



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.04.2022
CORAM

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.23486, 22046, 23488 and 23167 of 2014
And
M.P.Nos.1 to 1 of 2014

1.B.Ambujabani
2.B.Lakshmipathy
3.Kamalakshi ... Petitioners in W.P.23486/2014

S.Raju ... Petitioner in W.P.22046/2014

1.P.Venkatesh
2.P.Govindaraj
3.Sasikala
4.Manjula ... Petitioners in W.P.23488/2014

1.J.Narayanan
2.J.Babu
3.Vijayalakshmi
4.Nagamma
5.Chandramma ... Petitioners in W.P.23167/2014

Vs.

1.The State of Tamil Nadu
Rep. by its Secretary to the Government
Housing and Urban Development Department,
Fort St.George,
Chennai - 600 009.

2.The Special Tahsildar (L&A)
Housing Scheme,
Hosur.

3.The Managing Director
Tamil Nadu Housing Board,
Anna Salai,
Nandanam,
Chennai - 600 035. ... Respondents in all the W.Ps.

Prayer in W.P.No.23486 of 2014:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring that the Land



Acquisition proceedings initiated by the first respondent in Section 4(1) Notification bearing G.O.Ms.No.137, Housing and Urban and Development dated 30.01.1991 and consequent Sec.6(1) Declaration bearing G.O.Ms.No.178, Housing and Urban Development (LA-II Dept.) dated 08.04.1992 relating to the petitioners land of an extent of 0.25.0 Hectares i.e, 61.75 Cents in Survey No.571-1A in Hosur Village and Taluk, then Dharmapuri District now in Krishnagiri District 'as lapsed'.

Prayer in W.P.No.22046 of 2014:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring that the Land Acquisition proceedings initiated by the first respondent in Section 4(1) Notification bearing G.O.Ms.No.137, Housing and Urban and Development dated 30.01.1991 and consequent Sec.6(1) Declaration bearing G.O.Ms.No.178, Housing and Urban Development (LA-II Dept.) dated 08.04.1992 relating to the petitioner's land of an extent of 1.09 Acres in Survey No.571-1A in Hosur Village and Taluk, then Dharmapuri District now in Krishnagiri District 'as lapsed'.

Prayer in W.P.No.23488 of 2014:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring that the Land Acquisition proceedings initiated by the first respondent in Section 4(1) Notification bearing G.O.Ms.No.137, Housing and Urban and Development dated 30.01.1991 and consequent Sec.6(1) Declaration bearing G.O.Ms.No.178, Housing and Urban Development (LA-II Dept.) dated 08.04.1992 relating to the petitioners land of an extent of 0.25.0 Hectares i.e, 61.75 Cents in Survey No.571-1A in Hosur Village and Taluk, then Dharmapuri District now in Krishnagiri District 'as lapsed'.

Prayer in W.P.No.23167 of 2014:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring that the Land Acquisition proceedings initiated by the first respondent in Section 4(1) Notification bearing G.O.Ms.No.137, Housing and Urban and Development dated 30.01.1991 and consequent Sec.6(1) Declaration bearing G.O.Ms.No.178, Housing and Urban Development (LA-II Dept.) dated 08.04.1992 relating to the petitioners land of an extent of 0.25.0 Hectares i.e, 61.75 Cents in Survey No.571-1A in Hosur Village and Taluk, then Dharmapuri District now in Krishnagiri District 'as lapsed'.

For Petitioners : Mr.R.Gunalan

For Respondents : Mr.Yogesh Kannadasan for R1 and R2
Special Government Pleader
Dr.R.Gowri for R3



COMMON ORDER

The issue involved in all these writ petitions are one and the same and hence, they are heard together and disposed of by way of a common order.

2.The petitioners have filed these writ petitions seeking issuance of Writ of Declaration declaring that the Land Acquisition proceedings initiated by the first respondent in Section 4(1) Notification bearing G.O.Ms.No.137, Housing and Urban and Development dated 30.01.1991 and consequential Sec.6 (1) Declaration bearing G.O.Ms.No.178, Housing and Urban Development (LA-II Dept.) dated 08.04.1992 relating to the petitioners land in Survey No.571-1A in Hosur Village and Taluk, then Dharmapuri District now in Krishnagiri District 'as lapsed'.

3.The learned counsel appearing for the petitioners submitted that this Court may record paragraph no.4 of the counter affidavit filed on behalf of the third respondent and may close these writ petitions.

4.Paragraph no.4 of the counter affidavit filed on behalf of the third respondent in W.P.No.23486 of 2014 reads as follows:

"4.The contents in para No.4 of the affidavit in support of the writ petition are denied. As per the Award compensation amount of Rs.32,92,000/- vide Cheque No.365327 dated 28.03.1994 deposited to the Land Acquisition Officer. Therefore, 1st respondent has no right to claim remedy under section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. I further state that the lay out was approved including the petitioner's land vide approval No.LP/DTCP No.278/96. After approval of the Layout, the Development works such as roads, Drainage, Culvert, Water supply arrangements were carried out and the same were Handed over to the Local body as for further maintenance. I respectfully state that the petitioner's father Thiru.Balakrishnan received the Award amount, as per the statement of Thiru.Balakrishnan the 18 reference was also sent to the reference Court. The reference Court Assigned the LAOP No.644/96 and fixed the Higher Compensation and to same was deposited to the Sub - Court of Hosur, Vide Land Acquisition Officer's



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office 'D' Form dated 27.10.2015."

5.Paragraph no.4 of the counter affidavit filed on behalf of the third respondent in W.P.No.22046 of 2014 reads as follows:

"4.The contents in para No.4 of the affidavit in support of the writ petition are denied. As per the Award compensation amount of Rs.32,92,000/- vide Cheque No.365327 dated 28.03.1994 deposited to the Land Acquisition Officer. Therefore, 1st respondent has no right to claim remedy under section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. I further state that the lay out was approved including the petitioner's land vide approval No.LP/DTCP No.278/96. After approval of the Layout, the Development works such as roads, Drainage, Culvert, Water supply arrangements were carried out and the same were Handed over to the Local body as for further maintenance.

I respectfully state that the petitioner's father Thiru.Sivasankaran owned an extent of 0.44.0 Hectare and received the Award amount for a sum of Rs.1,61,015.69, as per the statement of Thiru.Sivasankaran, the Section 18 reference was also sent to the reference Court. The reference Court Assigned the LAOP No.644/96 and fixed the enhanced Compensation of Rs.31,15,363/- (Rupees Thirty One Lakhs Fifteen Thousand Three Hundred Sixty Three only) excluding Income Tax was deposited in the Sub - Court of Hosur, Vide 'D' Form dated 27.10.15."

6.Paragraph no.4 of the counter affidavit filed on behalf of the third respondent in W.P.No.23488 of 2014 reads as follows:

"4.The contents in para No.4 of the affidavit in support of the writ petition are denied. As per the Award compensation amount of Rs.32,92,000/- vide Cheque No.365327 dated 28.03.1994 deposited to the Land Acquisition Officer. Therefore, 1st respondent has no right to claim remedy under section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. I further state that the lay out was approved including the petitioner's land vide approval No.LP/DTCP No.278/96. After



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approval of the Layout, the Development works such as roads, Drainage, Culvert, Water supply arrangements were carried out and the same were Handed over to the Local body as for further maintenance.

I respectfully state that the petitioner Thiru.D.Babu S/o.Jaganathan received the Award amount, as per the statement of Thiru.J.Babu the 18 reference was also sent to the reference Court. The reference Court Assigned the LAOP No.644/96 and fixed the Higher Compensation and to same was deposited to the Sub - Court of Hosur, Vide Land Acquisition Officer's office 'D' Form dated 27.10.15."

7.Paragraph no.4 of the counter affidavit filed on behalf of the third respondent in W.P.No.23167 of 2014 reads as follows:

"4.The contents in para No.4 of the affidavit in support of the writ petition are denied. As per the Award compensation amount of Rs.32,92,000/- vide Cheque No.365327 dated 28.03.1994 deposited to the Land Acquisition Officer. Therefore, 1st respondent has no right to claim remedy under section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. I further state that the lay out was approved including the petitioner's land vide approval No.LP/DTCP No.278/96. After approval of the Layout, the Development works such as roads, Drainage, Culvert, Water supply arrangements were carried out and the same were Handed over to the Local body as for further maintenance.

I respectfully state that the petitioner Thiru.D.Babu S/o.Jaganathan received the Award amount, as per the statement of Thiru.J.Babu the 18 reference was also sent to the reference Court. The reference Court Assigned the LAOP No.644/96 and fixed the Higher Compensation and to same was deposited to the Sub - Court of Hosur, Vide Land Acquisition Officer's office 'D' Form dated 27.10.15."

8.Initially, the petitioners filed these writ petitions on the ground that possession not taken and amount not settled, however, from the counter affidavit filed on behalf of the third



respondent, it is known that as per the Award, compensation amount of Rs.32,92,000/- vide Cheque No.365327 dated 28.03.1994 was deposited to the Land Acquisition Officer. The lay out was approved including the petitioners land vide approval No.LP/DTCP No.278/96. After approval of the Layout, the Development works such as roads, Drainage, Culvert, Water supply arrangements were carried out and the same were Handed over to the Local body for further maintenance.

9.In view of the above factual position, further the issued involved in the present case is no longer res integra. The issue involved in these writ petitions 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 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 decision cited supra makes it clear 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.Hence, applying the ratio laid down in the decision cited supra, the relief sought for in these writ petitions cannot be considered.

12.These writ petitions are accordingly dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS V)

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Sub Assistant Registrar



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To

1.The Secretary to the Government
Housing and Urban Development Department,
Fort St.George,
Chennai - 600 009.

2.The Special Tahsildar (L&A)
Housing Scheme,
Hosur.

3.The Managing Director
Tamil Nadu Housing Board,
Anna Salai,
Nandanam,
Chennai - 600 035.

+1 cc to Government Pleader Sr.NO. 28612

W.P.Nos.23486, 22046,
23488 and 23167 of 2014
And
M.P.Nos.1 to 1 of 2014

SKM(CO)
A.SK(23/05/2022)