



W.P.Nos.6355, 6356 & 6357 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2022

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.Nos.6355, 6356 & 6357 of 2017

and

W.M.P.Nos.6852, 6853 & 6854 of 2017

- | | |
|-----------------------|---------------------------------------|
| 1. P.Jayaraman | . . Petitioner in W.P.No.6355 of 2017 |
| 2. Dr.P.Krishnamurthy | . . Petitioner in W.P.No.6356 of 2017 |
| 3. P.Soundararajan | . . Petitioner in W.P.No.6357 of 2017 |

Vs.

- | | |
|--|-------------------|
| 1. The Government of Tamil Nadu,
Represented by the Secretary to Government
Backward Classes and Most Backward Classes,
Welfare Department,
Fort St.George, Chennai-600 009. | |
| 2. The Special Tahsildar (Adi Dravidar Welfare),
Salem. | |
| 3. The Special Commissioner and Commissioner of
Land Administration,
Chepauk,
Chennai-600 005 | . . . Respondents |



W.P.Nos.6355, 6356 & 6357 of 2017

PRAYER IN W.P.NO.6355 OF 2017 :Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Declaration declaring that the Land Acquisition Proceedings in respect of the Petitioner's agricultural lands measuring 1.21.5 Hectares comprised in Survey No.78/1A situated at Gajjalnaickenpatty Village, Salem Taluk, Salem District deemed to have lapsed in view of the provisions of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013.

PRAYER IN W.P.NO.6356 OF 2017 :Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Declaration declaring that the Land Acquisition Proceedings in respect of the Petitioner's agricultural lands measuring 1.31.5 Hectares comprised in Survey No.78/1B situated at Gajjalnaickenpatty Village, Salem Taluk, Salem, District deemed to have lapsed in view of the provisions of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013.

PRAYER IN W.P.NO.6357 OF 2017 :Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Declaration declaring that the Land Acquisition Proceedings in respect of the Petitioner's agricultural lands measuring 1.21.5 Hectares comprised in Survey No.78/1C situated at Gajjalnaickenpatty Village, Salem Taluk, Salem, District deemed to have lapsed in view of the provisions of Section 24 (2) of the Right to Fair



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Compensation and Transarency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013.

In all WPs :

For Petitioner : M/s. K.Selvaraj

For Respondents : Mr.P.Sathish,

Additional Government Pleader for R1 to R3

ORDER

Since the issue involved in all the Writ Petitions are one and the same, all these petitions are taken up for final disposal by way of a common order.

2. These petitions have been filed seeking to declare the 4(1) notification issued under the Land Acquisition Act and the Declaration under Section 6 of the Act in respect of the subject properties of these Writ Petitions.

3. It is the case of the petitioners that they are the absolute owners of



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the respective lands of the above Writ Petitions, which were allotted to them by way of a partition among the family members, pursuant to which, having mutated all the revenue records with respect to the above said lands in their favour including Patta, they are in possession and enjoyment of the above said lands. While being so, 4(1) notification dated 23.07.1997 was issued under the Land Acquisition Act, in the name of the petitioner's deceased father namely Padmanabha Chettiar followed by a declaration under Section 6 of the Act. Challenging the said Acquisition proceedings, the petitioners filed a Writ Petition before this Court in W.P.No.13139 of 1997, subsequent to which, a series of petitions and appeals were filed before this Court, however, the same were dismissed and finally SLP came to be filed before the Hon'ble Apex Court which was also withdrawn by the petitioners. Pursuant to the acquisition, Award was passed in Award No.1/99/2000. The grievance of the petitioners is that, the petitioners were neither paid with the compensation amount nor the physical possession has been taken. In view of the same, the Acquisition proceedings with respect to the above said lands deemed to have been lapsed. Hence, the present petition has been filed.



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4. On the above contentions, this Court, heard the learned Additional Government Pleader appearing for Respondents 1 to 3 and perused the materials available on records.

5. A bare perusal of the materials on record reveals that subject to the acquisition of the above lands, Award was passed in Award No.1/99/2000 and possession of the above said properties was taken over by the Government, pursuant to which, free house site patta has been granted to the beneficiary. It is the claim of the petitioners that they are possession of the acquired properties, however, no material has been placed before this Court to substantiate their claim. 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. In view of 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



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judgment is extracted hereunder:

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“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 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



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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).

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



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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.”

6. 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 acceded to. Further, the respondents are directed to pay the compensation amount to the petitioners as per the Award passed in Award No.1/99/2000 within a period of Six weeks from the date of receipt of a copy of this order.



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7. Accordingly, these Writ Petitions are disposed of with the aforesaid direction. No Costs. Consequently, the connected Miscellaneous Petitions are closed.

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Index : Yes / No

Internet : Yes / No



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M.DHANDAPANI, J.

NHS

To

1. The Secretary to Government
Government of Tamil Nadu,
Backward Classes and Most Backward Classes,
Welfare Department,
Fort St.George, Chennai-600 009.
2. The Special Tahsildar (Adi Dravidar Welfare),
Salem.
3. The Special Commissioner and Commissioner of
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