i) notification



issued u/s 41 of the Tamil Nadu Acquisition of Land for Harijan Welfare Act, 1978 (Tamil Nadu Act, 1978) in respect of the petitioner's land comprised in Survey No.97/1, Anaikattu Village, Vellore Taluk, admeasuring 0.40.5 Ares of land on the file of the respondents and quash the same.

2.The learned Additional Government Pleader takes notice for the official respondents. In view of the limited relief sought for in this petition and on the consent of the learned counsel appearing on either side, this petition is taken up for final disposal.

3.The case of the petitioner is that the petitioner is the absolute owner of the land in Survey No.97/1, to an extent of 0.40.5 Ares, situated in Anaikattu Village, Vellore Taluk. The 2nd respondent issued notice on 02.10.1996 under Rule 3(1) of the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Rules, 1979. Immediately, the petitioner has filed objections before the 2nd respondent stating that there is a Temple and it is worshiped by all the villagers daily. Apart from the petitioner, the general public of that village has also sent a detailed representation on 23.10.1996, objecting to the acquisition of the above land for the purpose of burial ground. Thereafter, the 2nd respondent issued notification under Section 4(1) of the Land Acquisition Act, on 23.02.1997. But the petitioner was unable to obtain a copy of acquisition proceedings. Hence, the petitioner filed W.P.No.14963 of 2000, before this Court, subsequently, this petition was dismissed on 16.12.2008. Even thereafter, the respondent did not take any steps to acquire the land, which was in absolute possession and enjoyment of the petitioner. Subsequently, the Land Acquisition Act was repelled by the new Act i.e., The Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013. In view of the Section 24(2) of the new Act, the amount was not deposited in favour of the petitioner. Hence, this writ petition is filed with the aforesaid prayer.

4.Learned Counsel for the petitioner submitted that till date neither possession has been taken nor compensation paid to the petitioner and even the compensation amount was not deposited in favour of the petitioner. Hence, this Court may allow this petition under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

5.The learned Additional Government Pleader appearing on behalf of the official respondents relying on the counter submitted that the acquisition proceedings were taken in consonance with the Act. It is the further submission of the learned Addl. Government Pleader that the earlier writ petition



in W.P. No. 14963 of 2000 filed by the petitioner was dismissed on 16.12.2008. Though the petitioner was informed to collect the compensation amount for the said land, however the petitioner has not taken any steps to collect the amount. Since the petitioner has not received the amount, the same was deposited in the Revenue Account vide Letter No.2030/96, dated 6/2000 and the same has also been informed to the petitioner. However, it is fairly submitted by the learned Addl. Government Pleader that till date possession has not been taken by the respondents.

6.This Court paid its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

7.Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 has been pressed into service by the petitioner to contend that where an award under Section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid, the said proceedings shall be deemed to have lapsed. For better appreciation, the relevant provision is extracted hereunder :-

"Land acquisition process under Act No.I of 1894 shall be deemed to have lapsed in certain cases: (1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894:

(a) Where no award under Section 11 of the said Land Acquisition Act has been made, then, all the provisions of this Act relating to the determination of compensation shall apply; or

(b) When an award under said Section 11 has been made, then such proceedings shall continue under the provisions of the said Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in Sub-Section (1) in case of Land Acquisition proceedings initiated under the Land Acquisition, Act 1894, where an award under the said Section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings



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has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under Section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.

8. The very same issue fell for consideration before the Hon'ble Apex Court in Indore Development Authority Vs. Manoharlal and ors etc., reported in (2020) 8 SCC 129, and the Hon'ble Apex Court held as under :-

"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 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



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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 taking possession under Section 16 of the Act of 1894, the land vests in State there is no divesting provided under Section 24(2) of the Act of 2013, as once possession has been taken there is no lapse under Section 24(2).

8. The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the Act of 2013 came into force, in a proceeding for land acquisition pending with concerned authority as on 1.1.2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years.

9. Section 24(2) of the Act of 2013 does not give rise to new cause of action to question the legality of concluded proceedings



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of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the Act of 2013, i.e., 1.1.2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition."

(Emphasis Supplied)

9. In the case on hand, though it is the contention of the petitioner that neither possession was taken nor compensation was paid, but it is the case of the respondents that the petitioner did not come forward to receive the compensation amount and in the said backdrop, the respondents have deposited the said amount in Revenue Deposit, even as early as in June, 2000, which is within the prescribed period of five years. That being the case, the stand of the petitioner for invoking Section 24 (2) of the Act, cannot be sustained. Therefore, the prayer as sought for in the present petition cannot be acceded to and, accordingly, this petition deserves to be dismissed.

10. For the reasons stated above, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VII)

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Sub Assistant Registrar

Psa

To

1. The District Collector,
Vellore District.Vellore.
2. The Special Tahsildar,
Land Acquisition (Adi Dravida Welfare)
Vellore.

+1cc to Mr.A.Palaniappan, Advocate, S.R.No.24466

+1cc to the Government Pleader, S.R.No.25095

W.P. No.22082 of 2014

MT(CO)

RGA(26/05/2022)