



W.A.(MD)No.896 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.08.2022

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.A(MD)No.896 of 2022
and
C.M.P.(MD)No.7473 of 2022

T.Karmegan

... Appellant

Vs.

1.The Secretary to Government,
Housing Board,
Fort Saint George, Chennai- 600 009.

2.The Chairman cum Director,
Tamil Nadu Housing Board,
No.331, Anna Salai, Chennai.

3.The District Collector,
Tirunelveli District, Tirunelveli.

4.The Special Tahsildar,
(Land Acquisition),
Neighbourhood Scheme, Tirunelveli – 627 011.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent to set aside the order passed by this Court, dated 22.04.2021 in W.P.(MD)No. 20158 of 2015.

For Appellant :Mr.G.Prabhu Rajadurai

For Respondents :Mr.S.P.Maharajan

Special Government Pleader



JUDGMENT

(Judgment of the Court was delivered by **S.S.SUNDAR, J.**)

This Writ Appeal is directed against the order passed by the learned Single Judge in W.P(MD)No.20158 of 2015, dated 22.04.2021.

2.Heard Mr.G.Prabhu Rajadurai, learned Counsel for the appellant and Mr.S.P.Maharajan, learned Special Government Pleader, who takes notice on behalf of the respondents. By consent of both parties, the present Writ Appeal is taken up for final disposal at admission stage.

3.The appellant has admitted that acquisition took place in 1993 and an award was passed in 2003. However, it is contended before the learned Single Judge that possession is still with the appellant and that by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013, the acquisition initiated under the Central Act has been lapsed.

4.The learned Single Judge, upon considering the admitted facts and materials placed by the respondents, came to the conclusion that the amount for acquiring the land had already been paid and possession was also taken by the respondents. It is also admitted that the Writ Petition



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filed by the appellant's mother earlier in W.P.No.7344 of 1992 challenging the acquisition proceedings was also dismissed. The only contention before the learned Single Judge was that the appellant was not paid compensation. Though the appellant claims that he is in continuous possession, factually it is found that possession had been taken by the respondents. The learned Single Judge dismissed the Writ Petition by order, dated 22.04.2021. Aggrieved by the same, the present Writ Appeal is filed.

5.The Honourable Supreme Court in the case of ***Indore Development Authority vs Manoharlal and others***, reported in ***2020 (8) SCC 129***, has settled the law by answering to the questions, that were referred to the Larger Bench, in the following lines:

“366. In view of the aforesaid discussion, we answer the questions as under:

366.1. 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.

366.2. 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.

366.3. 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,



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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.

366.4. 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.

366.5. 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.

366.6. 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).

366.7. 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).

366.8. 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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366.9. 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.The only contention raised by the learned Counsel for the appellant before this Court is that compensation was not paid. The learned Counsel for the appellant has produced before this Court a communication, dated 16.02.2022, informing the appellant that compensation was deposited on 17.12.2004. By referring to this communication, the learned Counsel for the appellant contended that no document is produced to prove that compensation was deposited on the date mentioned in the said communication.

7.It is surprised to note that the appellant has denied even the receipt of the notice in the award. The appellant has enclosed the award, dated 17.12.2004 in Award No.1 of 2004-2005, along with this Writ Appeal. As per the award proceedings, the appellant appeared on behalf of his mother, Tmt.Padmavathi objecting to the acquisition. However, the appellant did not produce any document to prove the ownership of her mother. Though a construction was noted in the acquired land, it is also



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indicated in the award that the said construction was put up after the date of notification under Section 4 of the Act. It was only on account of want of particulars, the entire compensation, that was fixed for the land, was deposited in the Sub Court, Tirunelveli, under Section 31(2) of the Land Acquisition Act, as per the award. The appellant, who participated in the award and has produced the copy of award before this Court, cannot ignore the information that was available even in the award about the deposit of compensation in Sub Court, Tirunelveli. Therefore, the appellant has come forward with a false case about the passing of award and his knowledge about the award proceedings.

8.The appellant also admits that his mother Tmt.Padmavathi has filed the Writ Petition before this Court in W.P.No.7344 of 1992 against the acquisition proceedings. It is admitted that the said Writ Petition was dismissed. It is also admitted that the appellant's mother filed Writ Appeals in W.A.Nos.1434 and 1435 of 2002 and both the appeals were dismissed by this Court on 05.03.2004. Though it is contended before the learned Single Judge that the appellant came to know about the award and the information that compensation amount had been deposited, it is his contention that he did not receive the order. It is further stated that the appellant is yet to receive the compensation. The appellant is not the owner of the property and his mother is the owner of



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the land. The appellant's mother, who challenged the land acquisition proceedings, is the only person, who is entitled to get compensation. Even though the compensation is not paid to the appellant's mother, the appellant's mother participated in the award through the appellant and hence, the appellant or his mother cannot plead that she was not aware of the compensation that was awarded by the respondents. This Court is unable to believe appellant's plea that possession was not taken.

9.In these circumstances, this Court is of the view that the appellant has approached this Court suppressing the material facts with oblique motive. Hence, this Writ Appeal is dismissed with the cost of Rs.5,000/- to the credit of Legal Services Authority attached to this Bench within a period of two weeks from the date of receipt of a copy of this Judgment. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [S.S.Y., J.]
24.08.2022

Index : Yes / No

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