



W.P.No.18552 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.18552 of 2017

R.Vinayagamoorthy
Petitioner

...

Vs.

1.The State of Tamil Nadu,
Rep. by the Commissioner,
and Secretary to Government,
Transport Department,
Fort St. George,
Chennai - 09

2.The Land Acquisition Officer,
and Revenue Divisional Officer,
Nagapattinam,
Thanjavur District.

3.The State Transport Corporation
Successor in Office to Cholan,
Roadways Corporation Ltd.,
Kumbakonam.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
for issuance of a Writ of Declaration to declare that the subject matter of the



W.P.No.18552 of 2017

acquisition properties T.S.Nos.592 and 594 pertaining to the Award dated 2.8.1989 of the 2nd respondent has been lapsed by virtue of the Provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioner : Mr.G.Jeremiah

For Respondents : Ms.Akila Rajendran for R1 & R2
Government Advocate

Mr.S.Sathya Gandhi for R3
Standing Counsel

ORDER

This petition has been filed for declaration to declare that the subject matter of the acquisition properties T.S.Nos.592 and 594 pertaining to the Award dated 2.8.1989 of the second respondent has been lapsed by virtue of the Provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2.Heard learned counsel for the petitioner and the learned Government Advocate appearing for the respondents 1 and 2 and the learned standing counsel appearing for the third respondent.



W.P.No.18552 of 2017

WEB COPY

3.The petitioner's father Mr.Ramadoss purchased a land situated in T.S.Nos.588, 589, 591, 592, 593 and 594 situated in No.2 Vijayapuram, Tiruvarur Taluk consisted of an extent of 26,974 sq.ft. and the superstructure thereon from one V.R.R.M.Ramanathan Chettiar by virtue of a registered deed of Sale dated 7.4.1980. The second respondent issued notification under Section 4(1) on 19.5.1982. The petitioner's father filed Writ Petition in W.P.No.5922 of 1982 challenging the land acquisition proceedings and interim stay was granted on 4.8.1982. The above writ petition was dismissed by this Court on 13.2.1984. Consequently Declaration under Section 6 of the Land Acquisition Act was published on 26.11.1986. The petitioner's father Mr.Ramadoss has again filed Writ Petition in W.P.No.13589 of 1986 challenging the declaration notification. The above Writ Petition was also dismissed by this Court on 18.04.1998. Mr.Ramadoss, father of the petitioner filed a Writ Appeal in W.A.No.804 of 1998 and thereafter filed S.L.P. No.18506 of 1998 which was also dismissed on 07.12.1998. In the meanwhile, the land acquisition proceedings was continued and Award has been passed vide Award No.1/1989 dated 02.08.1989. As there was dispute in the apportionment of



W.P.No.18552 of 2017

compensation the entire compensation amount was deposited in Sub Court, Nagapattinam under Section 30 and 31(1) and 18 of the Land Acquisition Act. As there was a case pending with respect of payment of rent for the Superstructure between the petitioner's father and the third respondent herein, the acquisition site was not handed over to the third respondent earlier. The civil appeal filed by the third respondent herein, was ordered in favour of the third respondent in Civil Appeal No.7524 – 7526 of 1997 dated 23.09.1998. In fact the acquisition site was handed over to the third respondent on 16.06.1998.

4. According to the petitioner, admittedly, the respondents have not taken any steps to form the house sites in the lands which are the subject matter of acquisition. Till date, the possession of the subject land has not been taken and the same still remains with the petitioner and no compensation amount has been paid to the petitioner. Therefore, the land acquisition proceedings initiated under the Act 1894 have lapsed in view of the non compliance of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act,



W.P.No.18552 of 2017

2013. Therefore, the petitioner made a representation to the respondents to drop the acquisition proceedings. Till date, no action was taken, hence, the present Writ Petition has been filed before this Court seeking appropriate remedy.

5.However, it is the stand of the respondents that possession has been taken and handed over to the requisitioning body and in view of the decision of the Hon'ble Supreme Court in ***Indore Development Authority Vs. Manoharlal and ors etc., (2020 SCC Online SC 316)***, the acquisition proceedings have not lapsed and this petition deserves to be dismissed.

6.A careful perusal of the contention reveal that possession has been taken by the Government. Though it is controverted by the petitioner, however, no material whatsoever has been placed to substantiate the same. In such circumstances, the decision of the Hon'ble Supreme Court in the case of ***Indore Development Authority Vs. Manoharlal and ors etc.,*** is squarely applicable to the case on hand.



7. For better appreciation, the relevant portion of the decision in the case of *Indore Development Authority Vs. Manoharlal and ors etc.*, (2020 SCC Online SC 316), is quoted hereunder:-

“402. 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 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.

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.”

8. In the case on hand, it is the case of the respondents that acquisition proceedings have been completed and possession of the subject lands have been taken and handed over to the requisitioning body. Further, the petitioner, having not been inclined to receive the amount, the said compensation amount has been kept in revenue Deposit. Such being the case, the claim of the petitioner that neither compensation has been paid nor possession has been taken does not merit acceptance and applying the ratio laid down by the Hon'ble Apex Court in Indore Development Authority case (supra), the twin conditions of payment of compensation and also taking possession have been fulfilled and, therefore, there is complete compliance of Section 24(2) of Act, 2013. In such circumstances, the land acquisition proceedings initiated under Act, 1894 is not lapsed in view of Section 24 (2)



W.P.No.18552 of 2017

of Act, 2013 and, therefore, there is no merit in the contention advanced by the petitioner.

9.For the reasons aforesaid, this Writ Petition fails and the same is dismissed. However, there shall be no order as to costs.

26.08.2022

Index : Yes/No
Internet : Yes/No
pam

To

- 1.The Commissioner,
and Secretary to Government,
Transport Department,
Fort St. George,
Chennai - 09
- 2.The Land Acquisition Officer,
and Revenue Divisional Officer,
Nagapattinam,
Thanjavur District.
- 3.The State Transport Corporation
Successor in Office to Cholan,
Roadways Corporation Ltd.,
Kumbakonam.



WEB COPY



W.P.No.18552 of 2017

M.DHANDAPANI, J.

pam

W.P.No.18552 of 2017

26.08.2022