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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.34825 of 2014

And

M.P.No.1 of 2014

- 1.M.Madhaian (Deceased)
- 2.Manoranjitham
- 3.Vijayakumar
- 4.Gomathi

(P2 to P4 being the L.Rs. of the deceased first petitioner are substituted as per the order of this Court dated 31.03.2022 made in W.M.P.No.20194 of 2019 in W.P.No.34825 of 2014)

... Petitioners

Vs.

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

- 2.The Tamil Nadu Housing Board,
Rep. by its Managing Director,
No.493, Anna Salai,
Nandanam,
Chennai - 600 035.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring that the land acquisition proceedings initiated under the Land Acquisition Act, 1894, with respect to the lands of an extent of 4.64 acres comprised in S.Nos.77 belonging to the petitioner situated at Edapadi Village, Sangagiri Taluk, Salem District, as lapsed in view of the Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30/2013).



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For Petitioners : Mr.V.Elangovan

For Respondents : Mr.V.Veluchamy for R1
Additional Government Pleader
Mr.I.Sathish for R2
for TNHB

O R D E R

The first petitioner has filed this writ petition seeking issuance of Writ of Declaration declaring that the land acquisition proceedings initiated under the Land Acquisition Act, 1894, with respect to the lands of an extent of 4.64 acres comprised in S.Nos.77 belonging to the petitioner situated at Edapadi Village, Sangagiri Taluk, Salem District, as lapsed in view of the Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30/2013).

2.The case of the petitioner who filed this writ petition is that the petitioner is the owner of the subject land. The first respondent proposed to acquire the land for the second respondent neighbourhood Scheme and issued Notification under Section 4(1) of the Land Acquisition Act [hereinafter referred to as 'Act'] in G.O.Ms.No.499, dated 26.06.1984 and Declaration under Section 6 of the Act in G.O.Ms.No.732, dated 23.05.1986 and award was passed on 24.05.1988. However, the award amount was not paid to the petitioner and possession was not taken by the respondents.

3.The further case of the petitioner is that the petitioner came to know that the second respondent had decided to drop the acquisition proceedings and started re-conveying the lands belonging to the adjacent land owners. Hence, he made representation to the respondent seeking re-conveyance of his lands and since the said representation was not considered, the petitioner filed W.P.No.49865 of 2006 before this Court seeking direction to the respondents to consider his representation and this Court vide order dated 21.12.2006, directed the respondents to consider his representation. However, till date no order was passed. Since the award amount was not paid to the petitioner and possession was not taken till date, the petitioner has filed this writ petition for the aforesaid relief.

4.The learned counsel appearing for the petitioners submitted that though Notification under Section 4(1) of the Act was issued in G.O.Ms.No.499, dated 26.06.1984 and Declaration under Section 6 of the Act was issued in G.O.Ms.No.732, dated 23.05.1986 and award was passed on 24.05.1988, till date, the



award amount was not paid to the petitioner and possession was not taken by the respondents. Hence, the acquisition proceedings get lapsed in view of the 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 for the first respondent submitted that the Hon'ble Apex Court in its decision reported in (2020) 8 SCC 129 [Indore Development Authority Vs. Manoharlal and Others], has held that if compensation has been paid and possession has not been taken then there is no lapse. In the present case, the award amount has been deposited before the Sub-Court at Sangagiri on 16.06.1988 itself. Thereafter, panchanama patta was transferred in the name of the Tamil Nadu Housing Board. He further submitted that pursuant to the order of this Court dated 21.12.2006 made in W.P.No.49865 of 2006, the first respondent vide order dated 24.04.2007 rejected the request of the petitioner seeking re-conveyance of his lands. The petitioner instead of challenging that order has filed this writ petition for the very same relief, which is un-sustainable one.

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

7.The facts in the present case is not in dispute. Admittedly, the first respondent proposed to acquire the petitioner's land for the second respondent neighbourhood Scheme and issued Notification under Section 4(1) of the Act in G.O.Ms.No.499, dated 26.06.1984 and Declaration under Section 6 of the Act in G.O.Ms.No.732, dated 23.05.1986 and award was passed on 24.05.1988. The award amount has been deposited before the Sub-Court at Sangagiri on 16.06.1988 itself.

8.Since the award amount was not paid to the petitioner and possession was not taken, the petitioner made representation to the respondents seeking re-conveyance of his lands and since the said representation was not considered, the petitioner filed W.P.No.49865 of 2006 before this Court seeking direction to the respondents to consider his representation and this Court vide order dated 21.12.2006, directed the respondents to consider his representation. Pursuant to the order of this Court dated 21.12.2006 made in W.P.No.49865 of 2006, the first respondent vide order dated 24.04.2007 rejected the request of the petitioner seeking re-conveyance of his lands.

9.Further, the issue involved in the present case is no longer res integra. The issue involved in this writ petition has already been considered by the Hon'ble Apex Court in its



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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 above cited decision makes it clear that 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. In the present case, the award amount has been deposited before the Sub-Court at Sangagiri on 16.06.1988 itself. Hence, there is no lapse in the acquisition proceedings. Further, the first respondent vide order dated 24.04.2007 has already rejected the request of the petitioner seeking re-conveyance of his lands. The petitioner instead of challenging that order has filed this writ petition for the very same relief, which is unsustainable one. Hence, the relief sought for in this writ petition cannot be considered.

12. The writ petition is accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam,
Chennai - 600 035.

+1cc to Mr.S.Doraisamy, Advocate, S.R.No.22039
+1cc to Mr.I.Sathish, Advocate, S.R.No.22488
+1cc to the Government Pleader, S.R.No.22709

W.P.No.34825 of 2014
And

M.P.No.1 of 2014

SPD(CO)
CB(20/04/2022)