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W.P.Nos.9411, 9525, 9527 & 9528 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. Nos.9411, 9525, 9527 & 9528 of 2016

and

W.M.P.Nos.11422 to 11425 of 2016 & 27792 of 2018

1.M.Pachaiyappan
2.Kirupakaran
3.Gowri
4.Annadurai
5.Muthu
6.Babu
7.Sundari
8.Manimaran
9.Suguna
10.Indra
11.Kalai Selvi

... Petitioners in W.P. No.9411 of 2016

1.A.P.Gurusamy
2.A.P.Narayanasamy
3.A.P.Thiruvenkadam

... Petitioners in W.P. No.9525 of 2016

1.Manivannan
2.K.Saminathan
3.K.Gunasekaran
4.K.Udayakumar

... Petitioners in W.P. Nos.9527 of 2016

1.Manivannan
2.K.Saminathan
3.K.Gunasekaran
4.K.Udayakumar
5.Ravi
6.J.Dayalan
7.Kanappan



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8.Murugan

9.Elumalai

10.Shanthi

11.B.Kaniappan

... Petitioners in W.P. No.9528 of 2016

Vs.

1.The Govt. of Tamil Nadu

Rep. by its Secretary,
Housing & Urban Development,
Fort St.George,
Chennai 600 009.

2.The Special Tahsildar (Land Acquisition),
Office of Ambattur Neighbourhood Scheme,
J.J.Buildings, TNHB Shopping Complex,
Thirumangalam, Chennai 600 040.

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

4.The Member Secretary, CMDA,
Thalaimuthu Natarajan Malagai,
No.1, Gandhi Road, Egmore,
Chennai 600 008.

... Respondents in all

W.Ps.

R4- Suo motu impleaded as per order dated
05.01.2018 made in W.P.Nos.9411, 9525,
9527 and 9528 of 2016

Prayer in W.P.No.9411 of 2016 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the respondents to re-convey the lands situate at Ambattur Village, Saidapet Taluk, Chengelpet District, comprised in Survey Nos.492, 496 & 498/2 measuring an extent of 2.21 acres covered under Award Nos.4 of 1989 and 7 of 1986 on payment of the development and incidental charges to the respondents.



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Prayer in W.P.No.9525 of 2016 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the respondents to re-convey the lands situate at Ambattur Village, Saidapet Taluk, Chengelpet District, comprised in Survey Nos.497, 498/1, 499, 522/1, 522/2 & 534/1, 541, 563/3 & 563/4 measuring an extent of 6.93.5 acres covered under Award Nos.4, 5 & 6 of 1989 on payment of the development and incidental charges to the respondents.

Prayer in W.P.No.9527 of 2016 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the respondents to re-convey the lands situate at Ambattur Village, Saidapet Taluk, Chengelpet District, comprised in Survey No.494, measuring an extent of 1.21 acres covered under Award Nos.4 of 1989 on payment of the development and incidental charges to the respondents.

Prayer in W.P.No.9528 of 2016 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the respondents to re-convey the lands situate at Ambattur Village, Saidapet Taluk, Chengelpet District, comprised in Survey No.493 measuring an extent of 0.87 acres covered under Award No.4 of 1989 on payment of the development and incidental charges to the respondents.

Appearance of Counsels in all W.Ps

For Petitioners : Mr.M.K.Kabir, Senior Counsel
for Mr.T.Jayaraman

For R1 : Mr.U.Bharanidharan
Additional Government Pleader

For R2 and R3 : Mr.A.M.Ravindranath Jeyapaul

For R4 : Mrs.P.Veena Suresh
(CMDA)

COMMON ORDER

Since the issue involved and the relief sought for in all these four

Writ Petitions are identical in nature, the same were heard together and



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disposed of vide this common order.

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2. The case of the petitioners is that the petitioners' lands were acquired by the third respondent/Tamil Nadu Housing Board for the purpose of formation of a new housing colony known as "Ambattur Neighbourhood Scheme" for providing housing facilities to the Industrial workers in and around Ambattur area. It is stated that the land owners and interested persons submitted their objections, which were overruled by the first respondent. The declaration under Section 6 was issued by the first respondent in the Government Gazette dated 10.11.1978. Thereafter, the enquiry under Section 11 was conducted on 10.01.1989, 03.02.1989 and 25.09.1989 and the petitioners' properties were acquired in the year 1972 and the awards were passed on 22.10.1986 and 30.12.1989 respectively. The grievance of the petitioners is that the lands acquired by the first respondent were utilised for cultivation and agricultural purposes to eke out their livelihood. However, the acquired lands having not been utilized for the purpose for which it was sought to be acquired, the petitioners made a representation dated 21.08.2009 before the respondents, seeking to re-convey the petitioners' properties in their favour under Section 48(b) of the Land Acquisition Act. However, till date, no order has been passed. Hence, the petitioners have filed



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the present Writ Petitions.

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3.The learned senior counsel appearing for the petitioners would submit that some of the petitioners have filed Writ Petition before this Court in W.P.No.318 of 2001, seeking re-conveyance of their lands and this Court by an order dated 19.12.2001, allowed the said Writ Petition with a direction to the third respondent/Tamil Nadu Housing Board to release their lands under Section 48(b) of the Land Acquisition Act, after collecting necessary development charges spent for the purpose of developing the lands. Since the petitioners' representation dated 21.08.2009 was not considered by the respondents, the petitioners have filed the present Writ Petitions seeking appropriate direction.

4. The learned counsel appearing for respondents 2 and 3 would submit that the petitioners' lands were acquired under the Land Acquisition Act, 1894. Though the petitioners claim for re-conveyance of their properties under Section 48(b) of the Land Acquisition Act 1894 r/w Section 101 of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (Act 30 of 2013), Section 48(b) of the old Act was repealed on coming into force of Act, 2013 with effect from



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01.01.2014. He further submitted that under the new Act, there is no provision available to re-convey the lands, which were already acquired from the original owners and there is only one provision available in the new Act under Section 101. However, Section 101 of Act 30 of 2013 can be invoked only when the lands were acquired under Act 30 of 2013 and the same issue was elaborately considered by the Hon'ble Apex Court in ***Indoor Development Authority Vs. Manoharlal and others etc. reported in (2020)***

8 SCC 129, wherein the Hon'ble Apex Court held as under:-

'364. Section 24 deals with lapse of acquisition. Section 101 deals with the return of unutilised land. Section 101 cannot be said to be applicable to an acquisition made under the 1894 Act. The provision of lapse has to be considered on its own strength and not by virtue of Section 101 though the spirit is to give back the land to the original owner or owners or the legal heirs or to the Land Bank. Return of lands is with respect to all lands acquired under the 2013 Act as the expression used in the opening part is "When any land, acquired under this Act remains unutilised". Lapse, on the other hand, occurs when the State does not take steps in terms of Section 24(2). The provisions of Section 101 cannot be applied to the acquisitions made under the 1894 Act. Thus, no such sustenance can be drawn from the provisions contained in Section 101 of the 2013 Act. Five years' logic has been carried into effect for the purpose of lapse and not for the purpose of returning the land remaining unutilised under Section 24(2).'

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



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6. The facts in the present case are not in dispute. Admittedly, the petitioners' lands were acquired under Land Acquisition Act 1894 in the year 1972 and the award was passed on 22.10.1986 and 30.12.1989 respectively. The grievance of the petitioners is that petitioners' lands were acquired for the aforesaid purpose, which was not achieved and still now the acquired lands are kept vacant, the petitioners are entitled for re-conveyance of their properties. However, the fact remains that the old Act 1894 was repealed and the new Act came into force on 01.01.2014. The learned counsel for the respondents content that there is no provision available under the new Act for re-conveyance of the petitioners' property, though the petitioners claim that they are entitled to return the un-utilized lands in terms of Section 101 of the Act.

7. For better appreciation Section 101 of the Act is quoted hereunder:

'When any land acquired under this Act remains unutilised for a period of five years from the date of taking over the possession, the same shall be returned to the original owner or owners or their legal heirs, as the case may be, or to the Land Bank of the appropriate Government by reversion in the manner as may be prescribed by the appropriate Government.'

Section 101 of the said Act makes it clear that the lands acquired



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under the Act 30 of 2013, which have not been utilized for the purpose for which it was acquired, then the appropriate Government has to take a decision to return the unutilized lands to the land owners. However, in the present case, the petitioners' lands were acquired under the old Act 1894, which stood repealed with effect from 01.01.2014 and the said land cannot be returned in terms of Section 101 of Act 30 of 2013. The very same issue has been considered by the Hon'ble Apex Court in *Indore Development Authority*, wherein the Apex Court held that once the lands were acquired under the old Act, re-conveyance cannot be sought under the new Act, as the old Act stood repealed with effect from 01.01.2014. Hence, the prayer sought for in these Writ Petitions cannot be granted.

8. Accordingly these Writ Petitions are dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

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Index : Yes / No
Speaking order: Yes/ No
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To

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Rep. by its Secretary,
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M.DHANDAPANI, J.

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