



W.P.No.28596 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2023

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.28596 of 2017

C.Kamala

... Petitioner

versus

1. State of Tamil Nadu,
Rep.by its Secretary to Government,
Housing and Urban Development Dept.,
Secretariat, Chennai – 600 009.
 2. Tamil Nadu Housing Board,
Rep.by its Chairman-cum-Managing Director,
No.493, Anna Salai,
Chennai – 600 035.
 3. The Executive Engineer,
Tamil Nadu Housing Board,
Bagalur Road,
Hosur – 635 109,
Krishnagiri District.
 4. The Special Tahsildar,
Land Acquisition,
Housing Scheme,
Bagalur Road – 635 109,
Hosur, Krishnagiri District.
-Respondents



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Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Declaration declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894 in respect of land measuring an extent of 1895.25 Sq.ft. and 1113 Sq.ft., comprised in Survey No.863 of Chennathur Village, Hosur Taluk Krishnagiri District (covered by Sale Deed dated 29.01.1990 registered as Document No.320/1990 and Sale Deed dated 06.06.1991 registered as Document No.2553/1991 in the Office of the Sub Registrar, Hosur) vide Notification issued under Section 4(1) of the Land Acquisition Act, 1894 in G.O.Ms.No.890, Housing and Urban Development Department, dated 29.05.1991 and Section 6 Declaration in G.O.Ms.No.691 Housing and Urban Development Department, dated 09.10.1992 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.

For Petitioner : Mr.K.Govi Ganesan

For Respondents : Mr.P.Gurunathan
Additional Government Pleader
for R1 and R4

Mr.S.Ramachandran
Standing Counsel for TNHB for R2 and R3



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ORDER

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This Writ Petition has been filed seeking for issuance of a Writ of Declaration, declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894, in respect of the lands measuring an extent of 1895.25 Sq.ft. and 1113 Sq.ft., comprised in Survey No.863 in Chennathur Village, Hosur Taluk, Krishnagiri District deemed to have been lapsed, in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013 (Central Act 30 of 2013) [hereinafter referred to as 'New Act, 2013'].

2. The case of the petitioner is that she purchased the subject properties by virtue of registered Sale Deed dated 29.01.1990 registered as Document No.320/1990 and Sale Deed dated 06.06.1991 registered as Document No.2553/1991 on the file of the Sub Registrar, Hosur, since then, she is in peaceful possession and enjoyment of the said properties. While so, when the petitioner approached the authority concerned, for transfer of Revenue Records, it came to the knowledge of the petitioner that the subject properties had been acquired by the first respondent for formation of



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housing scheme to be promoted by the second respondent/Tamil Nadu Housing Board. While so, the respondents issued notification under Section 4(1) of the Land Acquisition Act, 1894, vide G.O.Ms.No.890, Housing and Urban Development Department, dated 29.05.1991. Subsequently, a declaration under Section 6 of the Land Acquisition Act, 1894 was also issued, vide G.O.Ms.No.691, Housing and Urban Development Department, dated 09.10.1992. In every stage, the petitioner raised his objections, but the same were over-ruled by the Land Acquisition Officer. Subsequently, an Award was also passed on 10.10.1994, vide Award No.27/1994, determining compensation. Even before passing of the Award, challenging the acquisition proceedings, the petitioner and others filed W.P.No.13943 of 1994 before this Court, which came to be dismissed on 20.07.2001. Thereafter, they filed W.A.No.2832 of 2004 before the Division Bench of this Court and the Writ Appeal was disposed of on 02.08.2004. As per the directions of this Court in W.A.No.2832 of 2004, dated 02.08.2004, the petitioner and her Association members had submitted an application under Section 48-B of the Land Acquisition Act, 1894, requesting the first



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respondent to consider their grievances and drop the Land Acquisition Proceedings, but there was no response from the respondents till date.

3. The main allegation of the petitioner is that though the Award under Section 11 of the New Act, 2013 was passed much prior to commencement of the New Act, 2013, but till date, neither physical possession of the subject properties had been taken, nor compensation amount was paid/deposited and the petitioner is in possession and enjoyment of the acquired land, till date. Therefore, the land acquisition proceedings are deemed to have been lapsed under Section 24(2) of the New Act, 2013. Further, in similar facts, the adjacent owners of the petitioner filed W.P.No.9297 of 2015 etc., batch seeking benefits under Section 24(2) of the New Act, 2013 and this Court, by order 06.04.2016, allowed the writ petition. Hence, the present writ petition has been filed seeking for the relief as stated supra.

4. The learned Additional Government Pleader appearing for the respondents submitted that already Award amount has been deposited in the



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Civil Court account on 16.02.1995 and the physical possession of the subject lands had also been taken by the first respondent on 18.03.2002, i.e. even prior to the commencement of Section 24(2) of the New Act, 2013 and Revenue Records were also mutated in the name of the Tamil Nadu Housing Board/second respondent herein. Further, the second respondent also formed a lay out for allotting the lands to the beneficiaries and they have also got plan approval from the competent authority. Once the physical possession of the subject land had been taken and Award amount was also deposited in the Civil Court, the provisions contained under Section 24 (2) of the New Act, 2013 would not get attracted.

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

6. On a perusal of the records, it is seen that the Government had acquired the subject properties under due process of law and Award was also passed on 10.10.1994, vide Award No.27/1994. The main contention of the learned counsel for the petitioner is that before the New Act, 2013 coming into force i.e. on 01.01.2014, neither the physical possession of the



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said lands had been taken, nor Award amount was paid/deposited. However, on a perusal of the documents submitted by the learned counsel for the second respondent, it is seen that, even prior to the commencement of Section 24(2) of the New Act, 2013, the Award amount was deposited in the Civil Court on 16.02.1995 and the physical possession of the subject lands had been taken by the first respondent on 18.03.2002 and Revenue Records were also mutated in the name of the second respondent. Further, the second respondent also formed a lay out for allotting the land to the beneficiaries and they have also got plan approval from the competent authority, which was also produced before this Court. At this juncture, the learned counsel for the petitioner produced a copy of the Electricity Bill to prove the petitioner's occupation in the subject property. However, the petitioner has not produced any document to show that there is a constructed portion in the acquired land and he has also been regularly paying taxes and other statutory dues regularly, without any default. If the acquisition proceedings are completed under due process of law, the petitioner cannot say that no possession has been taken by the Government. Though the acquisition proceedings have been completed well before the



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New Act, 2013 came into force, the petitioner is not entitled to the relief as sought for in this writ petition.

7. For the foregoing reasonings, 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.

18.12.2023

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No

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To

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P.VELMURUGAN, J.

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Pg.Nos.10/10