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W.P.No.5228 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.5228 of 2017

1.R.Palanisamy Gounder

2.Marappa Gounder

3.Vijayakumar

4.Thangaraj

5.Sekar

...
/vs/

Petitioners

1.The State of Tamil Nadu

Rep.by its Secretary

Housing & Urban Development Department

Secretariat, Fort.St.George

Chennai – 600 009.

2.Tamil Nadu Housing Board,

Rep.by its Chairman cum Managing Director

No.493, Anna Salai, Chennai – 35.

3.The Special Tahsildar

Land Acquisition Housing

Scheme Unit I & II,

Coimbatore – 641 018.

...

Respondents

PRAYER : The writ petition has been filed under Article 226 of the Constitution of India to issue a Writ of Declaration, declaring the land acquisition proceedings initiated under Land Acquisition Act, 1894 as per G.O.Ms.No.254 (Housing & Urban Development Department) dated 25.02.1991, Section 6 declaration as per G.O.Ms.No.134 (Housing & Urban Development Department) dated 19.03.1992 in respect of



W.P.No.5228 of 2017

petitioners land comprised in S.Nos.848/1A, 848/1B, 848/1C, 848/1D & 848/2 A measuring 3.57 hectares situated at Kalapatti Village, Coimbatore North Taluk, Coimbatore District is deemed to have been lapsed in view of Section 24(2) of Right to Fair Compensation & Transparency in land Acquisition Rehabilitation & Resettlement Act, 2013 (Act 30 of 2013)

For Petitioners	...	Mr.G.Rajkumar
For Respondent Nos.1 & 3	...	Mr.J.Ravindran Additional Advocate General Assisted by Mr.V.Veluchamy Additional Government Pleader
For Respondent No.2	...	Mr.P.Kumaresan Additional Advocate General Assisted by Mr.V.Gunasekar Standing Counsel (for TNHB)

ORDER

The Writ petition has been filed to issue a Writ of Declaration, declaring the land acquisition proceedings initiated under Land Acquisition Act, 1894 as per G.O.Ms.No.254 (Housing & Urban Development Department) dated 25.02.1991, Section 6 Declaration as per G.O.Ms.No.134 (Housing & Urban Development Department) dated 19.03.1992 in respect of petitioners' land comprised in S.Nos.848/1A, 848/1B, 848/1C, 848/1D & 848/2 A, measuring 3.57 hectares situated at Kalapatti Village, Coimbatore North Taluk, Coimbatore District is deemed



W.P.No.5228 of 2017

to have been lapsed, in view of Section 24(2) of Right to Fair Compensation & Transparency in land Acquisition Rehabilitation & Resettlement Act, 2013 (Act 30 of 2013).

2.The learned counsel appearing for the petitioners submitted that the possession was not taken and the Award amount was also not paid to the land owners for acquisition. The Authorised Officer under the Right to Information Act stated that the award amount has not been deposited in the Civil Court. It shows that the amount was neither paid nor deposited in the manner known to law and the physical possession also has not been so far taken. In this regard, the Hon'ble Supreme Court in various cases stated that the amount has to be deposited only in the Civil Court and the physical possession has to be taken by the Government. Therefore, the present writ petition has been filed.

3.The learned Additional Advocate General appearing for the respondents submitted that, already the award amount was deposited in the Civil Court even in the year 1994 itself and the physical possession was



W.P.No.5228 of 2017

also taken. In the earlier round of litigation upto the Hon'ble Supreme Court, the petitioners are successful litigants. Now, they have started the second round of litigation, taking advantage of the New Act coming into force, after a long period of the acquisition. Therefore, the writ petition has to be dismissed.

4.I have considered the matter in the light of the submissions made by the learned counsel appearing for the petitioners as well as the learned Additional Advocate General appearing for the respondents and perused the materials available on record.

5.On a perusal of the records, it is seen that the scope of the writ petition is very limited. The writ petition is filed only on the ground of the statutory deemed lapse under Section 24(2) of 2013 and after passing of the award, neither the amount deposited prior to the New Act or the physical possession was taken, and only in those cases, the earlier acquisition proceedings would be deemed to have lapsed under Section 24(2) Act 2013, whereas, in this case the amount already deposited before



W.P.No.5228 of 2017

Civil Court and when the matter came up during last occasion, i.e.on 11.12.2023, this Court directed the respondents to appear before this Court and produce the original receipt in respect of depositing the Award amount. Now, the respondents, namely Mr.Saravanelraj, Managing Director, Tamil Nadu Housing Board and Mr.B.T.Rames, Special Tahsildar, Tamil Nadu Housing Board (Coimbatore Division (L.A)) are present before this Court and also produced the receipt, which clearly shows the Award amount was deposited before the Civil Court. Due to some difficulties, they were not able to produce in the earlier occasion. However, in the earlier round of litigation, everything was brought to the notice of the Court. Since the respondents already deposited the award amount before the Civil Court prior to the New Act coming into force and physical possession was also taken the factum of the acquisition proceedings being deemed to have lapsed under Section 24(2) of Act 2013, would not arise. Therefore, the petitioners are not entitled to the relief sought for in the writ petition. Accordingly, the writ petition is dismissed. No costs.

Index : Yes/No

Speaking Order: Yes/No

20.12.2023

Neutral case citation: Yes/No

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