



W.A.No.3520 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 14.08.2023

Delivered on: 20.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.A.No.3520 of 2019

and

C.M.P. 22587 of 2019

The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road, Egmore,
Chennai-600 008.

.. Appellants

Vs.

1. P.R.S. Andal
2. S. Balaji
3. The Special Tahsildar,
Land Acquisition, Maraimalai Nagar Scheme,
Chengalpet Taluk, Kancheepuram District.

4. The Commissioner and Secretary,
Government of Tamil Nadu,
Department of Housing and Urban Development,
Fort St. George, Chennai – 600 009.

.. Respondents



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Prayer:- Appeal filed under Clause 15 of Letter Patent praying to set aside the order passed by this Court in W.P.No.11624 of 2016 dated 29.03.2016.

For Appellant : Mr. P. Kumaresan
assisted by Mrs. P. Veena Suresh, Senior
Counsel, CMDA.

For Respondents : Mr. Subba Redy [for R1 & R2]
Mr. U.M. Ravichandran, Special
Government Pleader [for R3 & R4].

JUDGMENT

(Judgment of the Court was made by P.B.BALAJI, J.)

1. The CMDA, aggrieved by the order of the Writ Court in W.P. No.11624 of 2016 dated 29.02.1016 is the appellant in the present Writ Appeal.

2. The brief facts that are necessary for deciding the Writ Appeal are as follows:

The petitioners before the Writ Court are owners of lands comprising in various survey numbers and land acquisition proceedings were initiated in respect of the said lands. The petitioners sought for reconveyance of the said lands on the ground that the Section 4(1) notification had lapsed. The Writ Petition was taken up for final disposal at the time of admission and



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since it was brought to the notice of Writ Court that in respect of the neighbouring property covered under the same acquisition notification, a Division bench of this Court had allowed the Writ Petition, directing reconveyance of the lands. The Writ Court directed reconveyance of the lands subject to condition that the petitioners, if having received compensation shall remit the same back to the respondents. The Writ Court also gave liberty to the official respondents to proceed afresh under the new enactment namely, *The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013*, if the lands were still required for public purpose.

3. Aggrieved by the said order, the appellant has preferred the present Writ Appeal, contending that possession of lands were taken away back on 27.04.1987 and an award also came to be passed on 17.09.1986 and that the said award included the survey numbers in which the petitioners claimed right. It is further contended that records were also mutated in the name of the appellant and that even in the year 1987, challenge was made to the land acquisition proceedings by one Mr. Varadharaja Nayakar and



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the said Writ Petition was dismissed on 30.07.1998. Moreover, Section 6 declaration had also been made on 29.06.1982 and published in the gazette on 11.08.1982. Further it was also contended that the compensation amount was also deposited before the Principal Sub Court, Chengalpattu in Civil Court deposit in terms of Section 30, 31(1) and 31(2) of the Land Acquisition Act, 1894. It was also further contended that the husband and father of respondents 1 & 2 attended the enquiry and also received compensation after handing over the document to the authorities. In short, the main challenge laid by the appellant is that the proceedings have concluded several years back and cannot be reopened at a belated stage, without any justifiable cause whatsoever.

4. We have heard Mr.P.Kumaresan, Additional Advocate General assisted by Mrs.P.Veena Suresh, Standing Counsel for the Appellant, CMDA. Mr.Subba Reddy, Counsel for respondents 1 & 2 and Mr. U.M.Ravichandran, Special Government Pleader for respondents 3 & 4.



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8. We have also perused the affidavit filed in support of the Writ Petition in W.P. No.11624 of 2016. It is the case of the respondents that lands of neighbouring owners had been reconveyed and even the appellant had passed a resolution for withdrawal of the Section 4(1) notification and vide G.O. Ms. No.70 dated 01.03.2007, the government has also withdrawn the notification. It was further stated that acquisition proceedings were challenged by one land owner and the Section 6 declaration was quashed by the Hon'ble Supreme Court also and only in such circumstances, the respondents sought for reconveyance of lands. It is the specific case of the appellant that the husband of the 1st respondent and the father of the 2nd respondent, Mr. P.R. Srinivasan attended the enquiry and also received compensation in respect of the lands acquired and that the proceedings came to a close way back in the year 1986. In so far as the lands of the neighbouring owners being reconveyed, it is specifically contended by the appellant that lands were not covered under the same authority resolution and hence no reliance could be placed on the same. It is also stated that the Hon'ble Supreme Court in Civil Appeal No.2226 of 1997 filed against the order in W.A. No.1480 of 1998 had



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made it clear that the judgement would operate only prospectively and in cases where award had been made and compensation already paid, the same could not be reopened.

9. The relevant paragraph of the order of the Hon'ble Supreme Court dated 13.03.2002 is extracted for easy reference:

"...There is, however, substance in the plea that those matters which have obtained finality should not be reopened. The present judgment shall operate prospectively to the extent that cases where awards have been made and the compensation have been paid, shall not be reopened, by applying the ration of the present judgment. the appeals are accordingly disposed of and the subsequent notifications containing declaration under Section 6 of the act are quashed..."

10. Viewed in the light of above order of the Hon'ble Supreme Court, we have found from the records that the husband of the 1st respondent and father of the 2nd respondent has personally appeared before the authority and attended the enquiry, He also received compensation for the lands acquired. Thus, it is the clear case where the acquisition proceedings have



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come to a close way back in the year 1987. Even in the ***Indore Development Authority Vs Manoharlal & others reported in (2020)***

8 SCC 129, the Supreme Court held that;

“...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...”

11. This apart, we have also perused the order of a Division Bench of this Court in W.A. No.2254 of 2001, the said writ appeal came to be allowed only on the grounds that the Section 6 declaration had been quashed pursuant to which the appellant herein had passed a resolution for withdrawal of Section 4(1) notification itself, acting upon which the Government has also passed G.O. Ms. No.70dated 01.03.2007 withdrawing the notification including the lands belonging to certain land owners in Potheri village. Taking note of the admitted facts that the



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possession had not been taken from the appellant therein within 5 years.

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This Court held that the land acquisition proceedings have lapsed and consequently the land owners had become entitled to reconveyance. However, in the instant case we have already seen that the husband and father respectively of the respondents had personally attended the enquiry and also received compensation. It is also the specific case of the appellant that the possession of lands of the respondents were taken as early on April 1987.

12. In view of the above, we have no difficulty whatsoever in accepting the contentions of the appellant. The order of the Writ Court has to be necessarily set aside, especially since the order came to be passed at the time of admission and merely placing reliance on an earlier judgement passed by the Division Bench of this Court. It has been shown to us that the ratio laid down in the said judgement cannot be applied to the facts of the present case. We therefore find merit in the appeal and consequently the appellant is entitled to succeed.

13. In fine, writ appeal is allowed and the order of the Writ Court in



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W.P.No.11624 of 2016 dated 29.02.2016 is set aside. There shall be no

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order as to costs . The connected miscellaneous petition is closed.

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

20.09.2023

Internet : Yes

Index: Yes/No

Neutral Citation: Yes/No

mjs

To

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(mjs)

Pre-delivery judgment in
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