



W.P. Nos.14250 & 14251/2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
11.10.2022	14.10.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NOS.14250 & 14251 OF 2014

AND

M.P. NOS.1 OF 2014 (2 NOS.)

M/s.Gem Store Beach Resorts (P) Ltd.

Rep. by its Director

New No.76, No.59, Cathedral Road

Chennai 600 006.

.. Petitioner in WP 14250/14

S.R.Kumar

.. Petitioner in WP 14251/14

- Vs -

1. The Government of Tamil Nadu

Rep. by Secretary to Government

Public Works Department

Fort St. George, Secretariat

Chennai 600 009.

2. The District Revenue Officer

Chingleput, Kancheepuram Dist.

3. The Special Tahsildar (Land Acquisition) Unit I

East Coast Road Project

Chingleput, Kancheepuram District.



W.P. No.14250 & 14251/2014

WEB COPY

4. The Assistant Divisional Engineer (Highways)
Operations & Maintenance
Tambaram Sub Division
Chennai 600 010.

.. Respondents

W.P. No.14250/2014 filed under Article 226 of the Constitution of India praying this Court to issue a writ of Declaration declaring the land acquisition proceedings culminating in Award No.6 of 1995 dated 30.03.1995 in respect of lands in Survey Nos.22/2B, 31/1A2, 31/2B2, 104/2, 106/2A and 106/2A10B of Kanathur Reddikuppam Village, Kancheepuram District of the petitioner as lapsed under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

W.P. No.14251/2014 filed under Article 226 of the Constitution of India praying this Court to issue a writ of Declaration declaring the land acquisition proceedings culminating in Award No.6 of 1995 dated 30.03.1995 in respect of lands in Survey Nos.106/2B2 and 111/1B of Kanathur Reddikuppam Village, Kancheepuram District of the petitioner as lapsed under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.



W.P. No.14250 & 14251/2014

WEB COPY

For Petitioners : Mr. AR.L.Sundaresan, SC
For Ms. AL.Gandhimathi

For Respondents : Mr. P.Kumaresan, AAG
Assisted by Mr.P.Sathish, AGP

COMMON ORDER

Assailing the acquisition of lands for the purpose of formation of East Coast Road and submitting that the said acquisition as having lapsed in view of non-compliance of the requirements u/s 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'Act, 2013'), the present writ petitions have been filed.

2. While W.P. No.14250/2014 has been filed by the company relating to lands, which are under its control, W.P. No.14251/2014 has been filed by one of the Directors of the company with regard to certain lands, which are in his private holdings and all the lands having been acquired for the very same project, viz., formation of the East Coast Road, and pertain to the very same



W.P. No.14250 & 14251/2014

WEB COPY

award, the present petitions are taken up together and disposed of by this common order.

3. It is the case of the petitioners that the respective petitioners are the absolute owner of the lands and are in possession and enjoyment of the lands, which were purchased for valuable consideration under various sale deeds. It is the further case of the petitioners that on 26.5.2014, notices were issued by the 4th respondent addressed to Mr.Veeramani and others, Gem Granites, wherein it was alleged that the lands have been acquired by the Government under the Land Acquisition Act, 1894 (for short 'Act, 1894') and an award bearing Award No.6 of 1995 also was passed on 30.3.1995 and that the petitioners have encroached upon the lands mentioned in the said notice and that such encroachment should be removed within the period prescribed in the notice. It was also informed that G.O. Ms. No.113 dated 15.7.2013 was also issued for the expansion of the East Coast Road into a four way lane road.

4. It is the further case of the petitioners that the petitioner did not receive any notice relating to land acquisition proceedings except for notice of



W.P. No.14250 & 14251/2014

WEB COPY

award enquiry in Form-VII in March, 1995 pursuant to which objections were given by the Estate Manager on behalf of the petitioners objecting to the fixation of compensation at Rs.700/- per cent. After the said enquiry on 16.3.1995, the petitioners did not hear anything from the respondents.

5. It is the further case of the petitioners that the notice dated 6.5.2014 had referred to Award No.6 of 1995 dated 30.3.1995 and when the petitioners made enquiries, they could ascertain that an award was passed on 30.3.1995 and also obtained Xerox copy of the award. It is the further case of the petitioners that though award No.6 of 1995 dated 30.3.1995 has been passed, however, the said acquisition stood lapsed due to enactment of Act, 2013, more especially the provisions contained u/s 24 (2) of Act, 2013, which mandates that if physical possession has not been taken or compensation has not been paid before the coming into force of the said Act, 2013, the entire acquisition proceedings would stand lapsed.

6. It is the specific case of the petitioners that inspite of the passing of Award No.6 of 1995 dated 30.3.1995 under the provisions of Land Acquisition



W.P. No.14250 & 14251/2014

WEB COPY

Act, 1894, the petitioners have not been paid with any compensation, nor any compensation amount was deposited and that till date possession of the properties is with the petitioners. Since none of the ingredients of Section 24 (2) of Act, 2013 stood fulfilled, the acquisition proceedings accordingly stood lapsed and, therefore, the present petitions have been filed.

7. Learned senior counsel appearing for the petitioners submitted that lands were acquired for the expansion of the East Coast Road project invoking the urgency provision u/s 17 of Act, 1894. It is the further submission of the learned senior counsel that though notice under Form-VII was issued to the petitioner and objections of the petitioners were received during the award enquiry, however, the passing of the award was not communicated to the petitioners.

8. It is the further contention of the learned senior counsel that though the land was acquired in the year 1995 and award was passed on 30.3.1995, which has not been communicated to the petitioners, however, till date, neither the compensation amount has been paid to the petitioner in terms of Section 31



W.P. No.14250 & 14251/2014

WEB COPY

of Act, 1894 nor the possession of the lands have been taken. It is the further submission of the learned senior counsel that even the award amount has not been deposited as per Section 31 of Act, 1894, in the event of the petitioners not willing to receive the compensation. It is the further submission of the learned senior counsel that no material is placed before this Court to show that the petitioners were not willing to receive the compensation. It is the further submission of the learned counsel that though the respondents claim that the power of attorney of the petitioners appeared before the enquiry officer and agreed to surrender the lands, yet no panchanama has been filed before this Court to show that possession has been taken. In the absence of payment of compensation and taking possession of the lands in terms of Act, 1894, on the repealing of Act, 1894 and coming into force of Act, 2013, the provision u/s 24 (2) would stand attracted and, therefore, the acquisition proceedings would stand lapsed. Therefore, the learned senior counsel for the petitioners pray for allowing these writ petitions.

9. Per contra, learned Addl. Advocate General appearing for the respondents submits that pursuant to the general power of attorney granted,



W.P. No.14250 & 14251/2014

WEB COPY

the power of attorney agent had appeared before the land acquisition officer and agreed to receive the compensation amount and surrender the land. It is the further submission of the learned Addl. Advocate General that major portion of the land has been utilized for the purpose of implementation of the road expansion project and, therefore, parting with the balance lands, even if any remains, cannot be considered, as the proposal has emanated for expansion of the East Coast Road into a four way lane for which Government Order has also been issued. It is the further submission of the learned Addl. Advocate General that though the power of attorney for the petitioners initially agreed to receive the amount and handed over possession of the property, however, at a later point, refused to receive the compensation which necessitated the respondents to deposit the said amount in revenue deposit in the year, which amount was revalidated by the Government periodically. It is therefore the submission of the learned Addl. Advocate General that the amount is still lying in revenue deposit and the petitioner could very well withdraw the compensation amount by filing appropriate application. It is the further submission of the learned Addl. Advocate General that in view of the deposit of compensation and also taking possession of the lands, which had led to the implementation of the project, in



W.P. No.14250 & 14251/2014

WEB COPY

that the East Coast Road has been formed, the claim of the petitioners for invocation of Section 24 (2) of Act, 2013, claiming lapsation would not survive and, accordingly, prays for dismissal of the present petitions.

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

11. Act, 1894 stood repealed on enactment of Act, 2013 which came into force on 1.1.2014. Provision has been provided therein u/s 24 (2) with regard to acquisition undertaken under Act, 1894. Twin conditions have been laid down in Section 24 (2) with regard to the acquisition undertaken under Act, 1894, which was the subject matter of deliberation before the Hon'ble Supreme Court in the case of **Indore Development Authority – Vs – Manoharlal & Ors. (2020 (8) SCC 129)**, wherein the Hon'ble Apex Court held as under :-

“362. We are of the considered opinion that Section 24 cannot be used to revive dead and stale claims and concluded cases. They cannot be inquired into within the purview of Section 24 of the 2013 Act. The provisions of Section 24 do not invalidate the



judgments and orders of the Court, where rights and claims have been lost and negative. There is no revival of the barred claims by operation of law. Thus, stale and dead claims cannot be permitted to be canvassed on the pretext of enactment of Section 24. In exceptional cases, when in fact, the payment has not been made, but possession has been taken, the remedy lies elsewhere if the case is not covered by the proviso. It is the Court to consider it independently not under Section 24 (2) of the 2013 Act."

* * * * *

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



WEB COPY

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



WEB COPY

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 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



W.P. No.14250 & 14251/2014

WEB COPY

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)

12. The Hon’ble Supreme Court in the aforesaid decision has categorically held that 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. From the above, it is evident that there should be satisfaction of either of the limbs of the acquisition proceedings, viz., either taking of possession or payment of compensation in which circumstances, the acquisition proceedings would not get lapsed.



WEB COPY

13. Further, the Hon'ble Apex Court has also held that stale and dead claims relating to concluded cases cannot be brought within the ambit of Section 24 (2) so as to revive the same and reap the benefit of Section 24. Orders which have negated the rights of the claimants cannot be revived as there is no revival of barred claims by operation of law. The Hon'ble Supreme Court has also further held that the obligation to pay is complete by tendering the amount under Section 31 (1).

14. In the aforesaid backdrop, this Court to satisfy its conscience whether the stand taken by the respondents with regard to payment of compensation and taking of possession stood fulfilled, called upon the respondents to produce the original file and pursuant to the said direction, the original file has been placed at the disposal of this Court.

15. A perusal of the original file reveals that statement has been given by the Estate Manager of the petitioners, who has been given the power of attorney to represent the petitioners, on 16.3.1995, wherein the said person has stated among other things that the petitioners, under protest and upon objection are



W.P. No.14250 & 14251/2014

WEB COPY

willing to receive the paltry sum of Rs.700/- per cent, paid as compensation for the lands sought to be acquired and categorically has stated that the possession of the lands have also been handed over to the respondents. Further, the power of attorney has also stated that the compensation amount may be disbursed in his name.

16. From the above, it is evident that initially the petitioners, through their power of attorney, were ready and willing to receive the compensation, which is clear fulfillment of the condition mandated for payment of compensation mandated u/s 31 (1) and, therefore, there is compliance of Section 31 (1). It is further to be pointed out that land owners, who failed to receive the compensation amount tendered to them cannot take umbrage u/s 24 (2) of the Act claiming that the acquisition proceedings have lapsed. Therefore, one of the limb of Section 24 (2) stands complied with and, therefore, the acquisition cannot be said to have been lapsed.

17. However, coming to the other limb regarding taking possession of the land is concerned, even from the very recital of the statement recorded from the



WEB COPY

power of attorney of the petitioners, it is clear that possession of lands have been handed over to the respondents, on accepting to receive the compensation under protest. When the petitioners, through their power of attorney, on their own accord, voluntarily accepted to part with possession of their property and handed over possession to the respondents, it is not open to the petitioners to turn back and claim that possession of the lands have not been taken over and materials, such as panchanama, to substantiate taking possession of the lands have not been filed. The petitioner cannot blow hot and cold over the same issue, on the one hand, handing over possession of the lands to the respondents through the statement of the power of attorney and on the other hands submit that they are in possession and that no document has been filed to substantiate taking over possession. Therefore, the second limb of section 24 (2) regarding taking over of possession also does not stand judicial scrutiny.

18. Further, one other aspect which requires to be pointed out is the fact that the acquisition was done in the year 1995 for the formation of East Coast Road and award was passed in the year 1995 itself and work was started and the East Coast Road has started being functional. Further, insofar as the excess



W.P. No.14250 & 14251/2014

WEB COPY

lands, which is said to have been acquired, for which award has also been passed, proposal has been initiated for widening the East Coast Road into a four way lane and Government Order has also been to the said effect. Therefore, the said acquisition of excess lands cannot be said to be bad. Further, the claim made by the petitioners is stale, as aforesaid, the road has become operational by usage of the lands acquired for the said purpose and, therefore, the claim of lapsation of the acquisition proceedings is stale, which cannot be allowed to sustain.

19. For the reasons aforesaid, the claim of the petitioners that the acquisition proceedings have lapsed on account of non-payment of compensation and for not taking possession deserves to be rejected. Accordingly, the writ petitions are devoid of merits and the same are dismissed. Consequently connected miscellaneous petitions are closed. There shall be no order as to costs. However, as conceded by the respondents, the compensation for the lands acquired being kept in revenue deposit, which has been continuously revalidated, the petitioner is permitted to file appropriate representation for withdrawal of the compensation in deposit and if such a



W.P. No.14250 & 14251/2014

WEB COPY

representation is filed, the respondents are directed to release the compensation amount kept in deposit to the petitioner within a period of four weeks from the date of such representation.

14.10.2022

Index : Yes / No

Internet : Yes / No

GLN



WEB COPY



W.P. No.14250 & 14251/2014

To

1. The Secretary to Government
Public Works Department
Government of Tamil Nadu
Fort St. George, Secretariat
Chennai 600 009.
2. The District Revenue Officer
Chingleput, Kancheepuram Dist.
3. The Special Tahsildar (Land Acquisition) Unit I
East Coast Road Project
Chingleput, Kancheepuram District.
4. The Assistant Divisional Engineer (Highways)
Operations & Maintenance
Tambaram Sub Division
Chennai 600 010.



WEB COPY



W.P. No.14250 & 14251/2014

M.DHANDAPANI, J.

GLN

**PRE-DELIVERY ORDER IN
W.P. NOS.14250& 14251 OF 2014**

**Pronounced on
14.10.2022**