



W.P.No.40293 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.40293 of 2015

1. V.M.Muthukumar
2. V.S.Pranab
3. V.S.Anu Radha
4. V.S.Kiruba
[Rep.by Power Agent the 2nd petitioner herein]
5. V.S.Pongothai
6. V.S.Arun
[Rep.by Power Agent the 5th petitioner herein]
7. V.S.Gukan
8. Suguna Balasubramaniam
9. M.Shanmuka Vadiyu ... Petitioners

versus

1. The State of Tamil Nadu,
Rep.by Secretary to Government,
Social Welfare Department,
Fort St.George, Chennai – 9.



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2. The District Collector,
Erode.
3. The Special Tahsildar,
Adi Dravidar Welfare,
Erode.
4. The Inspector of Police,
Malaiyampalayam Police Station,
Malaiyampalayam,
Erode Taluk & District.

.....Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Declaration declaring that the acquisition proceedings in respect of an extent of 3.15 acres equivalent to 1.27.5 hect in R.S.No.331 (Old Survey Nos.231 and 233) of Punjai Kilampati Village, Erode Taluk, lapsed.

For Petitioner : Mr.A.Sivaji

For Respondents : Mr.V.Veluchamy
Additional Government Pleader
for R1 to R3

Mr.S.Sugendran
Additional Public Prosecutor for R4



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ORDER

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The petitioners in this writ petition seek for issuance of a Writ of Declaration, to declare that the acquisition proceedings initiated by respondents 1 to 3 in respect of an extent of 3.15 acres equivalent to 1.27.5 hect in R.S.No.331 (Old Survey Nos.231 and 233) of Punjai Kilampati Village, Erode Taluk, as having lapsed in terms of Section 24(2) of the "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 30 of 2013 [hereinafter referred to as "Section 24(2) of the New Act"]].

2. According to the petitioners, the subject land in R.S.No.331 (Old Survey Nos.231 and 233) of Punjai Kilampati Village, Erode Taluk ad-measuring 3.15 acres equivalent to 1.27.5 hectares originally belongs to the petitioners' ancestors. The first petitioner's father late Manicka Sundaram is a practicing lawyer by profession. Apart from that he was an agriculturist and he was holding the subject land along with other ancestral and self acquired properties. During the life-time of the first petitioner's father, the authorities concerned initiated action against the properties of the first petitioner's father under the Tamil Nadu Land

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Reforms (Fixations of Ceiling on Land) Act and also under the Land Acquisition Act, 1894. While so, the first respondent herein issued a notification under Section 4(1) of the Land Acquisition Act 1894 vide G.O.Ms.No.1051 Social Welfare Department, dated 18.04.1988. Subsequently, a declaration under Section 6 of the Land Acquisition Act was also issued, vide G.O.Ms.No.822, Adi Dravidar and Tribal Welfare Department, dated 26.05.1989 and an Award was also passed, vide Award No.9/90 dated 06.07.1990, thereafter, the first petitioner's father also received the compensation, under the protest. Being not satisfied with the Award passed by the Land Acquisition Officer, the first petitioner's father covered under the notification sought reference under Section 18 of the Land Acquisition Act. Further, the petitioners, who are the legal heirs of the deceased Manicka Sundaram are in possession and enjoyment of the acquired land in the same survey number along with the rest of the unacquired lands. Though the lands were acquired and Award was passed in the year 1990, the purpose for which the lands were acquired, have not been utilised and, still remains vacant. Therefore, in view of the Section 24(2) of the New Act, which came into force with effect from 01.01.2014, the



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acquisition is deemed to have lapsed. Though the Award was passed five years prior to the above said date, physical and actual possession was not taken, hence, the said acquisition is to be declared as lapsed. Hence, the petitioners are before this Court.

3. The learned counsel for the petitioners submitted that as per Section 24(2) of the New Act, in cases of Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894, where an Award under Section 11 has been made five years or more prior to the commencement of the New Act, but the physical possession of the land has not been taken or the compensation has not been paid, the Land Acquisition Proceedings shall be deemed to have lapsed. The fact remains that the respondents have not taken possession of the acquired lands, till date and the petitioners are in possession and enjoyment of the acquired land.

4. The learned Additional Government Pleader appearing for the respondents by referring to the counter affidavit and contended that the petitioners have not challenged the acquisition proceedings, and also they have not denied the payment of compensation. In their affidavit itself they



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have admitted that under the protest, the first petitioner's father received the Award amount and hence, there is no denial regarding the payment of compensation. He further submitted that after acquisition, the physical possession of the land had been taken by the Government on 18.07.1990 itself, and the compensation amount of Rs.53,324/- had also been paid to the first petitioner's father on 18.07.1990 i.e. even prior to the commencement of Section 24(2) of the New Act. Later the said land was assigned to 75 Adi-Dravida people by means of house site Pattas free of costs on 24.07.1990. Hence, the provisions contained under Section 24 (2) of the New Act is fully complied with by the respondents.

5. Heard both sides and perused the materials available on record.

6. On a perusal of the records produced by the respondents, it shows that the subject lands were acquired and the original land owner also received the Award amount in the year 1990 itself i.e. even prior to the amendment of Section 24(2) of the New Act. As far as the possession is concerned, the petitioners have not established that they are in possession of



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the said land, however, the respondents have stated that the possession has been taken in the year 1990 and acquired lands were utilized and the same were issued to the landless poor people and Assignment Pattas have already been issued to 75 Adi-Dravidar people. If the acquisition proceedings is completed under due process of law, the petitioners cannot say that no possession has been taken by the Government. Though the acquisition proceedings have been completed well before the New Act came into force, the amount was paid and possession was also taken, the petitioners are not entitled to the relief as sought for in this writ petition.

7. In the light of the above facts and circumstances, this writ petition is dismissed. There shall be no order as to costs.

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Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To

1. The Secretary to Government,
State of Tamil Nadu,
Social Welfare Department,
Fort St.George, Chennai – 9.
2. The District Collector,
Erode.
3. The Special Tahsildar,
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4. The Inspector of Police,
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P.VELMURUGAN, J.

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