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W.A.Nos.1392 of 2015 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 10.08.2023

DELIVERED ON: 25.09.2023

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE MR.JUSTICE P.B.BALAJI

**W.A.Nos.1392 to 1403, 1406, 1407, 1410 to 1412, 1452, 1458, 1460,
1767, 1769 to 1772, 1774 to 1777, 1779 to 1785 of 2015**

**W.A.Nos.1880 & 1881 of 2018
and CMP.Nos.13966 & 13986 of 2021
CMP.Nos.15128 & 15129 of 2018**

W.A.No.1392 of 2015

Sundaramoorthy

.. Appellant

Vs.

- 1.State of Tamil Nadu,
Rep. by its Secretary,
Housing and Urban Development Department,
Fort St.George, Chennai-600 009.
- 2.The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai-600 006.
- 3.The Executive Engineer,
and Administrative Officer,
Besant Nagar Division,



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Tamil Nadu Housing Board Unit,
No.48, Dr.Muthulakshmi Road,
Adyar, 600 020.

4.The Special Thasildar,
Land Acquisition, Unit-V,
Tamil Nadu Housing Board Schemes,
Aringar Anna Shopping Complex,
7th Avenue, Thirumangalam,
Chennai-600 101.

.. Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the common order dated 03.07.2015 made in W.P.Nos.19689 of 214 etc., batch.

For Appellants

W.A.Nos.1392 to 1396, 1399,
1407, 1410 to 1412 of 2015
W.A.Nos.1880 & 1881 of 2018 : Mr.K.V.Babu

W.A.Nos.1452, 1458 &
1460 of 2015 : Mr.R.N.Amarnath

W.A.Nos.1397, 1398, 1400, 1401,
1767, 1769 to 1772, 1774 to 1777,
1779 to 1785 of 2015 : Mr.N.S.N.Krishnakumar

For Respondents

Mr.R.Shunmugasundaram,
Advocate General, assisted by
Mr.R.Gouri,
Ms.S.Sona Sathishkumar for R1 & R4
Mr.J.Ravindran, Additional Advocate General
assisted by Mr.D.R.Arunkumar,
Standing Counsel for R2 and R3 (TNHB)



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COMMON JUDGMENT

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D.KRISHNAKUMAR, J.

The appellants are the writ petitioners and they filed these writ appeals against the common order dated 03.07.2015 passed in W.P.Nos.19483 of 2014 etc., batch, which was filed for a Declaration to declare the land acquisition proceedings initiated under the Land Acquisition Act, 1894 [in short "Act, 1984"] for the formation of Sholinganallur Neighbourhood Scheme, Phase I, by the Tamil Nadu Housing Board as having lapsed in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [in short "Act, 2013"].

2. Brief facts of the case are as follows. For the sake of convenience, the array of parties in W.P.No.1392 of 2015 is adopted.

2.1. The petitioners are the owners of lands comprised in various survey numbers in Sholinganallur Village, Tambaram Taluk, Kancheepuram District. The first respondent / Government has issued Section 4(1) Notification in G.O.Ms.No.433, Housing and Urban



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Development Department dated **14.05.1990** under Act, 1894 to acquire lands admeasuring to an extent of 18.62.5 Hectares for the formation of Sholinganallur Neighbourhood Scheme Phase I. Section 6 Declaration in G.O.Ms.No.948, Housing and Urban Development Department was issued on **07.06.1991**. An award came to be passed in **Award No.1 / 1997 dated 23.04.1997**.

2.2. After the enactment of Act, 2013, the appellants/writ petitioners filed the writ petitions by invoking Section 24(2) of the said Act on the ground that after passing of the award, the possession of the lands is still vested with the appellants and the compensation was neither paid nor deposited in the Civil Court and therefore, prayed to declare the entire land acquisition proceedings initiated under Act, 1894 as lapsed.

2.3. The Writ Court, while disposing of the writ petitions, considering the submission of the learned Advocate General that the petitioners name were not available in the Land Acquisition Proceedings under Section 4(1) Notification and Award and they are not the owners



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of the properties and they have not produced any title deeds to prove their ownership and further the Land Acquisition Officer had handed over physical possession to the requisitioning body, viz., Tamil Nadu Housing Board, has granted liberty to the writ petitioner to make fresh representation before the respondents regarding their claim and on such representation being filed, the respondents were directed to conduct a comprehensive enquiry and also physical verification over the property and to find out as to whether the petitioners are in physical possession of the subject land and are in enjoyment of the same, within a period of three months from the date of receipt of the order. Aggrieved over the said order of the Writ Court, the appellants have filed the instant writ appeals.

3. Mr.K.V.Babu, learned counsel for the appellants in some of the writ appeals has made the following contentions:

(i) As per the provisions of the Old Act, possession has not been taken till date and therefore, the lands have not been vested with the Government in terms of Section 16 of the Old Act.



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(ii) Even as per the counter affidavit filed by the respondents in the writ petition, it has been stated that the possession of the land has been taken on 16.08.2004 and not on any earlier date. The Transfer of Charge Certificate dated 16.08.2004 is only an internal document between the Acquiring Authority and the Requisitioning Body and this does not evidence the fact regarding taking possession from the landowners/appellants, as required under Section 16 of Act, 1894.

(iii) Compensation amount has not been paid / tendered / deposited in accordance with law and therefore, one of the twin conditions has been satisfied to invoke Section 24(2) of the Act, 2013 to declare the land acquisition proceeding as lapsed.

The learned counsel for the appellant mainly placed reliance upon the decision of the Hon'ble Supreme Court in ***Indore Development Authority v. Manoharlal and Others [(2020) 8 SCC 129]***.

4. Mr.N.S.N.Krishnakumar, learned counsel appearing for some of the appellants / petitioners submitted that since compensation amount has not been paid to the beneficiaries of the acquisition proceedings even after 5 years from the date of the award, the land acquisition proceedings



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have to be treated as lapsed. It is further contended that though the award said to have been passed on 23.04.1997, the possession of the lands was not taken by the Land Acquisition Officer from the appellants, as provided under Sections 16 and 17(i) of the Act, 1894 and the records produced before this Court would clear demonstrate that both the conditions laid down in Section 24(2) of the Act, 2013 stand attracted in view of the fact that compensation amount has not been tendered to the land owners and possession was also not taken over in the manner known to law.

5. Mr.R.N.Amarnath, learned counsel for the appellants in few writ appeals, has reiterated the very same stand taken by the other two learned counsel appearing for the appellants.

6. Mr.R.Shunmugasundaram, learned Advocate General appearing for the first respondent made the following submissions:

(i) In W.A.Nos.1393, 1394, 1395, 1396, 1458, 1402, 1403, 1412, 1452. 1775, 1771, 1774, 1776, 1781, 1783, 1784, 1785, 1777, 1779 and 1780 of 2015 (20 writ appeals),



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compensation was made through Revenue Deposit for a sum of Rs.21,84,322/- on 02.01.2008. In W.A.Nos.1392, 1769, 1406, 1460, 1407, 1410, 1411, 1722, 1782, 1770, 1398, 1399, 1401, 1397, 1400, 1767 of 2015, compensation was made through Work Deposit on 11.06.1993 & 31.03.1997 for a sum of Rs.50,62,221/- and Rs.43,91,655/- respectively. Therefore, in all the 36 writ appeals, compensation has been tendered according to the ratio laid down in *Indore Development Authority case*.

(ii) In all the writ appeals, possession has been taken on various dates i.e., 29.09.1999, 13.08.2004 and 26.09.2006 and handed over to the Surveyor of Tamil Nadu Housing Board on 29.09.1999, 16.08.2004 and 26.09.2006 and possession certificate stands to this effect.

(iii) The land acquisition proceedings was already challenged by one Mr.S.Rajasekar, who is the son of one Sarojiniammal, in respect of S.No.420/2C seeking declaration of the land acquisition proceedings as lapsed by virtue of Section 24(2) of Act, 2013 by filing W.P.No.16887 of 2014, which was dismissed on 29.10.2021 and his subsequent appeal in W.A.No.301/2022 was also dismissed on 04.03.2022 and on further appeal before the Hon'ble Supreme Court in SLP (Civil) No.7459 of 2022 was also



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dismissed on 17.05.2022. Therefore, the present land acquisition proceedings has already reached finality as the same had been upheld by the Hon'ble Supreme Court.

(iv) In the light of the judgment in *Indore Development Authority case* (cited supra), mere tendering of amount is sufficient to satisfy the requirement of payment and therefore, in all the writ appeals, when compensation has been tendered through Revenue Deposit and Work Deposit, the question of non-payment of compensation does not arise.

(iv) Twin requirement of Sections 24(2) of Act, 2013 viz., taking of possession and payment of compensation both stands satisfied in the present batch of writ appeals, for which Possession Certificate and Deposit Challans were produced to that effect.

7. This Court has considered the submissions made and also perused the materials on record.

8. These writ appeals revolves around the following main two issues:



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(i) *Whether the compensation amount has been paid to the appellants?*

(ii) *Whether possession of the lands in question has been taken over by the respondents Board ?*

The learned counsel on either side have raised contentions and rival contentions on the above said two grounds.

POSSESSION

9. Section 16 of the 1894 Act provided that possession of land may be taken by the State Government after passing of an award and thereupon land vest free from all encumbrances in the State Government. Similar are the provisions made in the case of urgency in Section 17(1). When the State has acquired the land and award has been passed, land vests in the State Government free from all encumbrances. The act of vesting of the land in the State is with possession, any person retaining the possession thereafter has to be treated as trespasser and has no right to possess the land which vests in the State free from all encumbrances.



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10. According to the appellants, possession has not been taken over by the respondents till date as the lands are still in the possession enjoyment of the appellants and no Panchanama has been taken by the Land Acquisition Officer till date. It is the contention of the appellants that the transfer of charge certificate is only an internal document, which cannot be regarded as evidence of taking possession from the landowners, therefore, the entire land acquisition proceedings are declared to be lapsed in the light of Section 24(2) of the Act, 2013. The Writ Court while disposing of the writ petitions has taken into consideration of the submission that appellants/writ petitioners have not produced any title deeds to prove their ownership and they are not the owners of the properties as alleged by the respondents and directed the respondents to conduct a comprehensive detailed enquiry and to find out as to whether the petitioners are in physical possession and enjoyment of the subject lands.

11. A perusal of the records produced by the respondents would disclose that possession has been taken on various dates 16.08.2004 and



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11.05.2006 and was handed over to the respondents Board on 29.09.1999, 16.08.2004 & 26.09.2006 and the Possession Certificate to that effect was also enclosed. The details of possession taken has been tabulated hereunder:

Sholinganallur Neighbourhood Scheme - Phase I

Sl. No.	W.A.No.	Appellant Name	Survey No.	Possession Taken on
1	1392 / 2015	Sundaramoorthy	617/1B5, 617/3C1/ 617/3C2/ 416/4	16.08.2004
2	1393 / 2015	Ravichandran	420/2C, 420/2A1	16.08.2004
3	1394 / 2015	Saravanan	420/2A1	16.08.2004
4	1395 / 2015	Ramesh	420/2A1	16.08.2004
5	1396 / 2015	V.Srinivasan	420/2A1	16.08.2004
6	1402 / 2015	Pichaimani	617/4	16.08.2004
7	1403 / 2015	S.L.Vishnu Mukunthan	617/4	16.08.2004
8	1406 / 2015	M.Durai	416/27	16.08.2004
9	1407 / 2015	Durai Raj	618, 416/11	16.08.2004
10	1412 / 2015	Bharathi	420/2A1	16.08.2004
11	1452 / 2015	T.C.Abraham	423/1A	07.12.2006
12	1460 / 2015	Raja Sankaralingam	612/2B1A	16.08.2004
13	1769 / 2015	K.Mohanavel	613/3	16.08.2004
14	1770 / 2015	S.Krishnan	617/1B2	16.08.2004
15	1771 / 2015	J.Sreenivasan	440 / 3A	16.08.2004
16	1774 / 2015	S.Sukumar	613/4, 613/5A, 612/2B2A	16.08.2004



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Sl. No.	W.A.No.	Appellant Name	Survey No.	Possession Taken on
17	1775 / 2015	R.Tamil Selvi	440/4A	16.08.2004
18	1776 / 2015	S.Raviprakash	613/4, 613/5A	16.08.2004
19	1777/2015	J.Manohar	612/2B3A	16.08.2004
20	1779 / 2015	M.Srivithyadevi	612/2B2A	16.08.2004
21	1780 / 2015	N.Visalachi	612/2B2A	16.08.2004
22	1781/ 2015	S.Sivaprakash	613/4, 613/5A, 440/7B 440/4B	16.08.2004
23	1783 / 2015	Rajasekaran	613/4, 613/5A, 440/7A	16.08.2004
24	1784 / 2015	R.Tulasi	613/4, 613/5A	16.08.2004
25	1785 / 2015	S.Venkatesh	613/4, 613/5A, 612/2B3F, 613 / 2B	16.08.2004
26	1880 / 2018	K.Baskar	618	16.08.2004
27	1404 / 2015	D.Murali	613/3	16.08.2004
28	1405/2015	M.Devi	613/3	16.08.2004
29	1408/2015	M.Gomathi	612/2B1E	16.08.2004
30	1409/2015	V.Srinivasan	416/1A & 416/3	16.08.2004 & 11.05.2006
31	1410/2015	P.Shanthi	416/6	11.05.2006
32	1411/2015	S.Murugan	416/6 & 617/4	11.05.2006 & 16.08.2004
33	1458 2015	Greeta Samuel	617/4 & 416/6	11.05.2006
34	1459/2015	Raman	613/3	16.08.2004
35	1766 / 2015	Selvi	617 / 1A7	16.08.2004



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Sl. No.	W.A.No.	Appellant Name	Survey No.	Possession Taken on
36	1768 / 2015	G.Boopathy	613/3	16.08
37	1772 / 2015	Manoharan	617/1A2	16.08.2004
38	1773 / 2015	Srilekha	416/18	16.08.2004
39	1778/2015	P.Palaniyayi	416/23	16.08.2004
40	1782/2015	Arasu	416/3	11.05.2006
41	1881/2018	M.Shanthi	613/3	11.05.2006
42	2048/2018	Sarojini Sathiyavathy	612/2B2A	16.08.2004
43	2049 / 2018	Jayakumar	612/2B3A, 612/2C	16.08.2004
44	2083/2018	Mary Priyadarshini	612/2B2A	16.08.2004
45	2084/2018	Latha Jayaselvi	613/3A2	16.08.2004

In respect of the above said survey numbers where possession has been taken, award was passed in Award No.1/1997 dated 23.04.1997 and an amount of Rs.44,31,146/- has been paid.

Sholinganallur Neighbourhood Scheme Phase-2

Sl. No.	W.A.No.	Appellant Name	Survey No.	Possession Taken on
1	1456 / 2015	Senthil Kumar	S.Nos.291/3 & 293/2	13.08.2004
2	1457 / 2015	Vinothini		13.08.2004
3	1461 / 2015	V.Baskaran		13.08.2004
4	1462 / 2015	Malika		13.08.2004
5	1463 / 2015	E.Jayalakshmi		13.08.2004
6	1464 / 2015	Ramani		13.08.2004
7	1465 / 2015	Kalaiselvan		13.08.2004



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With regard to the aforesaid cases, as per Award No.2/93 dated 23.04.1997, the compensation amount has been deposited in Revenue Deposit on 19.03.2004 in respect of Sl.Nos.1 to 5 and Court Deposit in respect of Sl.Nos.7 to 13.

12. The Hon'ble Supreme Court in a landmark decision in ***Indore Development Authority v. Manoharlal and Others [(2020) 8 SCC 129]*** has held as under:

"366.3. The deemed lapse of land acquisition proceedings under Section 24(2) of the 2013 Act takes place where due to inaction of authorities for five years or more prior to commencement of the said Act, the possession of the land has not been taken nor compensation has been paid. In other words, in case possession has been taken, compensation has not been paid there is no lapse. Similarly, if compensation has been paid, possession has not been taken, then there is no lapse.

366.7. The mode of taking possession under the 1894 Act 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 1894 Act, the land vests in State there is no divesting provided under Section 24(2) of the 2013 Act, as once possession has been taken there is no lapse under Section 24(2). "



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As laid down by the Hon'ble Apex Court in the aforesaid decision, if any one of the conditions has been satisfied by the respondent Board i.e., taking over possession or compensation amount has been paid, the appellants cannot invoke Section 24(2) of the Fair Compensation Act, 2013.

13. In a latest decision in ***Land and Building Department through Secretary and another v. Attro Devi & Others [2023 LiveLaw (SC) 302]***, the Hon'ble Supreme Court has held as under:

"5.... The appellant's stand before the High Court was that the possession of the land was taken on 06.12.2012 and handed over to the DDA on the spot. The compensation could not be paid to the recorded landowners as they never came forward to claim the same.

13. It is also a fact to be noticed and taken care of that large chunk of land is acquired for planned development to take care of immediate need and also keep buffer for future requirements. Such portion of land may be lying vacant also. As has been observed in ***Indore Development Authority's case*** (supra) by this Court, the State agencies are not supposed to put police force to protect possession of the land taken after process of acquisition is complete. As far as the case in hand is concerned, the land even if was lying 5 vacant, is required now for a project of national importance for construction of the DelhiSaharanpur-Dehradun Highway starting from Akshardham Junction to Delhi/UP Border, in the State of Delhi in Phase-I of Bharatmala Pariyojana.



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14. It is the undisputed fact on the record, as has been noticed in the impugned order passed by the High Court, the possession of the land was taken over by the Land Acquisition Collector and handed over to Delhi Development Authority. Report of possession proceedings dated 06.12.2012 has also been placed on record. ***Hence, one of the conditions being satisfied, we need not examine any other argument***"

14. In the cases on hand as tabulated above, possession has already been taken and was handed over to the Tamil Nadu Housing Board on 29.09.1999, 16.08.2004 and 26.09.2006. This Court also perused the Transfer of Charge Certificate produced by the respondents, in and by which the lands in question was handed over by Thiru.Santhakumar, Village Administrative Officer, Sholinganallur on 13.08.2004 and taken over by Mr.K.Anni Priscilla, Assistant Grade Revenue Inspector, Office of the Special Tahsildar (Land Acquisition Unit-V), TNHB Scheme, Nandanam, Chennai-35 and subsequently, it was handed over to the Tamil Nadu Housing Board. Therefore, it is amply proved by documents that possession has already been taken over by the Land Acquisition Officer and handed over to the Tamil Nadu Housing Board. In the light of the decision in ***Indore Development Authority case (supra) and Land***



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and Building Department case (supra), one of the conditions being satisfied, it is needless for this Court to go into other arguments. Therefore, the claim of the appellants/writ petitioners in the above tabulated cases seeking relief under Section 24(2) of the Act, 2013 on the ground that possession has not been taken over, is liable to be rejected.

DEEMED TO HAVE TAKEN POSSESSION

15. A perusal of the records reveals that in respect of one Mr.Sundaramurthy, who is the appellant in W.A.No.1392/2015 and owner of lands in S.No.617/1B5, 617/3C1, 617/3C2 and 416/4 admeasuring to an total extent of 0.92 cents, it is stated by the respondents that possession has been taken only to an extent of 0.06 cents on 13.08.2004 and in respect of remaining lands, possession has not been taken. The Hon'ble Supreme Court in *Indore Development Authority case (supra)*, has relied upon the decision in *NTPC v. Mahesh Dutta reported in (2009) 8 SCC 339*, wherein it was observed as under:

"28. It is beyond any comprehension that when possession is purported to have been taken of the entire acquired lands, actual possession would be taken only of a portion thereof. The certificate of possession was neither



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correct or incorrect. It cannot be partially correct or partially incorrect. Either the possession had been actually been delivered or had not been delivered. It cannot be accepted that possession had been delivered in respect of about 10 acres of land and the possession could not be taken in respect of the rest 55 acres of land. When the provisions of Section 17 are taken recourse to, vesting of the land takes effect immediately."

Once possession of the land has been taken in part, the remaining portion of the lands are also deemed to have been taken possession in the light of the decision of the Hon'ble Apex Court cited supra. Therefore, claim of the appellant in W.A.No.1392/2015 on the ground that only part possession is taken by the respondents, is liable to be rejected.

COMPENSATION

16. According to the respondents, as per Act, 1894, the procedure contemplated for payment of compensation requires a notice under Section 12(2) of Act, 1894 to be issued by the Collector to the interested persons, but in the instant cases, no notice under Section 12(2) has been issued by the respondents and the respondents have neither disclosed the date of issuance of notice in the counter affidavit nor filed any documents to substantiate the same either in the writ proceedings or in



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the present appeal proceedings. However, it is case of the respondents that the compensation amount has been deposited in Revenue Deposit on 31.03.1997 & 21.01.2008. As regards payment of compensation is concerned, the details of deposit in respect of various survey numbers have been tabulated hereunder:

Sl. No.	W.A.No.	Appellant Name	Survey No.	Deposited on
1	1394 / 2015	S.Saravanan	420/2A1	Revenue Deposit dated 02.01.2008.
2	1395/2015	S.Ramesh	420/2A1	Revenue Deposit on 02.01.2008
3	1396/2015	S.Gomathi	420/2A1	Revenue Deposit on 19.03.2004
4	1398/2015	S.Sridhar	291/3	Revenue Deposit on 19.03.2004
5	1402/2015	Pichamani	617/4	Revenue Deposit on 02.01.2008
6	1403/2015	Legal Heirs of S.V.Loganathan Naicker	617/4	Revenue Deposit on 02.01.2008
7	1406/2015	M.Durai	416/27	Revenue Deposit on 02.01.2008
8	1407/2015	Durairaja	618, 416/11	Revenue Deposit on 02.01.2008
9	1412/2015	Bharathi	420/2A1	Revenue Deposit on 02.01.2008
10	1452/2015	Tc Abraham	423/A1	Revenue Deposit on 02.01.2008
11	1769/2015	K.Mohanavel	613/3, 440/2B	Revenue Deposit on 02.01.2008



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Sl. No.	W.A.No.	Appellant Name	Survey No.	Deposited on
12	1770/2015	S.Krishnan	617/1B2	Revenue Deposit on 02.01.2008
13	1771/2015	J.Sreenivasan	440/3A, 613/4	Revenue Deposit on 02.01.2008
14	1774/2015	S.Sukumar	613/4, 613/5A, 612/2B2A	Revenue Deposit on 02.01.2008
15	1775/2015	R.Tamilselvi	440/4A	Revenue Deposit on 02.01.2008
16	1776/2015	S.Raviprakash	613/4, 613/5A	Revenue Deposit on 02.01.2008
17	1777/2015	Manohar	612/2B3	Revenue Deposit on 02.01.2008
18	1781/2015	S.Sivaprakash	613/4, 613/5A, 440/7B, 440/4B	Revenue Deposit on 02.01.2008
19	1782/2015	Arasu	416/3	Revenue Deposit on 02.01.2008
20	1783/2015	S.Rajasekar	613/4, 613/5A, 440/7A	Revenue Deposit on 02.01.2008
21	1784/2015	K.Tulsi	613/4, 613/5A	Revenue Deposit on 02.01.2008
22	1785/2015	S.Venkatesh Babu	613/4, 613/5A, 612/2B3F, 613/2B	Revenue Deposit on 02.01.2008
23	1392/2015	Sundaramoorthy, Visalakshmi	617/1B5, 617/3C1, 617/3C2, 416/4	Revenue Deposit on 02.01.2008
24	1410/2015	P.Shanthi	416/6	Revenue Deposit on 02.01.2008
25	1456/2015	Senthilkumar	293/1, 293/2	CCC, Sub Court



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Sl. No.	W.A.No.	Appellant Name	Survey No.	Deposited on
				No.140/1995
26	1457/2015	Vinothini	293/1, 293/2	CCC, Sub Court No.140/1995
27	1458/2015	Greta Samuel	617/4, 416/6	Revenue Deposit on 02.01.2008
28	1460/2015	Sankaralingam	612/2B1A	Revenue Deposit on 02.01.2008
29	1461/2015	V.Baskaran	293/2	CCC, Sub Court No.149/1995
30	1462/2015	Mallika	293/1, 293/2	CCC, Sub Court No.149/1995
31	1463/2015	E.Jayalakshmi	293/1, 293/2	CCC, Sub Court No.149/1995
32	1464/2015	Ramani	293/1, 293/2	CCC, Sub Court No.140/1995
33	1465/2015	Kalaiselvan	293/1, 293/2	CCC, Sub Court No.140/1995
34	1768/2015	G.Boopathy	613/3	Revenue Deposit on 02.01.2008
35	1772/2015	Manoharan	617/1A2	Revenue Deposit on 02.01.2008
36	1773/2015	Srilekha	416/18, 416/22	Revenue Deposit on 02.01.2008
37	1405/2015	D.Murali	613/3	Revenue Deposit on 02.01.2008
38	1405/2015	M.Devi	613/3	Revenue Deposit on 02.01.2008
39	1408/2015	M.Gomathi	612/2B15	Revenue Deposit on 02.01.2008
40	1409/2015	V.Srinivasan	416/1A, 416/3	Revenue Deposit on 02.01.2008
41	1411/2015	S.Murugan	416/6, 617/4	Revenue Deposit on 02.01.2008



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Sl. No.	W.A.No.	Appellant Name	Survey No.	Deposited on
42	1459/2015	Raman	613/3	Revenue Deposit on 02.01.2008
43	1766/2015	Selvi	617/1A7	Revenue Deposit on 02.01.2008
44	1778/2015	P.Palaniyayi	416/23	Revenue Deposit on 02.01.2008
45	1779/2015	M.Srivithya Devi	612/2B2A	Revenue Deposit on 02.01.2008
46	1780/2015	M.Sivalachi	612/2B2A	Revenue Deposit on 02.01.2008

17. Thus, compensation amount has been tendered / paid either in the Revenue Deposit or in the Court deposit in respect of above survey numbers as tabulated above. The Hon'ble Apex Court in ***Indore Development Authority case (sited supra)***, has held in para 213 that ***"It is apparent that "tender" of the amount saves the party tendering it from the consequences to be visited on non-payment of the amount.*** It would be useful to refer to para 202 of the said decision, which reads as under:

"202.... Section 24(2) deals with the expression where compensation has not been paid. It would mean that it has not been tendered for payment under Section 31(1). Though the word "paid" amounts to a completed event however once payment of compensation has been offered / tendered under



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Section 31(1), the acquiring authority cannot be penalised for non-payment as the amount has remained unpaid due to refusal to accept, by the landowner and Collector is prevented from making the payment. Thus, the word "paid" used in Section 24(2) cannot be said to include within the ken "deposit" under Section 31(2)...."

18. In the aforesaid decision, the Hon'ble Supreme Court has observed in para 366.5 that *"in case a person has been tendered the compensation as provided under Section 31(1) of the 1894 Act, it is not open to him to claim that acquisition has lapsed under Section 24(2) of Act, 2013 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) of Act, 1894. The landowners 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, 2013"*.

19. In the cases on hand tabulated above, the compensation amount has been tendered as evidenced by deposit challan and paid to the landowners and as such, one of the twin conditions being satisfied by the



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respondents Board, the appellant/writ petitioners cannot seek any relief by invoking Section 24(2) of Act, 2013.

SUBSEQUENT PURCHASERS

20. It is seen from the details produced by the respondents 2 and 3, the appellants in W.A.Nos.1404, 1405, 1408, 1409, 1410, 1411, 1458, 1459, 1766, 1768, 1772, 1773, 1778, 1782 of 2015 and W.A.Nos.2048, 2049, 2083 and 2084 of 2018 are subsequent purchasers of the aforesaid lands in question and they challenged the land acquisition proceedings by invoking Section 24(2) of the Act, 2013. The appellants in the aforesaid writ appeals have also not disputed the said fact. It is trite law that subsequent purchaser cannot have any right to challenge the land acquisition proceedings. The Hon'ble Supreme Court in *V. Chandrasekaran and Ors. vs. The Administrative Officer and Ors.*

Reported in MANU/SC/0751/2012, has held as follows:

"A person who purchases land subsequent to the issuance of a Section 4 Notification with respect to it, is not competent to challenge the validity of the acquisition proceedings on any ground whatsoever, for the reason that the sale deed executed in his favour does not confer upon him, any title and at the most he can claim compensation on the basis of his vendor's title."



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In the light of the aforesaid decision of the Hon'ble Apex Court, the appellants/ writ petitioners in W.A.Nos.1404, 1405, 1408, 1409, 1410, 1411, 1458, 1459, 1766, 1768, 1772, 1773, 1778, 1782 of 2015 and W.A.Nos.2048, 2049, 2083 and 2084 of 2018, being subsequent purchasers of the lands in question, are not entitled to challenge the land acquisition proceedings and therefore, on that ground also the aforesaid writ appeals are liable to be dismissed.

W.A.Nos.1397, 1399, 1400, 1401 & 1767 of 2015

21. In these writ appeals, the possession of the lands in question have not been taken over by the Land Acquisition Officer and the same has been conceded by the learned Advocate General for the respondents. In the said cases, the compensation amount has been deposited in Work Deposit, which cannot be construed as valid deposit. The details of such cases is tabulated hereunder:

Sl. No.	W.A.No.	Appellant Name	Survey No.	Possession and Deposit details
1	1397 / 2015	Panchacharam	291/4	Possession Not taken and Work Deposit dated 11.06.1993
2	1399/2015	G.Radhakrishnan	291/3	
3	1400/2015	Paramasivan	291/4	
4	1401/2015	G.Murali	291/3	



W.A.Nos.1392 of 2015 etc., batch

Sl. No.	W.A.No.	Appellant Name	Survey No.	Possession and Deposit details
5	1767/2015	Ravi	291/4	

22. In the light of the fact that neither the possession was taken nor compensation amount has been deposited, the petitioners/ appellants in **W.A.Nos.1397, 1399, 1400, 1401 & 1767 of 2015** are entitled to the relief under Section 24(2) of the Act, 2013, in the light of the decision in ***Indore Development Authority Case***. Therefore, these writ appeals are deserves to be allowed.

CONCLUDED PROCEEDINGS CANNOT BE REOPENED UNDER THE GUISE OF INVOKING SECTION 24(2) OF ACT, 2013

23. The undisputed fact remains that award came to be passed in Award No.1/97 dated 23.04.1997 for Sholinganallur Neighbourhood Scheme Phase I and in Award No.2/1993 dated 23.04.1997 for Phase II. After passing of award, compensation amount has been paid in Revenue Deposit on 02.01.2008 in few cases and possession has been taken over on 16.08.2004 and 11.05.2006 for few cases. The entire land acquisition



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proceedings got concluded in the year 1997 by passing of award and subsequently compensation has been paid and possession has been taken.

24. The Hon'ble Supreme Court in *Indore Development Authority case (cited supra)*, has held as under:

"343. By and large, concluded cases are being questioned by way of invoking the provisions contained in Section 24. In our considered opinion, the legality of concluded cases cannot be questioned under the guise of Section 24(2) as it does not envisage or confer any such right to question the proceedings and the acquisitions have been concluded long back, or in several rounds of litigation as mentioned above, rights of the parties have been settled.

.....

366.9. Section 24(2) of the 2013 Act 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 2013 Act 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."

In the light of the aforesaid decision, the appellants/writ petitioners cannot reopen the land acquisition proceedings which got concluded in the year 1997, by virtue of Section 24(2) of Act, 2013. Therefore, on that



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ground also, all the writ appeals (*except W.A.Nos.1397, 1399, 1400, 1401 & 1767 of 2015*) deserves to be dismissed.

25. It is also to be pointed out at this juncture that one Mr.S.Rajasekar, who is the legal heir of one Sarojini Ammal and owner of S.No.420/2C to an extent of 8904 Sq.ft. in Sholinganallur Village has filed W.P.No.16887 of 2014 before this Court challenging the very same 4(1) Notification dated 14.05.1990 and Section 6 Declaration dated 07.06.1991 and to declare the same as lapsed by virtue of Section 24(2) of Act, 2013. The said writ petition was dismissed, vide order dated 29.10.2021 on the ground that the petitioner failed to satisfy the twin requirements under Section 24(2) of the Act, 2013. W.A.No.301 of 2022 preferred as against the said order was also dismissed by a Division Bench of this Court, vide judgment dated 04.03.2022, against which SLP(C) No.7549 of 2022 was filed, which had also ended in dismissal. Therefore, the present land acquisition proceedings has already been upheld by the Hon'ble Supreme Court. The other legal heirs of the said Sarojini Ammal, namely Mr.S.Saravanan, Mr.S.Ramesh and



W.A.Nos.1392 of 2015 etc., batch

Tmt.S.Gomathi have filed W.A.Nos.1394, 1395, 1396 of 2015 in respect of S.Nos.420/2A1 and in para 15 of this order above, this Court has observed that in those cases, the compensation amount has been deposited in Revenue Deposit and therefore, their claim has been rejected in the light of *Indore Development Authority case*.

26. The writ petitions in the present cases came to be filed in the year 2014, after the enactment of Act, 2013 by invoking Section 24(2) of the said Act, after a delay of 6 years after taking possession. Since dispute was raised before the Writ Court by the respondents that the writ petitioners are not the legal owners and they are encroachers, the Writ Court directed the respondents to conduct physical verification to find out as to whether the petitioners are in physical possession of the subject lands. However, the undisputed fact remains that possession has already been taken over except in 5 cases as tabulated above and handed over to the Tamil Nadu Housing Board on 16.08.2004 and therefore, at this distant point of time after a delay of nearly 19 years, the claim of the appellants seeking to declare the land acquisition proceedings as lapsed



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by virtue of Section 24(2) of the Act, 2013 is legally unsustainable in the light of the *Indore Development Authority case (cited supra)*.

27. In the light of the reasons assigned above, this Court concludes as follows:

(i) W.A.Nos.1397, 1399, 1400, 1401 and 1767 of 2015 stand allowed.

(ii) W.A.Nos.1392 to 1396, 1398, 1402, 1403, 1406, 1407, 1410, 1411, 1412, 1452, 1458, 1460, 1769 to 1772, 1774 to 1777, 1779 to 17856 of 2015, W.A.Nos.1880 and 1881 of 2018 stand dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

[D.K.K., J.,] [P.B.B., J.]
25.09.2023

Index:yes/no

Internet:yes

Jvm

To

1.The Secretary,
State of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George, Chennai-600 009.



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W.A.Nos.1392 of 2015 etc., batch

**D.KRISHNAKUMAR, J.,
&**

P.B.BALAJI, J.

Jvm

2.The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai-600 006.

3.The Executive Engineer and Administrative Officer,
Besant Nagar Division,
Tamil Nadu Housing Board Unit,
No.48, Dr.Muthulakshmi Road, Adyar, 600 020.

4.The Special Thasildar,
Land Acquisition, Unit-V,
Tamil Nadu Housing Board Schemes,
Aringar Anna Shopping Complex,
7th Avenue, Thirumangalam, Chennai-600 101.

**Common Judgment in
W.A.Nos.1392 of 2015 etc., batch**

25.09.2023