



Order dated 28.11.2023
in W.P.No.1771 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.11.2023

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.1771 of 2018

and

W.M.P.Nos.2197 of 2018 and 3133 of 2020

M.Liagat Ali, S/o Mohammed Hassan

.. Petitioner

Vs.

1. The Revenue Divisional Officer,
R.D.O. Office,
Ambattur, Chennai-600 101.

2. The District Collector,
Collector Office,
Tiruvallur.

3. The Executive Officer,
Special Division-I,
J.J.Nagar, Kollam,
Tamil Nadu Housing Board,
Thirumangalam,
Chennai-600 040.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records of the first respondent in his Na.Ka.No.449/2017/A2, dated 01.11.2017 and 27.11.2017 and quash the same with respect to the petitioner's land in Survey No.271/2, Mogappair Village,



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Ambattur Taluk.

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For petitioner : M/s.Zeenath Begum for Mr.Abdul Nazeer

For respondents: Mr.P.Gurunathan, Addl.G.P. for RR-1 and 2

Mr.A.M.Ravindranah Jayapal, Standing Counsel for R-3

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorari to call for the records of the first respondent in his Na.Ka.No.449/2017/A2, dated 01.11.2017 and 27.11.2017 and quash the same with respect to the petitioner's land in Survey No.271/2, Mogappair Village, Ambattur Taluk.

2. In this case, while reiterating the facts as stated in the affidavit filed in support of the present Writ Petition, learned counsel appearing for the learned counsel on record, submitted that, since the compensation has not been paid with regard to the impugned acquisition proceedings, and the possession also has not been taken, the acquisition proceedings will get automatically 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).

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3. The petitioner's property is housing Plot No.8, measuring an extent of 3822 Square Feet comprised in Survey No.271/2 of Mogappair Village, Paneer Nagar, Thilak Street, Ambattur Taluk, Tiruvallur District, measuring 1 acre 10 cents. Since the possession has not been taken, the acquisition proceedings stood lapsed. Further, compensation has not been paid. Therefore, the impugned acquisition proceedings stood lapsed under Section 24(2) of the said Act 30 of 2013.

4. Learned counsel appearing for the all the respondents, while reiterating the averments made in the counter affidavit filed by the Tamil Nadu Housing Board, submitted that already the possession has been taken and the compensation has also been paid and the original owner also had received the compensation, but the petitioner is only the subsequent purchaser.

5. It is further submitted by the learned counsel appearing for all the respondents that similar Writ Petitions were filed by some of the owners of the property covered under the impugned acquisition proceedings and they moved the Tribunal and also this Court and they went up to the Supreme Court and they have lost their case and even the compensation was also paid and they



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have challenged it and further they filed the Writ Petitions challenging the lapse of acquisition proceedings under Section 24(2) of the Act 30 of 2013 and they have lost the case.

6. Learned counsel appearing for all the respondents further submitted that since the possession has already been taken and the compensation has also been paid and the owner of the property(ies) received the amount and since the petitioner is only subsequent purchaser, the Writ Petition is not maintainable.

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

8. On a perusal of the typed set of papers filed along with the Writ Petition, as also the records produced, it is seen that the respondents concerned have taken the possession already on 01.07.1983 itself. The petitioner has also produced documents for mutation of Revenue Records and the Patta has also been transferred and it now stands in the name of the Tamil Nadu Housing Board. The property has also been utilised. The amount was also paid to the original owner who received the compensation.

9. Therefore, the ambit and scope of Section 24(2) of the Act 30 of 2013



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(New Act of Land Acquisition) is very limited in this case and only if the petitioner has established that the possession was not taken and the amount of compensation was not paid or not deposited before Court, the said Section 24(2) can be invoked. The respondents have proved the taking over of the possession. Similar writ petitions filed by the owner of the land(s) pertaining to the impugned acquisition, were dismissed and the matter was taken up to the Supreme Court and the Supreme Court also upheld the decision of the Division Bench of this Court.

10. Therefore, when once the possession has already been taken, much prior to the New Act 30 of 2013 coming into force and the amount of compensation has also been paid to the original land owner, and the land owners have also received the compensation, and hence, in the case on hand, Section 24(2) of the New Act will not get attracted.

11. Further, the decisions relied on by the learned counsel for the respondents in W.P.Nos.1801 to 1810 of 2017, etc., batch cases, dated 28.09.2021 (Selva Kumari Vs. The Government of Tamil Nadu, Rep. by its Secretary, Housing and Urban Development Department, Fort St.George, Chennai-600 009 and others) and also the decision of a Division Bench of this



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Court in W.A.Nos.1480 to 1485 of 2022, dated 22.06.2022 (A.Piachaiarasu (died) represented by legal representatives P.Chandra and 3 others Vs. The Government of Tamil Nadu, Represented by its Secretary, Housing and Urban Development Department, Fort St.George, Chennai-600 009 and 4 others), are distinguishable on facts, and hence, these two decisions of this Court are not applicable to the case on hand.

12. For the foregoing reasonings, the Writ Petitioner herein is not entitled to the relief sought for in this Writ Petition, which is accordingly dismissed. There shall be no order as to costs. Consequently, the miscellaneous petitions are closed.

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