



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON: 15.06.2022

ORDER PRONOUNDED ON : 20.06.2022

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P. (MD) .No.12078 of 2015

and

MP(MD) .No. 1 of 2015

A.Anand

...Petitioner

Vs

1.The State of Tamil Nadu
Represented by its Secretary to Government
Housing and Urban Development
Chennai

2.The Managing Director
Tamil Nadu Housing Board
Chennai 35

3.The Executive Engineer
Tamil Nadu Housing Board
Madurai -20

....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring the Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894 in respect of the lands measuring 0.30 acres comprised in Survey Nos.89/5 and 89/8A, Thoppur Village, Madurai South Taluk, Madurai District as lapsed in the light of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioner : Mr.V.Karthik Raja
For M/s.Ajmal Associates

For R1 :Mr.N.Muthuvijayan
Special Government Pleader

For R3 : Mr.Veera Kathiravan
Additional Advocate General
Assisted by Mr.R.Sivakumar



ORDER

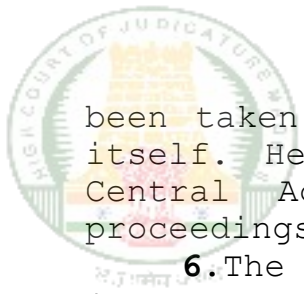
The writ petition has been filed seeking writ of declaration to declare that the Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894 have got lapsed in the light of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2.The learned counsel for the petitioner has contended that the land in dispute was purchased by his father on 11.06.1975. A notification was issued under 4(1) of the Land Acquisition Act, 1894 on 16.10.1985 for acquiring a land measuring 558.06 acres. Pursuant to the said proceedings, an award was passed under Section 11 of the Land Acquisition Act in Award No.10 of 1988 dated 14.10.1988.

3.According to the petitioner though award was passed, his father did not receive the compensation amount. The petitioner had further contended that he preferred a representation to the Housing Board which is the beneficiary under acquisition proceedings to reconvey the land on the ground that the said land has not been used by the Housing Board for the project for which it was acquired. Since the said representation was not considered, the petitioner had filed W.P(MD).No.4714 of 2012 seeking a mandamus to transfer the said land to the petitioner under Section 48-B of the Land Acquisition Act, 1894. The said writ petition was disposed of with a direction to the respondent Housing Board to consider his representation and pass orders. On 05.11.2012, the Housing Board passed an order rejecting the claim of the petitioner's father on the ground that the land is situated nearby National Highways and the same is required by the Tamil Nadu Housing Board for project.

4.The petitioner had filed the present writ petition for a declaration that the previous acquisition proceedings have got lapsed on two grounds namely that his family has not received the compensation from the respondent, though an award has been passed in 14.10.1988. That apart, the respondents have not taken possession of the land till date and the petitioner's family continues to be in possession of the disputed property. Hence, he prayed that under Section 24(2) of the Central Act 30 of 2013, it should be declared that the entire acquisition proceedings under the old Act have got lapsed.

5.The learned Additional Advocate General appearing for the respondent Housing Board drew the attention of this Court to the proceedings dated 28.12.1988 to the effect that the possession has been taken over by the Administrative Officer of the Tamil Nadu Housing Board from Acquisitioning Authority. The learned Additional Advocate General also placed before the Court the revenue challan under which the entire compensation amount was deposited before the treasury on 26.08.1988. Hence, he contended that the possession has



been taken and the award has also been deposited in the year 1988 itself. Hence, there is no scope for invoking Section 24(2) of Central Act 30 of 2013 for declaring that the acquisition proceedings have got lapsed.

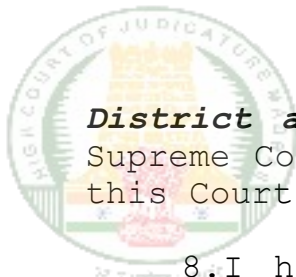
6.The learned Additional Advocate General relied upon a judgment of the Hon'ble Supreme Court reported **in (2020) 8 SCC 129 (Indore Development Authority Vs. Manoharlal and others)** to impress upon the court that it is not necessary that both possession and the payment of compensation amount should have been completed before coming into force of the new enactment that is on 01.01.2014. Even if one of the conditions is satisfied, the acquisition proceedings under the old Act, would not get lapsed. However, in the present case, both the conditions have been satisfied and hence, the acquisition proceedings would not get lapsed. The learned Additional Advocate General pointed out the following Paragraphs from the judgment of the Hon'ble Supreme Court. Paragraph Nos. 185 and 186 read as follows:

"185.The proviso relates to the non-payment. Compensation is deposited when the Collector is prevented from making payment. It is the obligation made under Section 31(1) to tender the amount and pay unless prevented by the contingencies specified in Section 31(2). Thus, the deposit has a co-relation with the expression " payment has not been made", and the proviso makes sense with Section 24(2) only. In case of non-payment or prevention from payment, compensation is required to be deposited as the case may be in the reference Court or otherwise in treasury, if permissible.

186.The proviso uses the express that the amount is to be deposited in the account of beneficiaries. Earlier under the 1894 Act, there was no such provision for depositing the amount in the bank account of beneficiaries but the method which was used as per the forms which were prescribed to deposit the amount, it was credited to the Reference Court or in the treasury in the names of the beneficiaries and as against the award. It was not a separate account but an account of the Reference Court or set apart in the treasury. The proviso has to be interpreted and given the meaning with Section 24(2) as an amount was required to be paid and on being prevented had to be deposited as envisaged under the 1894 Act".

7.Hence, the learned Additional Advocate General contended that the previous attempt made by the writ petitioner's father for reconveyance under Section 48(B) of the old Act was rejected by the Housing Board. The said order has remained unchallenged. Now the petitioner has resorted to the other plea that the acquisition proceedings have got lapsed. He further contended that the land is acquired for a project of the Tamil Nadu Housing Board. He relied upon a judgement of this Court dated 19.03.2020 made in **W.P (MD) .**

No.7004 of 2014 (Palpandi Vs. The District Revenue Officer, Madurai



District and others) to contend that the judgment of the Hon'ble Supreme Court has been followed by this Court by a learned Judge of this Court. Hence, he prayed for dismissal of the writ petition.

8.I have carefully considered the submissions made on either side.

9.The present writ petition has been filed to declare that the land acquisition proceedings initiated under the old Act have got lapsed invoking Section 24(2) of the Central Act 30 of 2013. The two grounds on which the said prayer has been made is as follows:

(i).The petitioner or his family members have not received compensation, even though the award was passed on 14.10.1988.

(ii).The possession remains with the family of the petitioner as on today.

10.As rightly pointed out by the learned Additional Advocate General, official records indicate that the possession has been taken by the Tamil Nadu Housing Board from the acquisitioning authority on 28.12.1988 itself by way of transfer charge certificate. The entire compensation has been deposited in the treasury account on 26.08.1988 as reflected from the treasury challan produced by the respondent Housing Board. Hence, it is evident that none of the grounds alleged by the writ petitioner for declaring that the acquisition proceedings has got lapsed have been made out by the writ petitioner. The Hon'ble Supreme Court in the judgment cited supra has categorically found that it is not necessary that the compensation amount should be directly paid to the beneficiaries in order to escape from the rigour of Section 24 (2) of the Central Act 30 of 2013. It is enough that the amount has been set apart and deposited in a Treasury account. In the present case, amount has been deposited in the treasury account way back in the year 1988. The present writ petition has been filed in the year 2015 attempting to invoke the provisions of Section 24(2) of the Central Act 30 of 2013.

11.In view of the above said discussion, I do not find any merit in the writ petition and the same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/06/2022

Sub Assistant Registrar(CS)

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To

1.The Secretary to Government
State of Tamil Nadu
Housing and Urban Development
Chennai

2.The Managing Director
Tamil Nadu Housing Board
Chennai 35

3.The Executive Engineer
Tamil Nadu Housing Board
Madurai -20

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-26905[F] dated
20/06/2022)

+1 CC to M/s.SPL.GP (SR-27121[F] dated 21/06/2022)

W.P. (MD) .No.12078 of 2015 and
MP (MD) .No. 1 of 2015
20.06.2022

RD(27.06.2022) 5P 6C