



W.P(MD)No.14142 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 30.11.2022
DELIVERED ON : 02.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

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R.Balasubramanian

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Represented by its Principal Secretary,
Housing and Urban Development Department,
Fort St. George, Secretariat,
Chennai-600 009.
- 2.Tamil Nadu Housing Board,
Represented by its Managing Director,
Nandanam, Chennai.
- 3.The Executive Engineer cum
Administrative Officer,
Tamil Nadu Housing Board,
Ellis Nagar, Madurai-625 010.
- 4.The District Collector,
Dindigul District,
Dindigul.
- 5.The Revenue Divisional Officer,
Dindigul, Dindigul District.



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6.The Land Acquisition Officer
and Special Tahsildar (LA),
North Neighbourhood Project,
Madurai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, declaring that the entire land acquisition proceedings including the Award No.4 of 1984, dated 28.09.1984, in L.A.C.No.5/76 passed by the sixth respondent and the notification under Sec.4(1) of the Land Acquisition Act, 1984 passed by the first respondent in G.O.R.No.273, Housing, dated 16.12.1976, in so far as the petitioner's land measuring 4950 sq.ft. in T.S.No.722/11 Chettinaickanpatti Village, Dindigul Town have lapsed as per Sec.24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioner : M/s.M.Saravanan
for M/s.N.C.Ashok Kumar

For R-1, R-4 to R-6 : M/s.A.Baskaran
Additional Government Pleader

For R-2 & R-3 : M/s.R.Sivakumar
Standing Counsel



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ORDER

The present Writ Petition has been filed for a Writ of Declaration that 4(1) notification issued under the Land Acquisition Act and the award passed in award No.4 of 1984, dated 28.09.1984, have got lapsed as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013).

2. According to the learned Counsel for the petitioner, an extent of 4,950 square feet in T.S.No.722/11 in Chettinaickanpatti Village, Dindigul was purchased by his father under a registered sale deed, dated 22.06.1962 and he had been in possession and enjoyment of the property by constructing a small thatched house and paying tax. The petitioner has further contended that his father had passed away on 05.02.1988 and the same has devolved upon the petitioner, his brother Krishnamoorthy and his sisters Krishnammal and Lakshmiammal.



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3. According to the petitioner, when they verified the revenue records in the year 2014, they came to know that the lands have been acquired by the respondent authorities way back in the year 1984, without issuing any notice to the writ petitioner's father or conducting any enquiry. Even the award proceedings have been conducted by the fifth respondent herein, without issuing any notice to the petitioner or his father. Hence, according to the petitioner, the entire acquisition proceedings have to be set aside. The acquisition proceedings may also be declared to have lapsed in view of Section 24(2) of the Central Act, 30 of 2013.

4. The learned Counsel for the petitioner had submitted that though the name of the petitioner's father has been reflected in the encumbrance certificate by way of a registered document, dated 22.06.1962, during the acquisition proceedings in the year 1976, no notice has been issued to the petitioner's father and hence, the said 4(1) notification and the consequential award should be set aside. The learned Counsel for the petitioner further prayed that since the award is invalid, this Court has to treat that award having not been passed on 01.01.2014. The acquisition proceedings ought to have lapsed as contemplated under Section 24(2) of the Central Act 30 of



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2013. Hence, he prayed for allowing the writ petition.

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5. Per contra, the learned Standing Counsel appearing for the Housing Board by filing a counter had contended that the 4(1) notification was issued on 16.12.1976 and a 6 declaration was published on 13.12.1978. The said acquisition proceedings were challenged by some of the owners in W.P(MD)No.5054 of 1982 for the same survey number, namely, 722/11. All the writ petitions were dismissed on 05.09.1983. Since the acquisition proceedings have already been challenged and they have been confirmed by this Court, the question of invoking Section 24(2) of the Central Act 30 of 2013 does not arise.

6. The learned Standing Counsel for the respondent had further contended that the possession was taken by the Tamil Nadu Housing Board on 28.09.1984 by a Panchnama and the same has vested with the Tamil Nadu Housing Board. The award enquiry was conducted by the fifth respondent herein in award No.4 of 1984 and an award was passed on 28.09.1984. In view of the fact that several persons claimed title to the S.No.722/11, the compensation amount was deposited before the Sub Court,

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Dindigul and a reference was made under Section 30 and 31(2) of the Land Acquisition Act, 1894. Hence, according to the learned Standing Counsel for the respondent, possession has been taken and compensation amount has also been deposited prior to coming into force of Central Act 30 of 2013. Hence, viewed from any angle, Section 24(2) of the Central Act cannot be invoked.

7. The learned Standing Counsel for the respondent had further contended that the revenue records were standing in the name of one D.M.M.Durairaj Chettiyar and notices were issued to him and an award came to be passed. Though the petitioner claims that his father has purchased the property in the year 1962, revenue records have not get mutated in the name of the writ petitioner's father and none of the revenue records reflected the name of the writ petitioner's father. Hence, notices were issued to all the persons whose names were reflected in the revenue records and an enquiry was conducted and an award came to be passed. Hence, the contention of the writ petitioner that the 4(1) notification and the award have been passed without notice to his father is not legally sustainable. Hence, he prayed for dismissal of the writ petition.



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

9. It could be seen from the records that the acquisition proceedings have been initiated in the year 1976 and the award has been passed in the year 1984. Possession has also been taken in the year 1984. The compensation amount pursuant to the award has been deposited before the Sub Court, Dindigul, in view of dispute raised by various persons claiming title over S.No.722/11. Therefore, it is clear that the petitioner has not made out a case for invoking Section 24(2) of the Central Act 30 of 2013.

10. Though the petitioner claims that his father has purchased the property in the year 1962 from one Pitchai, he has not produced any revenue records either in the name of the writ petitioner's father or in the name of their vendor. The acquisition proceedings extend to a larger extent of land and all the lands in and around the writ petitioner's property have already been acquired and the acquisition proceedings have reached finality. Therefore, the contention of the petitioner that he was not aware of the acquisition proceedings till 2014 is not believable. Further, several persons



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whose names were reflected in the acquisition proceedings have appeared during award enquiry and made a claim for the award amount. In view of the said dispute, the award amount has been deposited before the Sub Court, Dindigul. Therefore, the contention of the writ petitioner that his family was not aware of the acquisition proceedings is also not believable. The acquisition proceedings have been initiated in the year 1976 and award has been passed in the year 1984 and the said acquisition proceedings and the award have been challenged before this Court in the year 2015. The petitioner has not assigned any acceptable reason for the huge delay in approaching the Court under Article 226 of the Constitution of India. That apart, the respondent Housing Board has specifically contended that they have taken possession and the project has been completed.

11. In view of the above said facts, I do not find any error or illegality in the acquisition proceedings warranting interference by this Court. The writ petition stands dismissed. There shall be no order as to costs.

02.12.2022



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Index : Yes / No

Internet : Yes / No

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Chennai-600 009.
- 2.The Managing Director,
The Tamil Nadu Housing Board,
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R.VIJAYAKUMAR, J.

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