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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NOS.26961 AND 26962 OF 2014

AND

M.P.NOS.1 AND 1 OF 2014

H.M.Visalakshi
V.Ramesh Babu

... Petitioner in W.P.26961/2014
... Petitioner in W.P.26962/2014

Vs.

1. State rep. by its Secretary,
Housing & Urban Development Dept.
Fort St.George,
Chennai - 600 009.

2. Tamil Nadu Housing Board
Rep. by its Managing Director,
No.33, Anna Salai,
Nandanam,
Chennai - 600 035.

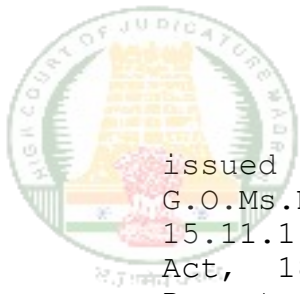
3. The Executive Engineer,
Tamil Nadu Housing Board,
Bhagalur Road,
Hosur - 635 109.

4. The Special Tahsildar (L.A.),
Hosur Housing Scheme,
Bhagalur Road,
Hosur,
Krishnagiri District.

... Respondents in both the W.Ps.

Prayer in W.P.No.26961 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 under the Land Acquisition Act, 1894, in respect of land bearing plot No.5, measuring an extent of 2000 sq.ft. comprised in Survey No.929/1 Hosur Village and Taluk, Krishnagiri District, covered by Notification



issued under Section 4(1) of Land Acquisition Act, 1894 vide G.O.Ms.No.1459, Housing and Urban Development Department, dated 15.11.1991 and Declaration under Section 6 of Land Acquisition Act, 1894 vide G.O.Ms.No.20, Housing and Urban Development Department, dated 08.01.1993 deemed to have lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013.

Prayer in W.P.No.26962 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 under the Land Acquisition Act, 1894, in respect of land bearing plot No.15, measuring an extent of 1400 sq.ft. comprised in Survey No.929/1 Hosur Village and Taluk, Krishnagiri District, covered by Notification issued under Section 4(1) of Land Acquisition Act, 1894 vide G.O.Ms.No.1459, Housing and Urban Development Department, dated 15.11.1991 and Declaration under Section 6 of Land Acquisition Act, 1894 vide G.O.Ms.No.20, Housing and Urban Development Department, dated 08.01.1993 deemed to have lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013.

For Petitioners : Mr.V.Ayyapparaja

For Respondents : Mr.M.Murali for R1 and R4
Government Advocate
Dr.R.Gowri for R2 and R3

C O M M O N O R D E R

The petitioners have filed these writ petitions seeking issuance of Writ of Declaration declaring that the land acquisition proceedings initiated under the Land Acquisition Act, 1894, in respect of their lands bearing plot Nos.5 and 15 respectively, comprised in Survey No.929/1 Hosur Village and Taluk, Krishnagiri District, covered by Notification issued under Section 4(1) of Land Acquisition Act, 1894 vide G.O.Ms.No.1459, Housing and Urban Development Department, dated 15.11.1991 and Declaration under Section 6 of Land Acquisition Act, 1894 vide G.O.Ms.No.20, Housing and Urban Development Department, dated 08.01.1993 deemed to have lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013.

2.Since the issue involved in both these writ petitions are one and the same, they are disposed of by way of a common order.



3.The case of the petitioners is that the first respondent initiated land acquisition proceedings under the Land Acquisition Act, 1894 for the purpose of construction of houses under Neighbourhood Scheme of Hosur at the instance of the second respondent. Notification under Section 4(1) of the Land Acquisition Act was issued in G.O.Ms.No.1459, Housing and Urban Development Department, dated 15.11.1991 and the same was published in the Government Gazette on 18.12.1991. Subsequently, Declaration under Section 6 of the Land Acquisition Act, 1894 was issued in G.O.Ms.No.20, Housing and Urban Development Department, dated 08.01.1993 and the same was published in the Government Gazette on 11.01.1993. Thereafter award enquiry was conducted on 19.12.1994 and award was passed on 12.01.1995. Though the award was passed on 12.01.1995, compensation has not been paid to the petitioners and possession has not been taken by the respondents. Hence, the petitioners have filed these writ petitions for the aforesaid relief.

4.The learned counsel appearing for the petitioners submitted that though the award was passed on 12.01.1995, compensation has not been paid to the petitioners and possession has not been taken by the respondents. Hence, the entire land acquisition proceedings initiated under the Land Acquisition Act get lapsed in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act. Accordingly, he prayed for allowing the writ petitions.

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

6.Perusal of the counter affidavit filed by the second respondent reveals that after following due procedures, award was passed by the Land Acquisition Officer in Award No.1/95 dated 12.01.1995. The land was handed over to the Tamil Nadu Housing Board by the Land Acquisition Officer on 18.01.1995. Mutation of Revenue records has been effected in favour of Tamil Nadu Housing Board in patta no.457. Due to non determination of ownership, the award amount was deposited under Section 30 of Land Acquisition Act, 1894.

7.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 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



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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."

8.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.

9.In the present case, respondents claim that after following due procedures, award was passed by the Land Acquisition Officer in Award No.1/95 dated 12.01.1995. The land was handed over to the Tamil Nadu Housing Board by the Land Acquisition Officer on 18.01.1995. Mutation of Revenue records has been effected in favour of Tamil Nadu Housing Board in patta no.457. Due to non determination of ownership, the award amount was deposited under Section 30 of Land Acquisition Act, 1894. Hence, applying the ratio laid down in the decision cited supra, the relief sought for in these writ petitions cannot be considered.

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

Sd/-

Assistant Registrar(CS VII)

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Sub Assistant Registrar

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To

1. The Secretary,
Housing & Urban Development Dept.
Fort St.George,
Chennai - 600 009.
2. The Managing Director,
Tamil Nadu Housing Board,
No.33, Anna Salai,
Nandanam,
Chennai - 600 035.
3. The Executive Engineer,
Tamil Nadu Housing Board,
Bhagalur Road,
Hosur - 635 109.
4. The Special Tahsildar (L.A.),
Hosur Housing Scheme,
Bhagalur Road,
Hosur,
Krishnagiri District.

+1cc to Mr.V.Ayyapparaja, Advocate, S.R.No.24414
+1cc to the Government Pleader, S.R.No.23835

W.P.Nos.26961 and 26962 of 2014
And
M.P.Nos.1 and 1 of 2014

SVI (CO)
PM/22/04/2022