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W.A.Nos.1404 of 2015 etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2023

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

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

W.A.Nos.1404, 1405, 1408, 1409, 1456, 1457, 1459, 1461, 1462, 1463, 1464, 1465 1766, 1768, 1773, 1778 of 2015, 2048, 2083 & 2084 of 2018

D.Murali	..	Appellant in WA.1404/2015
M.Devi	..	Appellant in WA.1405/2015
M.Gomathi	..	Appellant in WA.1408/2015
V.Srinivasan	..	Appellant in WA.1409/2015
Senthilkumar, S/o Sivanandam	..	Appellant in WA.1456/2015
Vinothini, W/o Senthilkumar	..	Appellant in WA.1457/2015
Raman, S/o Chellaiah	..	Appellant in WA.1459/2015
V.Baskaran	..	Appellant in WA.1461/2015
Mallika, W/o Palanivasan	..	Appellant in WA.1462/2015
E.Jayalakshmi	..	Appellant in WA.1463/2015
Ramani, W/o N.K.Rajaraman	..	Appellant in WA.1464/2015
Kalaiselvan, S/o Palanivasan	..	Appellant in WA.1465/2015
Selvi, W/o R.Natarajan	..	Appellant in WA.1766/2015
G.Boopathy	..	Appellant in WA.1768/2015
C.Srilekha	..	Appellant in WA.1773/2015
P.Palaniyayi	..	Appellant in WA.1778/2015
Sarojini Sathiyavathi, W/o Manokaran..	..	Appellant in WA.2048/2018
M.Mary Priyadharshni	..	Appellant in WA.2083/2018
Latha Jeyaselvi, W/o Granamurthy	..	Appellant in WA.2084/2018

v.



W.A.Nos.1404 of 2015 etc.

WEB COPY

1. The 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 600 035

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

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

.. Respondents in all the WAs

Writ Appeals filed under Clause 15 of the Letters Patent, against the common order dated 03.07.2015 made in W.P.Nos.19663, 19690, 20093, 20177, 20230, 20231, 19694, 20090, 20494, 20496, 20497, 20501, 19488, 19656, 20016, 20174, 19489, 20017, 19490 of 2014, respectively.



WEB COPY



W.A.Nos.1404 of 2015 etc.

For Appellants :: Mr.V.R.Appaswamee
in WA's.1404 & 1405 of 2015

Mr.K.V.Babu
in WA's.1408, 1409 of 2015

Mr.R.N.Amarnath
in WA's.1456, 1457, 1459, 1461,
1462, 1463, 1464, 1465 of 2015,
2048, 2083 & 2084 of 2018

Mr.N.S.Nandakumar
in WA's.1766, 1768, 1773 &
1778 of 2015

For Respondents :: Mr.R.Shunmugasundaram
Advocate General assisted by
Mr.U.M.Ravichandran
Special Government Pleader for R1
in WA's.1404, 1405, 1408,
1409/2015

1461/2015

Mr.R.Shunmugasundaram
Advocate General assisted by
Mrs.Geetha Thamaraiselvan
Special Government Pleader for R1
in WA's.1456, 1457, 1459,

Mr.R.Shunmugasundaram
Advocate General assisted by
Mr.K.Tippusulthan
Government Advocate for R1 in
WA's.1462, 1463/2015 & 2084/2018



WEB COPY



W.A.Nos.1404 of 2015 etc.

Mr.R.Shunmugasundaram
Advocate General assisted by
Ms.R.L.Karthika
Government Advocate for R1
in WA's.1464, 1465, 1766,

1768/2015

Mr.R.Shunmugasundaram
Advocate General assisted by
Mrs.P.Rajarajeswari
Government Advocate for R1
in WA's.1773, 1778/2015,
2048 & 2083/2018

Mr.J.Ravindran
Additional Advocate General
assisted by Mr.D.R.Arunkumar
Standing Counsel for R2 to R4
in all the WA's

COMMON JUDGMENT

(Judgment of the Court was made by D.KRISHNAKUMAR,J.)

The appellants, being the subsequent purchasers, filed the writ petitions for issuance of a Writ of Declaration, declaring that the land acquisition proceedings initiated under the Land Acquisition Act, 1894 with respect to the lands having an extent of:

- 1605 sq.ft., comprised in S.No.613/3;
- 1588 sq.ft., comprised in S.No.613/3;



W.A.Nos.1404 of 2015 etc.

- 2500 sq.ft., comprised in S.No.612/2B1E;
- 2520 sq.ft., comprised in S.No.416/1, 416/3;
- 2384 sq.ft., comprised in S.No.293/1 and 293/2;
- 1195 sq.ft., comprised in S.No.293/1 and 293/2;
- 1619 sq.ft., comprised in S.No.613/3;
- 3904 sq.ft., comprised in S.No.293/2;
- 4502 sq.ft., comprised in S.No.293/1 and 293/2;
- 2407 sq.ft., comprised in S.No.293/1 and 293/2;
- 2407 sq.ft., comprised in S.No.293/1 and 293/2;
- 2644 sq.ft., comprised in S.No.293/1 and 293/2;
- 1998 sq.ft., comprised in S.No.617/1A7;
- 1723 sq.ft., comprised in S.No.613/3;
- 1290 sq.ft., comprised in S.No.416/18 and 416/22;
- 868 sq.ft., comprised in S.No.416/23;
- 2403 sq.ft., comprised in S.No.612/2B2A;
- 3102.5 sq.ft., comprised in S.No.612/2B2A;
- 1451 sq.ft., comprised in S.No.613/3;

respectively, belonging to the appellants/writ petitioners situated at Sholinganallur Village, Kancheepuram District, 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 of 2013).



W.A.Nos.1404 of 2015 etc.

2. According to the appellants, they have purchased the aforementioned properties from their vendors through registered sale deeds and have been in physical possession and enjoyment of the properties ever since the date of purchase by putting up construction. They had also obtained electricity connection and water connection and have been regularly paying the necessary charges to the authorities. The revenue record such as patta also stand in their names. Therefore, the claim of the appellants is that when they are in continuous physical possession and enjoyment of the properties and no compensation has been paid or deposited in the competent civil Court, they are entitled to seek the benefit of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013). But the writ petitions were disposed of by the writ Court directing the respondents to conduct a comprehensive enquiry, on receipt of representations, to find out whether the writ petitioners are in physical possession and enjoyment of the properties in question. Therefore, these intra-Court appeals have been filed.



W.A.Nos.1404 of 2015 etc.

3. We have heard the learned counsels appearing for the respective appellants/writ petitioners and the learned Advocate General and the learned Additional Advocate General appearing for the State and the Tamil Nadu Housing Board.

4. The point for consideration, in the cases on hand, is whether the subsequent purchasers like the appellants are entitled to seek the benefit of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013). This point has been clearly answered by the Hon'ble Supreme Court in the case of *Shiv Kumar and another v. Union of India and others* reported in **(2019) 10 SCC 229**, in paragraphs 19, 20, 21 & 24, as follows:-

“19.The 2013 Act presupposes that a person is required to be rehabilitated and resettled. Such a person who has purchased after Section 4 notification as sale deed is void under the 1894 Act, cannot claim rehabilitation and resettlement as per policy envisaged under the 2013 Act, as his land has not been acquired, but he has purchased a property which has already been acquired by the State Government, he cannot claim even



W.A.Nos.1404 of 2015 etc.

higher compensation, as per proviso to Section 24(2) under the 2013 Act. An original landowner cannot be deprived of higher value under the 2013 Act, which higher compensation was not so contemplated when the void transaction of sale had been entered, and right is conferred under the proviso to Section 24(2) on recorded owners under the 1894 Act.

20. Given that, the transaction of sale, effected after Section 4 notification, is void, is ineffective to transfer the land, such incumbents cannot invoke the provisions of Section 24. As the sale transaction did not clothe them with the title when the purchase was made; they cannot claim “possession” and challenge the acquisition as having lapsed under Section 24 by questioning the legality or regularity of proceedings of taking over of possession under the 1894 Act. It would be unfair and profoundly unjust and against the policy of the law to permit such a person to claim resettlement or claim the land back as envisaged under the 2013 Act. When he has not been deprived of his livelihood but is a purchaser under a void transaction, the outcome of exploitative tactics played upon poor farmers who were unable to defend themselves.

21. Thus, under the provisions of Section 24 of the 2013 Act,



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W.A.Nos.1404 of 2015 etc.

challenge to acquisition proceeding of the taking over of possession under the 1894 Act cannot be made, based on a void transaction nor declaration can be sought under Section 24(2) by such incumbents to obtain the land. The declaration that acquisition has lapsed under the 2013 Act is to get the property back whereas, the transaction once void, is always a void transaction, as no title can be acquired in the land as such no such declaration can be sought. It would not be legal, just and equitable to give the land back to purchaser as land was not capable of being sold which was in process of acquisition under the 1894 Act. The 2013 Act does not confer any right on purchaser whose sale is ab initio void. Such void transactions are not validated under the 2013 Act. No rights are conferred by the provisions contained in the 2013 Act on such a purchaser as against the State.

24.The intendment of the 2013 Act is to benefit farmers, etc. Subsequent purchasers cannot be said to be landowners entitled to restoration of land and cannot be termed to be affected persons within the provisions of the 2013 Act. It is not open to them to claim that the proceedings have lapsed under Section 24(2).”



W.A.Nos.1404 of 2015 etc.

5. The Hon'ble Supreme Court in a landmark decision in ***Indore***

Development Authority v. Manoharlal and others, (2020) 8 SCC 129, has

held as follows:-

“366.3.The word “or” used in Section 24(2) between possession and compensation has to be read as “nor” or as “and”. 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 land has not been taken nor compensation has been paid. In other words, in case possession has been taken, compensation has not been paid then there is no lapse. Similarly, if compensation has been paid, possession has not been taken then there is no lapse.

6. It is also useful to refer the judgment of the Hon'ble Supreme Court in the case of ***V.Chandrasekaran and others v. The Administrative Officer and others***, reported in ***MANU/SC/0751/2012***, wherein the Hon'ble Supreme Court observed with regard to the validity of challenging the acquisition proceedings subsequent to issuance of 4(1) Notification. The



W.A.Nos.1404 of 2015 etc.

Hon'ble Supreme Court has held as follows:-

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“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.”

7. Moreover, this Court has also decided an identical issue in ***W.A.No.1117 of 2020 dated 26.07.2023 (V.Anantharaman v. The Chennai Metropolitan Development Authority represented by its Member Secretary, Chennai and another)***, wherein this Court has held that it is trite law that subsequent purchaser cannot have any right to challenge the land acquisition proceedings.

8. In the light of the decisions cited supra, the appellants/writ petitioners have no locus standi to seek for protection under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition,



W.A.Nos.1404 of 2015 etc.

Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013). Therefore, the writ appeals cannot be entertained and the same are liable to be dismissed.

9. However, the learned counsels appearing for the appellants sought for liberty to approach the authorities concerned seeking for assignment of the lands on payment of reasonable cost fixed by the Housing Board, as per the scheme for allotment of the house sites to the low income or higher income groups, since the appellants have no other house property and have also invested huge sums for putting up construction.

10. Considering the said request, while dismissing the writ appeals, we direct each of the appellants to make a fresh representation to the respondents 2 & 3 seeking for allotment of the respective landed property, within a period of two weeks from the date of receipt of a copy of this order. If such representation is made by the individual concerned, the respondents 2 & 3 shall consider the same by framing suitable guidelines for allotment and on payment of reasonable cost, as per the decision taken by the Government, and pass appropriate orders on its own merits in accordance with law, within a period of twelve weeks therefrom. All the writ appeals



W.A.Nos.1404 of 2015 etc.

are dismissed with the aforesaid liberty. In view of the said order,

C.M.P.Nos.12875, 15031, 15035, 15346 of 2021 in the respective appeals

seeking to raise additional grounds are dismissed as unnecessary.

Consequently, M.P.Nos.1 of 2015 in the respective appeals are also

dismissed. There shall be no order as to costs.

(D.K.K.,J.) (P.B.B,J.)

02.08.2023

Index : yes/no

Neutral citation : yes/no

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WEB COPY



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