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WA Nos.937 and 1343 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B. BALAJI

WA Nos.937 and 1343 of 2017

Dr.T.G.Balachander

... Appellant in
WA No.937 of 2017

Mrs.Premlatha

... Appellant in
WA No.1343 of 2017

versus

- 1.The Secretary to Government,
Public Works Department (Highways),
Fort St.George, Chennai-600 009.
- 2.The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Chengalpattu.
- 3.The Special Deputy Collector (Land Acquisition)
Poonamallee, Chennai.
- 4.The Divisional Engineer,
Highways Department,
Chengalpattu, Tamil Nadu- 603 001.



WA Nos.937 and 1343 of 2017

5. The Chief Executive Officer,
Tamil Nadu Road Development Company Limited,
No.346, Sindu Pantheon Plaza,
Pantheon Road, Egmore,
Chennai-600 008.

... Respondents in both
Writ Appeals

PRAYER in WA Nos.937 and 1343 of 2017: Writ Appeals filed against the
order of the learned Single Judge dated 19.08.2015 in WP No.27189 of
2014 and WP No.27187 of 2014 respectively.

For the Appellant :Mr.Thiageswaran
for M/s. Waraon & Sairams

For Respondents :Mr.S.Silambanan
Additional Advocate General
Assisted by Mrs.Geethathamaraiselvan
Special Government Pleader
for first and fourth respondents
Mr.S.Sivavarthanan
for fifth respondent



WA Nos.937 and 1343 of 2017

COMMON JUDGMENT

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(Judgment of the Court was delivered by *D.KRISHNAKUMAR, J.*)

The appeals have been filed by the appellants challenging the orders dated 19.08.2015 passed by the Writ Court.

The brief facts leading to the filing of the present writ appeals are as follows

2.1. According to the appellants, the appellants are the owners of the property in question in Survey No.87/1 A in Kanathur Reddy Kuppam Village and in Survey No.3/1A East Coast Road in Uthandi Village. The first respondent-Government has issued a notification under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as the Old Act, 1894) vide G.O.Ms.No.951 dated 09.07.1992 and G.O.Ms.1105 dated 04.08.1992 for the acquisition of lands belonging to the appellants/land owners, in the aforementioned property for the purpose of widening the East Coast Road and subsequently declaration under Section 6 of the Old Act, 1894, was also published by the first respondent Government.



WA Nos.937 and 1343 of 2017

2.2. The first respondent Government have issued 4(1) notification, however dispensed with Section 5-A enquiry with an intention to acquire the lands in question emergently as it required immediate possession of the lands for the purpose of widening the East Coast Road.

2.3. According to the appellants though the first respondent invoked the power of urgency and issued notification under the Old Act, 1894, the mandatory requirements had not been complied with by the respondent Government. The respondents have failed to take physical possession of the lands acquired under the said proceedings by paying the compensation to the appellants/land owners till date. Similarly, the lands acquired by the respondents as per the G.Os. issued in the year 1992, have not been utilised for the purpose for which it was acquired for. The acquisition proceedings was initiated for the purpose of widening the East Coast Road. However the respondents have failed to complete the proceedings by taking physical possession and paying the compensation amount to the appellants. Since the third respondent was disturbing the peaceful possession of the appellants, the appellants have filed the writ petitions before this Court to



WA Nos.937 and 1343 of 2017

declare the proceedings initiated under the Old Act, 1894 as lapsed in view of provisions under Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'Act 30 of 2013'). The Writ Court, by order dated 19.08.2015, without considering the aforesaid grounds raised by the appellants, dismissed the writ petitions. Aggrieved by the said orders passed by the Writ Court, the appellants have filed the present intra court appeals before this Court.

3. Learned counsel appearing for the appellants submits that the respondents have not satisfied the mandatory requirement, i.e. physical possession of the lands in question has not been taken by the respondents and compensation amount has not been paid to the appellants. Therefore, the respondents have not complied the conditions as per the Old Act, 1894. He further submits that no notice has been served to the appellants by the respondents. Hence, the entire acquisition proceedings has been lapsed as per Section 24(2) of the Act 30 of 2013. Without accepting the said contention of the appellants, the Writ Court has dismissed the aforesaid writ



WA Nos.937 and 1343 of 2017

petitions, which is contrary to law. Hence, learned counsel seeks for setting aside the orders passed by the Writ Court and to allow the writ appeals and grant relief to the appellants as prayed for.

4. Learned Additional Advocate General, appearing for the respondents 1 to 4 vehemently argued before this Court by stating that first respondent Government has issued notification under Section 4(1) of the Old Act, 1984 vide G.O.Ms.No.951, Public Works Department (Highways), dated 09.07.1992 and G.O.Ms.1105, Public Works Department (Highways) dated 04.08.1992, and subsequently Draft declaration under Section 6 of the Old Act, 1894 was also published for the acquisition of the lands in question. The other procedures as contemplated under the Rules have also been adhered by the respondents and after following all such procedures, as contemplated under the Act and Rules, the respondents have taken the possession of the lands in question.

5. As regards the allegation of non payment of compensation amount to the appellants, learned Additional Advocate General vehemently submits



WA Nos.937 and 1343 of 2017

that compensation amounts have been deposited in the revenue deposit vide proceedings in RC.No.20/90/B dated 08.10.2001 for Award No.6/1995 dated 30.03.1995 and compensation amount has been deposited on 20.11.2015 by the Revenue Divisional Officer, Tambaram for Award No.1/1995 dated 16.08.1995. Thus, according to the Additional Advocate General, the respondents have kept the compensation amount in the Revenue Deposit. Therefore, there is no lapse on the part of the respondents in satisfying the conditions as laid in the case of ***Indore Development Authority vs Manoharlal and Ors reported in (2020) 8 SCC 129.***

6. Heard the parties and perused the materials available on record.

7. As regards the first contention of the appellants that the physical possession of the lands in question has not been taken by the respondents and that the lands in question are in the possession of the appellants, though the Learned Additional Government Pleader argues that physical possession of the lands in question has been taken by the respondents, but no document or materials have been placed before this Court by the respondent



WA Nos.937 and 1343 of 2017

Department to prove that they have taken physical possession of the lands in question. Therefore, we are of the view that the first contention raised by the appellants is not negated by the respondents.

8. As regards the second contention of the appellants, that the compensation amount has not been paid to the appellants by the respondent Department, on perusal of the records, it is seen that as per the awards passed in favour of the land owners, the respective compensation amount has been deposited in the revenue deposit. Therefore, the said contention of the appellants is not acceptable and therefore the prayer as sought for by the appellant invoking Section 24(2) of the Act 30 of 2013 cannot be entertained. Hence, the order of the Writ Court is perfectly valid.

9. It is also seen from the records that compensation amount was not tendered directly to the appellants, on the other hand the entire award amount has been kept in the revenue deposit.



WA Nos.937 and 1343 of 2017

10. Now, learned counsel for the appellants submits that though the respondent Department have not produced materials to prove that they have taken physical possession of the lands in question, as the entire compensation amount has been kept in the revenue deposit, he seeks that liberty may be granted to the appellants to approach the authority concerned seeking enhancement of compensation amount under the Act 30 of 2013. The said request made by the appellants is a feasible one. Therefore, liberty is granted to the appellants to approach the authority concerned seeking enhancement of compensation and the respondents shall consider the same and take appropriate decision and complete the said exercise, within a period of twelve weeks from the date of receipt of a copy of this order.

11. With the above liberty, the writ appeals stand dismissed. There will be no order as to costs.

[D.K.K., J.] [P.B.B., J.]
25.09.2023

Index : Yes/No
Neutral Citation : Yes/No
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WEB COPY



WA Nos.937 and 1343 of 2017

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WA Nos.937 and 1343 of 2017

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