



W.P.No.748 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.748 of 2017

M/s.Mohan Breweries & Distilleries Limited,
Represented by its Executive Chairman,
Mr.M.Nandagopal,
III Floor, No.605 and 606,
T.R.Sundaram Avenue,
Thousand Lights, Chennai – 600 006.

... Petitioner

versus

1.The Government of Tamil Nadu,
Represented by the Secretary to Government,
Housing Department,
Fort St.George, Chennai – 600 009.

2.The Tamil Nadu Housing Board,
Represented by its Chairman,
No.493, Anna Salai,
Nandanam, Chennai – 35.

.....Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue
a Writ of Declaration, declaring that the land acquisition proceedings
initiated under the Land Acquisition Act, 1894 in respect of the lands



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belonging to the petitioner comprised in

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<i>Survey No.</i>	<i>Extent</i>	<i>Sale Deed No</i>
33	0.66	1612 of 1988
33	0.66	1614 of 1988
34	1.62	5744 of 2002
44/1(44/1A)	3.77	5744 of 2002
45/3(45/3C1)	1.15	5744 of 2002
31	0.30	2502 of 1993
94/1A	0.70	492 of 1987
94/2A	0.44	492 of 1987
99/3	0.85	492 of 1987
104	4.24	492 of 1987
213/1	0.75	2464 of 1984
213/2	2.10	2464 of 1984
217/2	0.28	621 of 1984

All in Valasarawakkam Village, Chennai, as lapsed, in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (Act 30/2013).

For Petitioner : Mr.Kubera V.
for M/s.Rank Associates

For Respondents : Mr.P.Gurunathan
Additional Government Pleader for R1

Mr.A.M.Ravindranath Jeyapal
Standing Counsel for R2



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ORDER

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The petitioner seeks for a declaration declaring that the land acquisition proceedings initiated under the Land Acquisition Act, 1894 in respect of the subject lands comprised in

<i>Survey No.</i>	<i>Extent</i>	<i>Sale Deed No</i>
33	0.66	1612 of 1988
33	0.66	1614 of 1988
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213/2	2.10	2464 of 1984
217/2	0.28	621 of 1984

in Valasarawakkam Village, Chennai, stood lapsed, in view of Section 24(2) of "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (Act 30/2013)" [hereinafter referred to as "the New Act"].



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2. The brief facts of the case are as follows :

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(i) The petitioner is the subsequent purchaser of the subject lands admeasuring 17.52 acres, situated in Valasarawakam Village, Ambattur Taluk, Tiruvallur District. The second respondent/Tamil Nadu Housing Board intended to form K.K.Nagar extension scheme and new Ramapuram Neighbourhood scheme as per G.O.Ms.No.125 (Housing) dated 08.05.1975, G.O.Ms.No.412 (Housing) dated 09.05.1975 and G.O.Ms.No.136 (Housing) dated 14.05.1975. While so, the second respondent had issued a notification under Section 4(1) of Land Acquisition Act, and subsequently, a declaration under Section 6 of the Land Acquisition Act was also issued and acquired the subject lands. However, they did not implement any schemes and the possession of the subject lands remain with the petitioner.

(ii) It is the further case of the petitioner that the land acquisition proceedings initiated by the second respondent in respect of the subject lands stood lapsed, where an Award under Section 11 has been made five years or more prior to the commencement of the New Act. The possession of the subject lands remains with the petitioner and no compensation has



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been either paid to the petitioner or the amount of the compensation deposited in the Civil Court. Further, the second respondent has not taken physical possession of the subject lands either from the petitioner or from its predecessor/s-in title and also they did not receive any compensation from the Government and hence, the entire Land Acquisition Proceedings stood lapsed, in view of Section 24(2) of the New Act.

(iii) It is the further case of the petitioner that this Court time and again held that if the compensation is not paid or if physical possession is not taken over, the land owner would be entitled to seek re-conveyance of the land. Further, the second respondent has given 'No Objection Certificate' for various extent of lands, which were forming part of the original acquisition and the owners have put up new constructions and are in occupation and enjoyment of the same. The petitioner itself has been given NOC for certain extents as not being covered by the acquisition. Therefore, in view of Section 24(2) of the New Act, the Petitioner is entitled to maintain the present Writ Petition.



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3. The learned counsel for the petitioner submitted that though the amendment of the New Act came into force in the year 2013, but the petitioner purchased the properties in 1987, 1988, 1993 and 2002 and ever since he is in physical possession and enjoyment of the subject lands till today. Since the physical possession of the subject lands has not been taken or the compensation has not been paid, the Land Acquisition Proceedings shall be deemed to have lapsed in view of Section 24(2) of the New Act.

4. The learned Standing Counsel appearing for the second respondent submitted that already the Land Acquisition Officer has passed the Award for the subject lands in the year 1986 itself and the Award amount was also deposited in the Civil Court account, since then, the subject lands are vested with the Second respondent/Tamil Nadu Housing Board. The second respondent had taken possession of the subject lands from the owners, who are in possession. The petitioner is the subsequent purchaser and now, he is in possession of the subject lands. He further submitted that vesting of the lands with the State is with possession. Any person retaining the possession thereafter, has to be treated as trespasser. In the present case, the petitioner



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is the trespasser and he is not entitled to get the benefit under Section 24(2) of the New Act.

5. In support of his contention, the learned Standing Counsel appearing for the second respondent placed reliance on the judgment of the Hon'ble Supreme Court in the case of ***Land and Building Department Through Secretary and Another Vs. Attro Devi and Others*** reported in **2023 SCC Online SC 396**. The relevant paragraph of the said decision is reads as follows :

" 12. The vesting of land with the State is with possession. Any person retaining the possession thereafter has to be treated trespasser. When large chunk of land is acquired, the State is not supposed to put some person or police force to retain the possession and start cultivating on the land till it is utilized. The Government is also not supposed to start residing or physically occupying the same once process of the acquisition is complete. If after the process of acquisition is complete and land vest in the State free from all encumbrances with possession, any person retaining the land or any re-entry made by any person



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is nothing else but trespass on the State land....."

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6. Heard the learned counsel on either side and perused the materials available on record.

7. It is seen from the records that at the time of acquisition proceedings, passing of Award amount and depositing the Award amount into the Civil Court account, the petitioner is not the owner of the subject lands. Further, the original owners of the subject lands were served with notice and they were also participated in the said proceedings and the acquisition proceedings were completed in the manner known to law and the Award amount is also deposited in the Civil Court account. Subsequently, possession in respect of the subject lands, was taken by the second respondent, and to prove the same, the learned Standing Counsel appearing for the second respondent produced a copy of the document. Therefore, the petitioner is nothing but a trespasser as laid down by the Hon'ble Supreme Court in the above decision and he is not entitled to get the benefit under Section 24(2) of the New Act.



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9. For the foregoing reasons, this Writ Petition is not maintainable and the same is liable to be dismissed. Accordingly, 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,
The Government of Tamil Nadu,
Housing Department,
Fort St.George,
Chennai – 600 009.

2.The Chairman,
The Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai – 35.

Pg.Nos.9/10



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Pg.Nos.10/10