



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.33766 of 2014

and

M.P.No.1 of 2014

N.Soundiramourty

Hereditary Trustee - (Maniom),

Chouldrie de Nagamoutou Chetty,

No.79, Main Road, Opp., to Police Station,

Kirumampakkam,

Puducherry-607 402.

...Petitioner

Vs.

1. The Union of India

Represented by the Secretary to Government,
Department of Puducherry, Puducherry.

2. The Deputy Collector (Land Acquisition),

Department of Revenue & Disaster Management,
Government of Puducherry, Puducherry.

3. The National Highways Authority of India,

G5 & 6, Sector -10, Dwarka,
New Delhi - 110 075.

4. The Under Secretary to Government,

(Union Territories - Puducherry),

Ministry of Home Affairs,

New Delhi.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration, declaring the action of the respondents in acquiring the properties of the petitioner's trust by way of award No.3/1997 dated 03.02.1997 as having lapsed and illegal and unconstitutional and consequently directing the respondents to maintain all the revenue records in the name of the institution of Chouldrie de Nagamoutou Chetty.



WEB COPY

For Petitioner : Mr.Kamalakumar
For Respondents : Mr.J.Kumaran, AGP Puducherry,
for R1 & R2
Mr.A.K.Sachindhar
for M/s. P.Wilson Associates, for R3

O R D E R

The petitioner has filed this writ petition seeking issuance of a Writ of Declaration, to declare the action of the respondents in acquiring the properties of the petitioner's trust by way of award No.3/1997 dated 03.02.1997 as having lapsed and consequently direct the respondents to maintain all the revenue records in the name of the institution of Chouldrie de Nagamoutou Chetty.

2. The case of the petitioner is that, the lands comprised in S.Nos.88/10, 98/3B, 100/1B, 102/1-102/5 and 103, situated at Pillayar Kuppam Revenue Village, Bahour Taluk, Puducherry were originally dedicated to religious purposes by the petitioner's forefather namely Nagamuthu Chettiar. Whiles, the Land acquisition proceedings for the purpose of extension of East Coast Road were initiated in the year 1994 and the above said lands of the petitioner's trust were also decided to be acquired for the same. Further, the notification under Section 4(1) of the Land Acquisition Act 1894 (in short 'Act') was issued on 12.11.1994, vide G.O.Ms.No.79 and the Declaration under section 6 of the said Act was issued, vide G.O.Ms.No.9 dated 07.02.1995. Thereafter, the award in Award No.3 of 1997 was passed on 03.02.1997 and the Land Acquisition Officer has also took the possession of the above said properties, however, till date, the compensation amount was not paid. Hence, the present Writ petition is filed, challenging the said acquisition proceedings.

3. Learned counsel for the petitioner submitted that, though the land acquisition proceedings were initiated in the year 1994 and the same was concluded in the year 1997, however, till date, the petitioner's trust was not paid with the compensation for the lands acquired. Hence, the entire proceedings stands lapsed as per the Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

4. Learned Additional Government Pleader appearing on behalf of the respondents 1 & 2 submitted that the lands were



acquired for the purpose of extension of East Coast Road after following the procedure contemplated in the said Act and the award in Award No.3 of 1997 was passed on 03.02.1997 and the possession of the above said properties was taken over on 19.09.1995 and handed over to the National Highways Division(Public Works Department) of Government of Puducherry. Further, the petitioner has filed this Writ petition after a lapse of 18 years, however, the lands were acquired and the road was laid and the compensation amount was deposited in the competent Civil Court as per Section 31 of the said Act. While such being the case, the petitioner being filed this Writ petition after a lapse of 18 years makes it suspicious. Hence, he prayed for dismissal of the present Writ petition.

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

6. Facts in the present case are not in dispute. Admittedly, the above said lands of the petitioner trust was acquired for the purpose of extension of East Coast Road and the award in Award No.3 of 1997 was passed on 03.02.1997 and the possession of the above said properties was taken over on 19.09.1995. Further, once possession has been taken, there is no lapse under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. He further relied upon the decision of the Hon'ble Apex Court in the case of Indore Development Authority Vs. Manoharlal and others etc., reported in (2020) 8 SCC 129, wherein the relevant paragraph in the above said judgment is extracted hereunder:

"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.



WEB COPY

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 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).



WEB COPY

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 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."

7. In view of the decision of the Hon'ble Apex Court in the case of Indore Development Authority Vs. Manoharlal and ors etc., reported in (2020) 8 SCC 129, makes it clear that, once possession has been taken, there is no lapse under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('Act 2013'). Hence, the prayer sought for by the petitioner in the present writ petition cannot be maintainable.

8. Accordingly, this Writ petition is dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar



To

1. The Secretary to Government,
Union of India
Department of Puducherry, Puducherry.
2. The Deputy Collector (Land Acquisition),
Department of Revenue & Disaster Management,
Government of Puducherry, Puducherry.
3. The National Highways Authority of India,
G5 & 6, Sector -10, Dwarka,
New Delhi - 110 075.
4. The Under Secretary to Government,
(Union Territories - Puducherry),
Ministry of Home Affairs,
New Delhi.

+1 CC to M/s. Wilson Associates sr 27888
+1 CC to Mr. Saravanan, Advocate sr 27671
+1 CC to The Government Pleader sr 27802.

W.P.No.33766 of 2014
and
M.P.No.1 of 2014

MG(CO)
SP(03/06/2022)