



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.28449, 28451 and 28453 of 2021

And

W.M.P.Nos.7457, 7458 and 7462 of 2022

Kavitha ... Petitioner in W.P.28449/2021

Venkateshan ... Petitioner in W.P.28451/2021

V.Srinivasan ... Petitioner in W.P.28453/2021

Vs.

1. The Secretary,
Public Works Department,
Fort St.George,
Chennai - 600 009.

2. The District Collector,
Salem,
Salem District.

3. The Sub Collector Cum
Land Acquisition Officer,
Mettur,
Mettur Taluk,
Salem District.

... Respondents in all W.Ps.

Common Prayer:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring the preliminary notification dated

24.09.2020 issued by the first respondent is deemed to have been rescinded by virtue of Section 19 (7) of the Act in respect of land in S.Nos.226/8A1, 226/10B1 and 226/10B2 respectively, an extent of 20 cents, 0.00.50 hec. and 0.03.90 hec. respectively, at Avadathur Village, Mettur Taluk.

For Petitioner in all WP's : Mr.M.Elango

For Respondents in all WP's : Mr.A.Anandan
Government Advocate



C O M M O N O R D E R

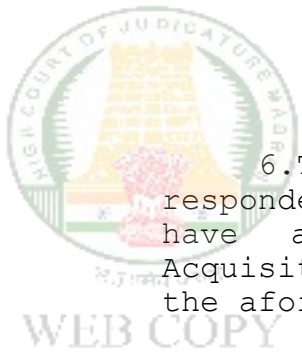
The petitioners have filed these writ petitions seeking issuance of Writ of Declaration declaring the preliminary notification dated 24.09.2020 issued by the first respondent is deemed to have been rescinded by virtue of Section 19 (7) of the Act in respect of the lands in S.Nos.226/8A1, 226/10B1 and 226/10B2 respectively, at Avadathur Village, Mettur Taluk.

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

3.The case of the petitioners is that the subject lands were sought to be acquired by the State Government for the purpose of supplying surplus water from Mettur Dam to 100 dry lakes situated at Sangiri, Edapadi, Omalur and Mettur Taluk under the provisions of The Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013 [hereinafter referred to as 'Act'] and the first respondent issued preliminary notification on 24.09.2020 in G.O.Ms.No.220, Public Works (N1) Department and the same was published in the Tamil Nadu Government Gazette on 24.09.2020 and on 15.10.2020, the third respondent issued show cause notice seeking objection from the land owners, however, thereafter there was no further action. Since 12 months period have lapsed after issuance of preliminary notification, the petitioners have filed these petitions for the aforesaid relief.

4.The learned counsel appearing for the petitioners submitted that the first respondent issued preliminary notification on 24.09.2020 and 12 months period expired on 23.09.2021, however, till date, the respondents have not published declaration under Section 19(1) of the Act. Hence, the preliminary notification dated 24.09.2020 issued by the first respondent is deemed to have been rescinded by virtue of Section 19 (7) of the Act.

5.The learned Government Advocate appearing for the respondents submitted that the first respondent issued preliminary notification on 24.09.2020 and 12 months period expired on 23.09.2021, however, the District Collector, Salem, vide proceedings dated 20.09.2021, extended the time limit by a further period of one year to 23.09.2022, by exercising the power conferred under Section 19 (7) of the Act. Hence, the preliminary notification dated 24.09.2020 issued by the first respondent shall not be deemed to have been rescinded by virtue second proviso of Section 19 (7) of the Act.



6.The learned Government Advocate appearing for the respondents further submitted that the respective land owners have already given undertaking letter before the Land Acquisition Officer that they are ready to part their lands for the aforesaid public purpose.

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

8.For better appreciation, the relevant portions of the Act are extracted hereunder:

"19.Publication of declaration and summary of Rehabilitation and Resettlement. -

(1) When the appropriate Government is satisfied, after considering the report, if any, made under sub-section (2) of section 15, that any particular land is needed for a public purpose, a declaration shall be made to that effect, along with a declaration of an area identified as the "resettlement area" for the purposes of rehabilitation and resettlement of the affected families, under the hand and seal of a Secretary to such Government or of any other officer duly authorised to certify its orders and different declarations may be made from time to time in respect of different parcels of any land covered by the same preliminary notification irrespective of whether one report or different reports has or have been made (wherever required).

(7) Where no declaration is made under sub-section (1) within twelve months from the date of preliminary notification, then such notification shall be deemed to have been rescinded:

Provided that in computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any Court shall be excluded:

Provided further that the appropriate Government shall have the power to extend the period of twelve months, if in its opinion circumstances exist justifying the same;

Provided also that any such decision to extend the period shall be recorded in writing and the same shall be notified and be



WEB COPY

uploaded on the website of the authority concerned.

3.Definitions. - In this Act, unless the context otherwise requires, -

(e) "appropriate Government" means, -

(i) in relation to acquisition of land situated within the territory of, a State, the State Government;

(ii) in relation to acquisition of land situated within a Union territory (except Puducherry), the Central Government;

(iii) in relation to acquisition of land situated within the Union territory of Puducherry, the Government of Union territory of Puducherry;

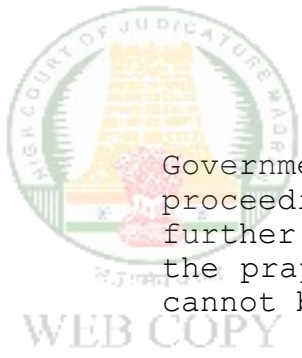
(iv) in relation to acquisition of land for public purpose in more than one State, the Central Government, in consultation with the concerned State Governments or Union territories; and

(v) in relation to the acquisition of land for the purpose of the Union as may be specified by notification, the Central Government:

Provided that in respect of a public purpose in a District for an area not exceeding such as may be notified by the appropriate Government, the Collector of such District shall be deemed to be the appropriate Government;"

9.Perusal of the above said provisions makes it clear that where no declaration is made under Section 19 (1) of the Act within twelve months from the date of preliminary notification, then such notification shall be deemed to have been rescinded, however, the appropriate Government have the power to extend the period of twelve months, if in its opinion circumstances exist justifying the same and as per Section 3(e) of the Act, in respect of a public purpose in a District for an area not exceeding such as may be notified by the appropriate Government, the Collector of such District shall be deemed to be the appropriate Government.

10.In the present case, the subject lands were sought to be acquired by the State Government for the purpose of supplying surplus water from Mettur Dam to 100 dry lakes situated at Sangiri, Edapadi, Omalur and Mettur Taluk and the first respondent issued preliminary notification on 24.09.2020 and 12 months period expired on 23.09.2021. Thereafter, appropriate



Government, namely, the District Collector, Salem, vide proceedings dated 20.09.2021, extended the time limit by a further period of one year from 23.09.2021 to 23.09.2022. Hence the prayer sought for by the petitioners in these writ petitions cannot be granted.

11.The writ petitions are accordingly dismissed. No costs. Consequently, the connected miscellaneous petitions are dismissed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

pri

To

1. The Secretary,
Public Works Department,
Fort St.George,
Chennai - 600 009.
2. The District Collector,
Salem,
Salem District.
3. The Sub Collector Cum
Land Acquisition Officer,
Mettur,
Mettur Taluk,
Salem District.

+3ccs to Mr.Elango, Advocate, S.R.Nos.26488 to 26490

+1cc to the Government Pleader, S.R.No.26772

W.P.Nos.28449, 28451 and 28453 of 2021
And
W.M.P.Nos.7457, 7458 and 7462 of 2022

MG (CO)
SU (02/05/2022)