



W.P.No.1827 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2022

CORAM:

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

W.P.No.1827 of 2017

and

W.M.P.Nos.14037 & 1810 of 2017

1. Pavathiamal,
2. Ramasamy
3. Vijayaraghavan
4. Sethuraman
5. Gopalakrishnan
6. Chakravarthy
7. Raghuraman
8. Ranganayaki
9. Lakshmi Devi
10. Jothi
11. Revathi

. . . Petitioners

Vs.

1. Land Acquisition Officer cum Special Tahsildar,
Ayyamperumapatty Neighbourhood
Housing Board Scheme, (Originally Namakkal)
O/o, Tamilnadu Housing Board,
Salem-8.

2. Executive Engineer and Administrative Officer,
Salem Housing Unit,
Salem

. . . Respondents



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PRAYER:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration to declare that the Land Acquisition proceedings initiated by the Respondent, in respect of the Petitioner's portion of the land out of the total extent of 0.2290.0 Ares comprised in Town Survey No.6/4B in Block No.3, Ward-H in Ayyaperumapatty Neighbourhood Housing Board Scheme as abated, null and void in view of Section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013 (Central Act No.30/2013).

For Petitioner : M/s. P.Kashthuri for M/s.R.Neelakandan

For Respondents : Mr.A.Anandan,

Government Advocate

ORDER

The present petition has been filed seeking to declare the Land Acquisition proceedings initiated by the Respondent, in respect of the Petitioner's portion of the land out of the total extent of the subject land under Ayyaperumapatty Neighbourhood Housing Board Scheme as abated, null and void in view of Section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013 (Central Act No.30/2013).



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2. It is the case of the petitioners that the total extent of 0.2290.0

Ares comprised in Town Survey No.6/4B in Block No.3, Ward -H within the limit of Salem Corporation originally stood in the names of 8 persons including the petitioner's father. After the demise of their father, the petitioners are in possession and enjoyment of the above said land. The said land was acquired in order to execute Ayyamperumapatty Neighbourhood Housing Board Scheme for the purpose of Construction of houses by Tamilnadu Housing Board, vide the notification issued under Section 4(1) of the Land Acquisition Act followed by a Declaration dated 28.03.1984. Thereafter, the award came to be passed in Award No.8/86-87 dated 17.09.1986 and the same was referred to the Additional Subordinate Court, Salem, wherein, an order dated 22.04.1992 came to be passed fixing the compensation amount of Rs.32,254/-. Pending the acquisition, suit in O.S.No.233/1966 was filed by the petitioner's father in which a preliminary decree was passed in his favour and based on the said decree, a separate patta was issued in favour of the petitioners by the Tahsildar, Salem upon the application made by the petitioners. While being so, the 2nd respondent is attempting to fence the above said property which is not sustainable.



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Further, subsequent to the said Acquisition, the respondents have not taken the physical possession of the above said lands. Being aggrieved by the same, the petitioners have come up with the present petition seeking to declare the subject Acquisition Proceedings as null and void.

3. Learned counsel for the petitioners submitted that though the petitioners have obtained a separate patta in the name of the petitioners in respect of the petitioners' share of the subject property, which confirms their possession of the property, the 2nd respondent is attempting to interfere with the petitioners' peaceful possession is not sustainable. Subsequent to the subject acquisition, though the award was passed, however, till date, the physical possession has not been taken which is in violation of the provisions of the Land Acquisition Act. In view of the aforesaid, the entire Acquisition Proceedings has lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Settlement Act, 2013 (Central Act No.30/2013).



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6. In the case on hand, the claim of the petitioners is that, subsequent to the acquisition of the subject property, though the Award was passed and the compensation amount has been deposited in the competent civil court, however, the physical possession of the said property has not been taken. In view of the fact that, compensation amount has been deposited in the competent civil court, the benefit of Section 24(2) of the Act, is not applicable to the petitioner as has been held by the Hon'ble Supreme Court in ***Indore Development Authority Vs. Manoharlal and ors etc.*** Hence, the claim of the petitioner seeking to declare the acquisition proceedings deemed to have lapsed is wholly unsustainable.

7. In view of the above, this Writ Petition is devoid on merits and the same is accordingly dismissed. No Costs. Consequently, the connected Miscellaneous Petitions are closed.

12.07.2022

NHS

Index : Yes / No

Internet : Yes / No



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M.DHANDAPANI, J.

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