



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) Nos.12497 of 2022 & 23250 of 2017

and

W.M.P (MD) Nos.19547 of 2017, 8859 & 8860 of 2022

W.P (MD) No.12497 of 2022:

- 1.Jeyalakshmi
- 2.Sukendar
- 3.Sumathi
- 4.Umasankar

... Petitioners

Vs

- 1.The State represented by
The Secretary to Government,
Housing & Urban Development Department,
Fort St., George,
Chennai - 600 009.
- 2.The Land Acquisition Officer /
Special Tahsildar,
(L.A) Neighborhood Scheme (Kovilpatti)
Thoothukudi,
Thoothukudi District.
- 3.The Executive Engineer & Administrative Officer,
Tamil Nadu Housing Board,
Tirunelveli Housing Unit,
Anbu Nagar,
Tirunelveli.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, to declare that the land acquisition proceedings initiated by the respondents under the Land Acquisition Act, 1894, with respect of the petitioners' lands in Survey No.6/1B of an extent of 9 cents, Plot Nos.55 and 56, situated in Alampatti Village, Kovilpatti Taluk, Thoothukudi District as lapsed in view of the Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act 2013 (Act 30 of 2013).



For Petitioners : Mr.A.Saravanan
For Respondents : Mr.M.Prakash
Additional Government Pleader for
R.1 & R.2
(*)Mr.S.Velmurugan for R.3

W.P (MD) No.23250 of 2017:

P.Jothilakshmi

... Petitioner

Vs

- 1.The State represented by
The Secretary to Government,
Housing & Urban Development Department,
Fort St., George,
Chennai - 600 009.
- 2.The Land Acquisition Officer /
Special Tahsildar,
(L.A) Neighborhood Scheme (Kovilpatti)
Thoothukudi,
Thoothukudi District.
- 3.The Executive Engineer & Administrative Officer,
Tamil Nadu Housing Board,
Tirunelveli Housing Unit,
Anbu Nagar,
Tirunelveli.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, to declare that the land acquisition proceedings initiated by the respondents under the Land Acquisition Act, 1894, insofar as the petitioner's land to the extent of 8.35 cents comprised in plot no.32 and 33 in S.No.6/1B of Alampatti Village, Kovilpatti Taluk, Tuticorin District is not valid and consequently, direct the respondents to return back her land to the petitioner or to pay compensation to her as per present Guideline value with accrued interest till the payment as fixed by this Court.

For Petitioner : Mr.R.Gowrishankar
For Respondents : Mr.M.Prakash
Additional Government Pleader
for R.1 & R.2
(*)Mr.S.Velmurugan for R.3

ORDER

Heard the learned counsel appearing for the writ petitioners,
the learned AGP appearing for the respondents 1 and 2 and the



learned Standing Counsel appearing for the respondent Housir l.

2.The lands belonging to the father of the petitioners in W.P (MD)No.12497 of 2022 and the land belonging to the petitioner in W.P (MD)No.23250 of 2017 were acquired along with that of others way back in 1990s. The notification under Section 4(1) was issued in 1991. An award came to be passed in the year 1994. The petitioners in both writ petitions strongly claim that possession of the lands are still with them. Only symbolic paper possession was taken. They are entitled to the benefit available under Section 24(2) of Central Act 30 of 2013. They would primarily contend that the authority never disbursed the compensation amount to them. They rely on the decisions reported in 2020-2-Writ L.R 345 (K.Saraswathi & another v. The State of Tamil Nadu) and 2019 (1) CWC 147 (S.Govindarajan v. Tamil Nadu Housing Board).

3.The respondents have filed counter affidavit and contended that the acquisition proceedings attained finality long back and that the theory of lapse propounded by the writ petitioners is inapplicable to the case on hand. The learned Additional Government Pleader as well as the learned Standing Counsel pressed for dismissal of the writ petitions.

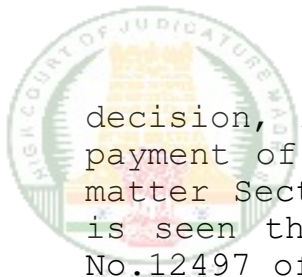
4.I carefully considered the rival contentions and went through the materials on record. Section 24(2) of the Central Act 30 of 2013 is as follows :

"24.Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.-

(1).....

(2)Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act: "

This provision was authoritatively interpreted by the Hon'ble Supreme Court in Indoor Development Authority vs. Manoharlal and others (2020 SCC Online 316) and it was held that the expression 'or' must be read as 'and'. The question of lapse would arise only if possession was not taken and compensation has also not been paid. I must deal with the contention if **K.Saraswathi & another v. The State of Tamil Nadu** will apply to the case on hand. In the said



decision, it was found on facts that there was no valid t or payment of compensation to the land owners and in that view of the matter Section 24(2) of the Central Act 30 of 2013 was applied. It is seen that Shankaran / father of the writ petitioner in W.P(MD) No.12497 of 2022 and Jothi Lakshmi the petitioner in W.P(MD)No.23250 of 2017 were parties to LAOP.No.61 of 1998 on the file of Sub Court, Kovilpatti. Shankaran figured as Claimant No.31 while Jothi Lakshmi figured as Claimant No.114. LAOP 61 of 1998 was a case of reference under Section 30 of the Land Acquisition Act, 1894. Section 31 of the Old Land Acquisition Act (1894) is as follows :

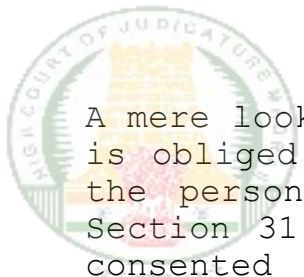
"31.Payment of compensation or deposit of same in Court. - (1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted: Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount: Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3)Notwithstanding anything in this section the Collector may, with the sanction of the [appropriate Government] instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land-revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4)Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof. "



A mere look at the aforesaid provision would show that the ()r is obliged to tender payment of the compensation awarded by him to the persons interested and entitled as per the award only under Section 31(1) of the Old Act. If the interested persons have not consented to receive the award amount or if there is no person competent to alienate the land or if there is any dispute regarding the apportionment or title to receive the compensation, Collector shall deposit the amount before the reference Court. In this case, the award amount had been deposited by the authority concerned under Section 31(2) of the Act before the jurisdictional Court. Only if the case falls under Section 31(1) of the Act, the question of tender would arise and **K.Saraswathi & another v. The State of Tamil Nadu** will be applicable. Where the case falls under Section 31(2) of the Act, the question of tender does not arise at all.

5.As rightly pointed out by the learned Standing Counsel for the housing Board, vide order dated 19.03.2020 made in WP(MD)No.7004 of 2015, order dated 14.06.2022 in WP(MD)No.1204 of 2017 and order dated 26.03.2022 in WP(MD)No.12078 of 2015, it has been held that deposit by the competent authority either in the treasury or in the Court would more than suffice and the theory of lapse will not get attracted. The learned Standing Counsel produced a copy of the revenue record indicating that mutation has been effected and the name of the housing board has been entered along with the allottees. When both conditions set out under Section 24(2) of the Central Act 30 of 2013 are not fulfilled in the case, I am not in a position to grant relief.

6.These writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

(*)Corrected as per the order of this Court dated 11.10.2022

Sd/-

Assistant Registrar(CO)

// True Copy //

11/10/2022

Sub Assistant Registrar(CS)

mga

(*) To be substituted the order already despatched on 27.09.2022

To

1.The Secretary to Govt., Housing & Urban Development Department,
Fort St., George, Chennai - 600 009.



2.The Land Acquisition Officer / Special Tahsildar,
(L.A) Neighborhood Scheme (Kovilpatti)
Thoothukudi, Thoothukudi District.

3.The Executive Engineer & Administrative Officer,
Tamil Nadu Housing Board, Tirunelveli Housing Unit,
Anbu Nagar, Tirunelveli.

+1 CC to M/s.SPL.GP (SR-37338[F] dated 11/08/2022)

+1 CC to M/s.A.SARAVANAN, Advocate (SR-37172[F] dated 10/08/2022)

+1 CC to Gourisankar, Advocate SR.No. 37883

W.P. (MD) Nos.23250 of 2017 & 12497 of 2022
10.08.2022

AMS(23.09.2022) 6P 7C

KMV(CO)

KB(11.10.2022) 6P 7C