



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.1205 of 2017 and

W.M.P. (MD)No.1020 of 2017

WEB COPY

N.Shahul Hameed

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. By its Secretary to Government,
Housing & Urban Development Department,
Fort St. George, Chennai - 600 009.

2. The Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.

3. The Executive Engineer and Administrative Officer,
Ramanathapuram Housing Unit(TNHB),
Ramanathapuram.

... Respondents

Prayer in W.P.(MD)No.1205 of 2017 : Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring that the land acquisition proceedings initiated under the Land Acquisition Act 1894 in respect of the land of an extent of 4 cents (Plot No.9) comprised in Survey No.332/1 situated at Pattinamkathan Village, Ramanathapuram, Ramanathapuram District, belonging to the petitioner, as lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 / 2013).

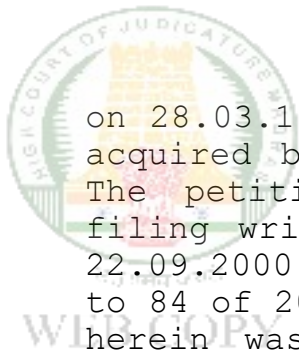
For Petitioner : Mr.A.S.Mujibur Rahman
For R-1 & R-2 : Mr.N.Ramesh Arumugam,
Government Advocate.
For R-3 : Mr.S.Sumesh,
Standing Counsel.

* * *

O R D E R

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

2. The petitioner is said to be in possession of 4 cents of land in Survey No.332/1 in Pattinamkathan Village, Ramanathapuram. The said property was settled in favour of the petitioner way back



on 28.03.1990. The said land along with a larger extent of land was acquired by the Government for Housing Board development schemes. The petitioner along with others questioned the acquisition by filing writ petitions and the said writ petitions were allowed on 22.09.2000. Challenging the same, the Housing Board filed W.A.Nos.32 to 84 of 2008 before the Hon'ble Division Bench. The writ petitioner herein was the respondent in W.A.No.74 of 2008. By Order dated 24.06.2013, the Hon'ble Division Bench set aside the order of the learned single Judge and allowed the writ appeals. Challenging the same, special leave petitions were filed before the Hon'ble Supreme Court. By Order dated 30.09.2016, the special leave petitions were dismissed. However the land owners were given liberty to ventilate their grievances under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013. Availing the said liberty, the present writ petitions have been filed.

3. The learned counsel appearing for the petitioners submitted that the acquisition proceedings should be deemed to have lapsed in view of Section 24(2) of Act 30 of 2013. He pointed out that the compensation amount was never paid and that possession was also never taken. He placed considerable reliance of the order dated 15.09.2020 made in W.P.(MD) No.10712 of 2020.

4. Per contra, the learned Government Advocate as well as the learned Standing counsel submitted that there is absolutely no merit in this writ petition and pressed for its dismissal.

5. I carefully considered the rival contentions and went through the materials on record.

6. Section 24(2) of the Act has now been authoritatively interpreted by the Hon'ble Constitution Bench of the Supreme Court of India in ***Indore Development Authority V. Manoharlal and Others (2020 SCC Online SC 316)***. Section 24(2) of the Act 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:



Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act."

7. The respondents in their counter have fairly stated that the possession of the land could not be taken on account of the successive litigations launched by the land owners. But this alone may not be sufficient to sustain the petitioner's case. The Hon'ble Supreme Court in the aforesaid decision has held that the expression 'or' must be read as ' and ' and that therefore, the question of lapse would arise only if possession has not been taken and compensation has also not been paid. In this case, in the counter affidavit filed by the second respondent, the details regarding the revenue deposit has been set out.

8. The petitioners have not filed any rejoinder questioning the said assertion made by the respondents. In the order dated 15.09.2020 in W.P.(MD)No.10712 of 2020 relied upon by the petitioner's counsel, there was not even a scrap of paper to show that the compensation was ever tendered to the land owners. The relevant records were not produced. In these circumstances, the Court held that the compensation was not paid to the land owners. But in this case, the compensation amount had been deposited in the treasury. Therefore, while one of the requirements set out under Section 24(2) of the new Act i.e., non taking possession has been fulfilled, the requirement of non-payment of compensation had not been fulfilled. Respectfully following Indore Development Authority decision, I have to necessarily dismiss the writ petition.

9. This writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

PMU

To:

1.The Secretary to Government,
The Government of Tamil Nadu,
Housing & Urban Development Department,
Fort St. George, Chennai - 600 009.

<https://hcservices.ecourts.gov.in/hcservices/>



2. The Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.

3. The Executive Engineer and Administrative Officer,
Ramanathapuram Housing Unit(TNHB),
Ramanathapuram.

+1 CC to M/s.MOHAMED IBRAHIM ALI, Advocate (SR-25738[F]
dated 15/06/2022)

+1 CC to M/s.SPL.GP (SR-25913[F] dated 15/06/2022)

W.P.(MD)No.1205 of 2017
14.06.2022

nsn(CO)

GC(01.07.2022) 4P 6C