



W.P.Nos.21583 and 21584 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **22.11.2023**

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

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M/s. Deejay Enterprises Private Limited,
A company registered under Companies Act,
Represented by its Director Mr. David J Lobo,
Represented by its Power of Attorney Agent,
K. Sakthivel,
S/o. T. Kunchan,
Residing at A-76, SIPCOT Housing Colony,
Hosur – 635 126,
Krishnagiri District.

... Petitioner
(in W.P.21583 of 2017)

M/s. Deejay Enterprises Private Limited,
A company registered under Companies Act,
Represented by its Director Mr. David J Lobo,
Represented by its Power of Attorney Agent,
K.Muruganand,
S/o. S. Krishnamoorthy,
Residing at 86-A, Trichy Main Road,
Seelanayakkanpatti,
Salem- 636 201.

... Petitioner
(in W.P.21584 of 2017)

Versus

1.State of Tamil Nadu,
Represented by its Secretary to Government,
Housing and Urban development Department,



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Secretariat, Chennai – 600 009.

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2. Tamil Nadu Housing Board,
Represented by its Chairman-cum-Managing Director,
No. 493, Anna Salai,
Chennai – 600 035.
3. The Executive Engineer,
Tamil Nadu Housing Board,
Bagalur Road,
Hosur, Krishnagiri District.
4. The Special Tahsildar,
Land Acquisition,
Housing Scheme,
Bagalur Road,
Hosur, Krishnagiri District.

... Respondents
(in both Writ Petitions)

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying for issuance of Writ of Declaration, declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894 in respect of land to an extent of 1.57 acres and 0.56 acres comprised in Survey No. 438/1 and 438/2 respectively situated at Chennathur Village, Hosur Taluk, Krishnagiri District covered by Notification issued under Section 4(1) of Land Acquisition Act, 1894 vide G.O. Ms. No. 753, Housing Department dated 30.04.1991 and published in Part II, Section 2 of Tamil Nadu Government Gazette dated 29.05.1991 and declaration under Section 6 of the Land Acquisition Act published in Part II, Section 2 of Tamil Nadu Government Extraordinary dated 09.10.1992 deemed to have lapsed in view of Section 24(2) of



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Right to Fair Compensation and Transparency in Land Acquisition,
Rehabilitation and Re-Settlement Act, 2013.

Appearance in both cases:

For Petitioner(s) : Mr. R. Bharath Kumar
For Respondents : Mr. V. Veluchamy,
Additional Government Pleader (for R1 & R4)
: Mr. S. Ramachandran,
Standing Counsel for TNHB, (for R2 & R3)

ORDER

These Writ Petitions have been filed seeking Writs of Declaration, to declare that the Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894, in respect of the land of an extent of 1.57 acres and 0.56 acres comprised in Survey Nos. 438/1 and 438/2 respectively, situated at Chennathur Village, Hosur Taluk, Krishnagiri District, covered by the Notification issued under Section 4(1) of Land Acquisition Act, 1894, vide in G.O.Ms.No.753, Housing and Urban Development, Department dated 30.04.1991 and published in Part II, Section 2 of the Tamil Nadu Government Gazette dated 29.05.1991 and to declare under Section 6 of the Land Acquisition Act, published in Part II, Section 2 of



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Tamil Nadu Government Extraordinary, dated 09.10.1992, are deemed to have lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013.

2. The claim of the petitioners' is that the subject properties of an extent of 1.57 acres and 0.56 acres comprised in S.Nos.438/1 & 438/2, respectively situated at Chennathur Village, originally belonged to one Doddappa and two others, who have purchased the same under registered Sale Deed, dated 28.05.1968. Thereafter, the same lands were purchased by M/s.DEEJAY Hatcheries, a partnership firm. Thereafter, it was conveyed to one M/s. Foods, Feeds and Fabrications, a partnership firm by a Sale Deed dated 22.05.1980, and then it was renamed as M/s.DEEJAY Enterprises Private Limited and they are the owner of the subject properties. The Government of Tamil Nadu issued the Notification under Section 4(1) of the Land Acquisition Act in G.O.Ms.No.753, Housing and Urban Development, Department dated 30.04.1991, for acquiring the subject property and the first respondent issued notice under Section 6 of the Act, dated 09.10.1992. Though the



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petitioner raised their objections, the Land Acquisition Officer, without considering the same, passed an Award in Award No.26/94, dated 10.10.1994. Thereafter, the petitioner filed a batch of Writ Petition in W.P.Nos.6223, 6224 of 1994 etc., in which, an order of interim stay of dispossession alone was granted on 06.04.1994. The Writ Petitions were disposed of by order dated 15.11.2001. Pursuant to the same, the Special Tahsildhar has conducted enquiry under Section 5-A of the Land Acquisition Act, on 10.01.2003. Overruling the objections raised by the petitioners, again enquiry was conducted by the Special Tahsildhar and the second Award passed in Award No.1/2005, dated 28.01.2005. Till date, neither the compensation of Rs.2,53,235/- amount was paid nor it was deposited before the Civil Court.

3. That apart, the entire Land Acquisition Proceedings initiated under the Central Act, 1894, have lapsed, in view of Section 24(2) of the New Act. Therefore, the petitioners made a representation dated 29.04.2015 to the Land Acquisition Officer, requesting him to issue “No Objection Certificate” for transfer of Patta in favour the petitioners. The Tahsildhar issued a “No Objection Certificate”, dated 25.05.2015.



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However, when the petitioners tried to alienate the properties, the proposed buyer has insisted for a proper order from the Government of Tamil Nadu, certifying that there are no Land Acquisition proceedings pending in respect of the said properties. Hence, the Writ Petition.

4. The learned counsel for the petitioners submitted that the compensation has not been properly tendered and also has not been deposited properly, either paying it directly or depositing it before the Civil Court and the possession has also not been taken from the petitioners, even after passing of the second Award.

5. Further, the learned counsel for the petitioners submitted that the respondents have deposited the compensation at the Treasury and not paid the entire compensation and they themselves admitted that not all the amount was given to the petitioners concerned. Further, the possession has also not been taken.

6. The learned counsel for the petitioners drew the attention of this Court that earlier this Court has also passed an order of interim stay



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of dispossession alone. However, the respondents have admitted that they are not in possession of the property, after the disposal of the Writ Petition in W.P.Nos.6224 & 6225 of 1994, dated 15.11.2001 and till then, the respondents have not taken possession. Though the said writ petitions were disposed of on 15.11.2001 and from the said date, the possession was not delivered. Therefore, according to the respondents, the petitioners themselves have taken the possession from December 1994, since at the time, the order of interim stay of dispossession was in force. But, this would not have to be taken as the possession regained by them in the month of December 1994. The petitioners only obtained interim stay till the disposal of the said writ petitions.

7. It is the further contention of the learned counsel for the petitioners that when once the Land Acquisition Act was amended, Section 24 (c)(ii) of the Right to Fair Compensation and Transparency in Land Acquisition, and Rehabilitation and Re-settlement Act, 2013, (hereinafter “the Act”) which came into force in the month of January 2014, and since the amount was not either tendered / paid or deposited in the Civil Court and the possession was also not taken before the said Act,



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and therefore, the acquisition proceedings had lapsed.

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8. In support of his contentions, the learned counsel for the petitioners placed reliance on the Judgment of a Division Bench of this Court, in the case of ***The Managing Director, Tamil Nadu Housing Board. Vs. M. Murugesan and two others., in W.A.No.1380 of 2018, dated 10.08.2023***, wherein, by referring to the Judgment of the Constitutional Bench of the Hon'ble Supreme Court of India, in the case of ***Indore Development Authority Vs. Manoharlal and Ors., reported in (2020) 8 SCC 129***, a Division Bench of this Court has dealt with similar issue, wherein, after the land acquisition proceedings, the compensation determined has not yet been deposited or not yet been paid and possession was not taken by the Land Acquisition Officer.

9. Apart from that, the learned counsel for the petitioners submitted that the compensation have to be properly tendered to the land owners, who have refused to receive the compensation, in which case, the amount has to be deposited before the Civil Court. Even mere depositing into the Treasury would not also be acceptable and it cannot be treated as



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a proper tender. Therefore, in this case also, the deposit made by the respondents before the Court into as “Civil Deposit” ought not to be considered as deposit before the Civil Court.

10. Therefore, in this case also, though the Award was passed, the same was not deposited as “Civil Deposit” before the Civil Court, either it has to be paid to the land owner or deposited before the Civil Court. Therefore, the compensation amount has not been paid in the manner known to law and the possession has already been protected by the interim stay granted by this Court and the said order of interim stay was passed only till the disposal of the writ petitions, i.e., upto 15.11.2011, and therefore, the possession would not be considered to have been taken.

11. More particularly, the respondents themselves have admitted in Paragraph No.9 of the counter affidavit filed by them that except the land of the subject properties involved in the present writ petitions, all other lands have been utilized and the subject properties themselves have been kept as “vacant”. Therefore, the possession has not yet been taken and possession has not been utilized and the acquisition proceedings



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stood lapsed.

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12. The learned Standing Counsel appearing for the respondents 2 & 3 (TNHB) submitted that the possession has already been taken by the petitioners even in the year December 1994 and the amount has also been deposited into the Treasury under the head “Civil Deposit”. Since the amount has been paid even in the year 1995 itself, it means that the possession has also been taken even thereafter in the year 1994. The subject properties which are a larger extent are vacant lands and they have been never handed over to the Housing Board and mutation has also taken place, and no compensation is being paid, the Revenue Records stands in the name of the Housing Board.

13. Since the writ petitions are pending, the subject properties of the petitioners which are in the corner of the acquired lands alone, had been kept as “vacant” and since the amount has already been paid /deposited before the Treasury as “Civil Deposit” and possession has also been taken and mutation has also taken place, the acquisition will not stand lapsed.



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14. I have perused the entire records in detail. It seems that in one way or other the petitioners have challenged the acquisition proceedings and filed the miscellaneous petitions in W.M.P.Nos.9680, 9682 & 9684 of 1994 initially and got an order of interim stay on 06.04.1994 itself and subsequently, at the time of disposal of the batch of writ petitions in W.P.Nos.6223 to 6225 of 1994, etc., dated 15.11.2001, the stay order came to an end. Now, the learned counsel for the petitioners submitted that only the possession of the petitioners has not been taken, since there was an interim stay of dispossession on the subject properties from December 1994 till the disposal of the Writ Petitions on 15.11.2001. So, during that period, they would not have taken the possession and even prior to that, the Court stayed in taking of possession. But, the respondents have already taken the possession and they have not informed to the Court that the Court had granted interim stay.

15. In the Judgment of the Hon'ble Supreme Court of India, in ***Indore Development Authority Vs. Manoharlal and Ors., reported in***



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(2020) 8 SCC 129, (stated supra), wherein, it was held that the compensation deposited into the Treasury, is not a proper tender and the Division Bench of this Court has followed the same in the case of ***The Managing Director, Tamil Nadu Housing Board***, (cited supra). Therefore, the deposit of compensation before the Treasury is not a proper tender and the possession taken still continued with the writ petitioners.

16. Further, the respondents have produced the documents to show the deposit of the award amount in the year 1999 and the compensation was deposited into the Treasury as civil deposit. Even in the said Judgment of the Hon'ble Supreme Court of India, in ***Indore case***, it has been clearly stated that even if the amount came to be deposited into the Court or otherwise, in Treasury, if permissible and though it was properly deposited in Treasury, that would also a proper tender. So, the learned counsel for the petitioners relied upon the Judgment of the Division Bench of this Court, in the case of, ***N.Devanathan & 2 Ors., Vs. The State of Tamil Nadu and 4 Ors., in W.A.Nos.357 of 2022, etc.,***



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batch case, dated 31.01.2023, which says if the land owner refused the compensation amount, it has to be deposited as personal deposit account of the Special Tahsildhar, Land Acquisition, but, it was repealed, therefore, the amount can be deposited into the Court or otherwise, in Treasury, if permissible, whereas in this case, though the respondents deposited the award amount in the Treasury in the year 1995 itself, the entire compensation moved for further exception. It is to be noted that it is only deposit under the head of “Civil Deposit”, and even the **Indore** case, recognized the Treasury deposit if permissible. Therefore, the Judgment relied upon by the learned counsel for the petitioners is not applicable to the present case on hand and that it is the case on personal deposit, whereas, in this case, it is a Civil Deposit and the records also shows that it is a civil deposit.

17. Therefore, the records produced by the respondents shows that the compensation has already been deposited before the Civil Court as “Civil Deposit”. Therefore, this Court finds that the compensation has already been tendered and deposited before the Civil Court as “Civil



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Deposit”.

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18. As far as the possession is concerned, though there is an order of interim stay of dispossession, but, it is not on record that the as on that date, they have not taken the possession. Pending stay, they have not taken the possession and subsequently, the mutation of Revenue Records has also taken place and now, the Patta stands in the name of the Housing Board. So far, the petitioners have not filed any contempt petition. Even during the order of interim stay being in force, the petitioners have taken the possession.

19. Except the subject matter lands, the other lands were developed, pending the writ petitions, the subject matter lands in the corner place are kept as “vacant”, since the respondents have taken possession long back. Since the writ petitions are pending in respect of the subject lands, the respondents have taken the entire larger extent and not only the lands in question and the entire land also stands in the name of Housing Board and the petitioners have also not challenged the same.



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20. Therefore, under the above circumstances, this Court finds that due to the repeal of the old Act and the new Act coming into force, and since the compensation has already been deposited and the possession has also been taken, the acquisition proceedings shall not stand lapsed. Under such circumstances, the Writ Petition is dismissed. No costs.

22.11.2023

Index : Yes/No
Speaking order : Yes/No
Neutral Case Citation : Yes/No

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To

- 1.The Secretary, State of Tamil Nadu,
Housing and Urban development Department,
Secretariat, Chennai – 600 009.
- 2.The Chairman-cum-Managing Director,Tamil Nadu Housing Board,
No. 493, Anna Salai,
Chennai – 600 035.
3. The Executive Engineer,
Tamil Nadu Housing Board,
Bagalur Road, Hosur, Krishnagiri District.
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Housing Scheme, Bagalur Road,



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Hosur, Krishnagiri District.

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