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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2022

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.33349 and 33354 of 2019
and

W.M.P.Nos.33811 and 33815 of 2019

D.Krishnaveni

...Petitioner in
W.P.No.33349 of 2019

S.Renugadevi

...Petitioner in
W.P.No.33354 of 2019

Vs

1. The Commissioner & Secretary,
Department of Agriculture,
Government of Tamil Nadu,
Fort St.George, Chennai - 600 009.
2. Land Acquisition Officer and
Special Tahsildar (LA) Housing,
Sathunachari, Vellore - 9.
3. Tamil Nadu Housing Board,
Rep by its Chairman,
493, Anna Salai, Nandanam,
Chennai - 600 035.

...Respondents in both W.Ps

Prayer in W.P.No.33349 of 2019: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to release the land, plot No.2, situated in Survey No.214, Alamelu Mangapuram Village, Sub Registration of Vellore and to release the same in favour of the petitioner.

Prayer in W.P.No.33354 of 2019: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to release the land, plot No.4, situated in Survey No.214, Alamelu Mangapuram Village, Sub Registration of Vellore and to release the same in favour of the petitioner.



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For Petitioner
in both W.Ps

: Mr.J.James

For Respondents
in both W.Ps

: Mr.G.Ameedius
Government Advocate
(for R1 & R2)

: Mr.S.Vanchinathan
Standing Counsel (for R3)

C O M M O N O R D E R

Both the Writ Petitions are filed to issue a Writ of Mandamus, direct to the respondents to release the land, plot Nos.2 and 4, situated in Survey No.214, Alamelu Mangapuram Village, Sub Registration of Vellore and to release the same in favour of the petitioners.

2.The petitioners owned the properties ad-measuring an extent of 2503 and 2912 sq.ft bearing Plot Nos.2 and 4 comprised in Survey No.214, situated at Alamelu Mangapuram Village, Vellore. While that being so, the third respondent proposed to acquire the subject lands for implementation of Housing Scheme in and around the Vellore City in a phased manner. Accordingly, the Government has approved a Notification under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act' for short), vide G.O.Ms.685, Housing and Urban Development Department, dated 29.08.1984, of an extent of 9.64.7 hectares, including the subject lands. It was published in the Government Gazette on 19.06.1984. As per Section 55(1) and Rule 3 of the Rules framed under the Act, notices were served on the notified persons and the enquiry under Section 5A of the Act was conducted from 23.09.1985 to 25.09.1985. The petitioners participated in the said enquiry. Thereafter, the draft Declaration under Section 6 of the Act was approved by the Government, vide G.O.M.No.1041, Housing and Urban Development Department, dated 14.07.1986. It was published in the Government Gazette on 15.07.1986. After duly serving notices under Sections 9(1) and 3 of the Act, the award enquiry was conducted by the Land Acquisition Officer and Award was also passed on 12.07.1988 in Award No.3 of 1988. Thereafter, the subject lands had been taken over and handed over to the third respondent by the second respondent on 13.10.1988. The entire award amount of Rs.77,478.00 was deposited on 10.06.1988, vide State Bank of India Cheque No.121813, dated 29.5.1998 before the Sub Court, Vellore, as contemplated under Section 30 of the Act. Therefore, the land acquisition proceedings have not lapsed as contemplated under Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013. That apart, the acquisition proceedings had already



been challenged in W.P.No.15108 of 1995 before this Court and the same was dismissed on 25.07.2001. Aggrieved by the same, it is stated that no appeal was preferred by the petitioners.

3. Heard Mr.J.James, learned counsel for the petitioners, Mr.G.Ameedius, learned Government Advocate appearing for the first and second respondents and Mr.S.Vanchinathan, learned Standing Counsel appearing for the third respondent.

4. That apart, the grounds raised by the petitioners in both the Writ Petitions, have already been settled by the Hon'ble Supreme Court of India in the judgment reported in (2020) 8 SCC 129 in the case of Indore Development Authority Vs. Manoharlal and ors etc., in which, it was held as follows:-

"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



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on the date of notification for land acquisition under Section 4 of the Act of 1894 shall be entitled to compensation in accordance with 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 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.



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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."

5. The Hon'ble Supreme Court of India settled all proposition of law in the above judgment including the grounds raised by the petitioners herein. That apart, the subject lands had been taken over and handed over to the third respondent by the second respondent on 13.10.1988. The entire award amount of Rs.77,478.00 was deposited on 10.06.1988, vide State Bank of India Cheque No.121813, dated 29.5.1998 before the Sub Court, Vellore, as contemplated under Section 30 of the Act. Therefore, the petitioners failed to satisfy the twin requirements under Section 24 (2) of the New Act, i.e., the physical possession of the land was not taken and the compensation has not been paid/tendered/deposited in accordance with law. In view of the above dictum laid down by the Hon'ble Supreme Court of India, the issues raised by the petitioners herein are settled and therefore, the acquisition proceedings had not lapsed by operation of law under Section 24 (2) of the new Act i.e., Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. In view of the settled position of law, both the writ petitions are devoid of merits and hence they are liable to be dismissed.

6. In the result, both the Writ Petitions stand dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner & Secretary,
Department of Agriculture,
Government of Tamil Nadu,
Fort St.George, Chennai - 600 009.

2. Land Acquisition Officer and
Special Tahsildar (LA) Housing,
Sathunachari, Vellore - 9.

3. The Chairman,
Tamil Nadu Housing Board,
493, Anna Salai, Nandanam,
Chennai - 600 035.

+1cc to Mr.S.Vanchinathan, Advocate, S.R.No.4620

+2cc to Mr.J.James, Advocate, S.R.No.4576, 4577

+1cc to the Government Pleader, S.R.No.5273

W.P.Nos.33349 and 33354 of 2019

GPL(CO)
RGA(28/02/2022)