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W.A.Nos.1610 & 1611 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2023

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

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

W.A.Nos.1610 & 1611 of 2018

1. The State of Tamil Nadu
rep.by its Commissioner & Secretary
Housing and Urban Development Department
Fort St.George
Chennai 600 009
 2. The Special Tahsildar (Land Acquisition)
Neighbourhood Scheme
Ayyanthirumaligai
Salem 636 008
- .. Appellants in both the W.A's
- v.
1. Tmt.Rajeswari Venkatesan (Died)
 2. The Chairman Cum Managing Director
Tamil Nadu Housing Board
No.493, Anna Salai, Nandanam
Chennai 600 035
 3. The Executive Engineer and
Administrative Officer



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Salem Housing Unit
Tamil Nadu Housing Board
Ayyanthirumaaligai
Salem 636 008

4. Thiru.Gnanasprakasam
S/o Rajeswari Venkatesan
5. Tmt.Amudhavalli
D/o Rajeswari Venkatesan
6. Tmt.Gayathri
D/o Rajeswari Venkatesan
7. Tmt.Vidyasree
D/o Rajeswari Venkatesan
(R4 to R7 substituted as LR's of
the deceased first respondent vide
order of Court dated 22.06.2023 in
CMP.15143/2021 in WA.1610/2018
and order dated 21.09.2023 in
CMP.15094/2021 in WA.1611/2018) .. Respondents in both the W.A's

Writ Appeals filed under Clause 15 of the Letters Patent, against the orders dated 27.04.2017 & 18.03.2016 made in W.P.No.14968 of 2016 & W.P.No.33402 of 2015, respectively.

For Appellants :: Mrs.Geetha Thamaraiselvan
Special Government Pleader

For Respondents :: R1-Died
Mr.A.M.Ravindranath Jeyapaul
Standing Counsel for R2 & R3
Batta with petn.due reg.R4 to R7
in WA.1610/2018



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COMMON JUDGMENT

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

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These writ appeals are directed against the orders dated 27.04.2017 and 18.03.2016 passed in Writ Petition Nos.14968 of 2016 and 33402 of 2015, respectively. Since the first respondent herein died during the pendency of the appeals, her legal representatives have been brought on record as respondents 4 to 7 in the writ appeals.

2. The learned Special Government Pleader appearing for the appellants, reiterating the grounds raised in the appeals, submitted that the impugned orders are liable to be set aside, as the physical possession of the lands were taken over on 22.08.1997 and 07.07.1997 respectively and the compensation amount was also deposited in the Sub Court, Salem under Sections 30 & 31(2) of the Land Acquisition Act, 1894. Therefore, the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 will not be applicable to the present cases, since the appellants have satisfied the twin contingencies enumerated under Section 24(2) of the Act of 2013.



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3. We have heard the learned Special Government Pleader appearing for the appellants, the learned Standing Counsel appearing for the respondents 2 & 3 and also perused the materials available on record.

4. It is not in dispute that the mother of the respondents 4 to 7 herein, namely, Tmt.Rajeswari Venkatesan filed the above writ petitions seeking for issuance of a writ of declaration, declaring that the land acquisition proceedings initiated under the Land Acquisition Act, 1894 in respect of land bearing Survey Nos.241/4, 241/7, 241/8, 242/8A and Survey No.241/6 respectively, at Jakkir Ammapalayam Village, Salem Taluk, Salem District measuring 0.81.0 hectares and 0.47.0 hectares respectively, covered by Notification under Section 4(1) of the Land Acquisition Act, 1894 vide G.O.Ms.No.525, Housing and Urban Development Department dated 25.05.1985 and Declaration under Section 6 of the Land Acquisition Act, 1894 vide G.O.Ms.No.1408, Housing and Urban Development Department dated 03.09.1986 are deemed to have lapsed in view of section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The writ Court, after hearing



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the parties, accepting the contention of the writ petitioner that the award amount came to be deposited before the Sub Court, Salem only on 28.11.2015, even though the award was passed as early as on 31.08.1988, coupled with the categorical admission made by the appellants themselves in the counter affidavit filed in the Contempt Petition No.2241 of 2015 that the physical possession could not be taken over by the Land Acquisition Officer, in the light of the settled legal principles, allowed the writ petitions. We see no reason or grounds made out to interfere with the impugned orders, as both the learned Special Government Pleader appearing for the appellants and the learned Standing Counsel appearing for the respondent-Housing Board are not able to controvert their own statement/admission made in the counter affidavit filed in the above contempt petition with substantial material satisfying the twin contingencies that either the possession was taken over or the award amount was deposited or paid in time before the Act of 2013 came into force. In such circumstances, finding no merits whatsoever, both the writ appeals shall stand dismissed, however, with liberty to the appellants to proceed afresh, if they so choose, in accordance with the provisions of the Act of 2013. Consequently,



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C.M.P.Nos.12978 to 12981 of 2018 are also dismissed. There shall be no order as to costs.

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

21.09.2023

Index : yes/no

Neutral citation : yes/no

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