



W.A.No.2111 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.A.No.2111 of 2023

R.Abdul Halim

.. Appellant

Vs

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

2.The Special Tahsildar,
Land Acquisition,
Housing Project,
Kancheepuram.

3.The Chairman,
Tamil Nadu Housing Board,
Nandanam,
Chennai-600 035.

.. Respondents

Prayer: Appeal under Clause 15 of the Letters Patent against the order passed by the learned Single Judge in W.P.No.29663 of 2017 dated 13.09.2021.



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For the Appellant : Ms.K.Abhirame

For the Respondents : Mr.K.M.D.Muhilan
Addl. Government Pleader
for respondent Nos.1 and 2

: Mr.D.Veerasekaran
for respondent No.3

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Ms.K.Abhirame, learned counsel for the appellant; Mr.K.M.D.Muhilan, learned Additional Government Pleader for respondents 1 and 2; and, Mr.D.Veerasekaran, learned counsel for the third respondent.

2. The present appellant had filed writ petition bearing No.29663 of 2017 with a prayer that the acquisition of the writ land under Award No.1 of 1995, dated 28.04.1995 has lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for brevity, "*the Act of 2013*").



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3. The learned Single Judge dismissed the writ petition. Aggrieved thereby, the present appeal is filed.

4. Learned counsel for the appellant submits that the learned Single Judge failed to consider that neither the compensation amount is paid to the appellant, nor possession of the land was taken by the respondents. In the light of that, sub-section (2) of Section 24 of the Act of 2013 is attracted and the acquisition stands lapsed.

5. Learned counsel for the appellant, relying upon the judgment of the Apex Court in the case of *Indore Development Authority v. Manoharlal and others*, reported in (2020) 8 SCC 129, submits that both the conditions are not complied with. Neither the amount is deposited with the Court, nor possession has been obtained. In view of that, the acquisition stands lapsed.

6. Learned counsel for the appellant further submitted that the learned Single Judge did not refer to the factual aspects of the



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matter. Even the respondents are not in a position to demonstrate that possession was obtained by them from the appellant. It is also a fact that, till the year 2017, the amount was not deposited in Court.

7. We have considered the submissions.

8. It is not disputed that the appellant had filed a reference under Section 18 of the Land Acquisition Act, 1894 seeking enhanced compensation contending that the amount of compensation awarded is too low. The reference under Section 18 of the Act is allowed. The appellant is awarded enhanced compensation amount.

9. Moreover, the appellant had earlier filed a writ petition bearing No.27249 of 2003 with a specific prayer that the acquired land is to be handed to the appellant. The District Revenue Officer (Schemes), Tamil Nadu Housing Board, had filed a detailed counter-affidavit, wherein he contended that the land owned by the



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appellant is located in the middle of the lands already taken possession by the Tamil Nadu Housing Board and the same are intended for the purpose of implementing a comprehensive housing scheme for the benefit of public at large. The prayer for handing over the land back and for re-conveyance of the land has been negatived by the learned Single Judge of this Court in the writ petition filed by the appellant bearing No.27249 of 2003 under the order dated 15.6.2012.

10. We have also perused the original file pertaining to the land acquisition proceedings produced by the learned Additional Government Pleader to demonstrate that the possession was handed over to the Tamil Nadu Housing Board.

11. The judgment in the case of *Indore Development Authority* (supra) would not enure to the benefit of the appellant. In the said judgment, the Constitution Bench of the Apex Court has held that if any one of the two conditions viz., (i) compensation is paid and/or (ii) possession is taken, is satisfied, then the award would not lapse.



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In the present case, the possession was taken by the respondents. The same is also recorded in the order passed in a writ petition filed by the appellant earlier.

12. In the light of the above, no relief can be granted to the appellant.

13. The writ appeal is dismissed. There will be no order as to costs. Consequently, C.M.P.No.17994 of 2023 is closed. The original file pertaining to the land acquisition proceedings was returned back to learned Additional Government Pleader.

(S.V.G., CJ.)

(P.D.A., J.)

20.09.2023

Index : Yes/No
Neutral Citation : Yes/No
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To

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