



WP(MD)No.7192 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **08.12.2023**

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THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.(MD)No.7192 of 2021

P.Pushpam

...Petitioner

/Vs./

1.The District Collector,
District Collectorate Office,
Madurai.

2.The Special Tahsildar (Land Acquisition),
Adi Dravidar Welfare Unit – II,
Madurai – 20.

...Respondents

PRAYER:- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to release petitioner's land in R.S.NO.50/5B acquired through the acquisition proceedings initiated by the 2nd respondent in the year 1991 by considering the petitioner's representation dated 28.12.2020 with in a time frame fixed by this Court.

For Petitioner : Mr.J.Senthil Kumaraiah

For Respondents : Mr.A.K.Manikkam

Special Government Pleader



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ORDER

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This writ petition has been filed to declare the acquisition proceedings as lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as '2013 Act' for brevity) on the ground that the petitioner has neither received the compensation amount nor has the possession been taken over by the respondents.

2. The case of the petitioner is that she is in possession and enjoyment of the subject property by virtue of sale deed dated 16.12.1988 executed in favour of the petitioner by one Alagappan. The acquisition proceedings were initiated under the Land Acquisition Act, 1894 (hereinafter referred to as '1894 Act' for brevity). 4(1) notification was published in the gazette on 24.04.1991 and 5A enquiry was convened on 18.06.1991. Thereafter, award enquiry was conducted.

3. The further case of the petitioner is that no compensation amount was paid neither was the possession taken over from the petitioner and therefore, the petitioner sought for declaring the acquisition proceedings as lapsed.



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4. The second respondent has filed a counter affidavit and the relevant portions in the counter affidavit are extracted hereunder:-

4. I respectfully submit that the government approved 4(1) notification as per the Land Acquisition Act vide G.O(3D)No.427, Adi Dravidar and Tribal Welfare Department dated 27.03.1991. It was published in the Tamil Nadu Government Gazette on 24.04.1991. The relevant portion of that, extracted as follows:

"Government, dry, S.No.50-5 B (part), belonging to A.Alagappan, bounded on the North by S.No.50-13C, East by S.No.49. South by S.No.50-5C and West by S.No.50-5 B (part) - 0.13.0 hectare.

Government, dry, S.No.50-C, belonging to A. Annammal, M.Pandiyammal and C.Ponnammal, bounded on the North by S.No.50-5B (part), East by S.No.49, South by S.No.50-15 and West by S. No.0.5 - 5 B (part) – 0.27.0 hectare. Total - 0.40.0 hectare."

5. I respectfully submit that, 4(1) notification as per the Act and subsequent dates and events of the proceedings are furnished below:

1	<i>Draft Notification approved on</i>	<i>27.03.1991</i>
2	<i>Published in the Tamil Nadu government Gazette on</i>	<i>24.04.1991</i>
3	<i>Publication in Dailies – Theekathir and Kinnus</i>	<i>26.04.1991</i>
4	<i>Publication in Madurai North Taluk Office, Madurai West Panchayat Union office and Alanganallur Sub-Registrar Office on</i>	<i>30.04.1991</i>



5	<i>Notice in Form 3 issued and published on</i>	<i>30.04.1991</i>
6	<i>Substance of 4(1) notification published in the Locality on</i>	<i>30.04.1991</i>
7	<i>Notice in Form 3A issued on</i>	<i>31.05.1991</i>
8	<i>Notice in Form 3A served on</i>	<i>01.06.1991</i>
9	<i>U/s 5A enquiry convened on</i>	<i>18.06.1991</i>

The aforesaid 5A enquiry was conducted on 18.06.1991 in the Panchayat Board Office, Chinnapatty as scheduled after the service of the notice. During the enquiry, Thiru.A.Alagappan, the pattadar of S.No.50/5B had appeared and told that he sold an extent of 0.05 cents to Tmt. Periyakkal and another and 0.10 cents to Tmt.Pushpam, the Writ petitioner herein through an unregistered document worth of Rs.2.50 stamp paper which is in violation of Stamp Duty and Registration Act. Moreover, the objection raised by the land owner was overruled.

6. I respectfully submit that the award enquiry was conducted on 23.12.1992 as fixed after due service of notice under section 9(1)10 and 9(3)10 of the said Act. The erstwhile land owners did not appear. Consequently, the compensation amount was deposited in the 1st Additional Subordinate Court, Madurai U/s 30(2) of the said Act on 01.02.1993 and the same was returned by the 1st Additional Subordinate Court, Madurai on 23.12.1994 due to lapse of the validity of the cheques. The proposal for revalidation of the cheques was sent to the Secretary, Adi Dravidar Welfare Department, Chennai on 04.03.1997 and the same was sent again on 23.03.2009.



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<i>S.No.</i>	<i>Survey No.</i>	<i>Extent (Hectare)</i>	<i>Amount of Compensation (Rupees)</i>
<i>01.</i>	<i>50/5B</i>	<i>0.13.0</i>	<i>18,809/-</i>
<i>02.</i>	<i>50/5C</i>	<i>0.27.0</i>	<i>40,095/-</i>
<i>Total Amount</i>			<i>58,904/-</i>

5. Heard Mr.J.Senthil Kumaraiah, learned counsel for the petitioner and Mr.A.K.Manikkam, learned Special Government Pleader for the respondents.

6. The main ground that was urged by the learned counsel appearing for the petitioner is that the acquisition proceedings itself has lapsed, since the compensation amount was not paid and possession was also not taken over.

7. Per contra, the learned Special Government Pleader appearing on behalf of the respondents submitted that the petitioner does not have any title to the property, since an unregistered sale deed was executed in favour of the petitioner. It was further submitted that the compensation amount that was determined in the award proceedings was deposited before the First Additional Sub Court, Madurai on 01.02.1993 and the same was returned on 23.12.1994 due to lapse of validity of the cheques. The learned Special Government Pleader therefore submitted that the amount was deposited before the Court and it was returned only on technical ground and that even though the possession



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continues with the petitioner, the compensation amount has been deposited in Court and therefore, the acquisition does not lapse under Section 24(2) of the 2013 Act.

8. There is no dispute with regard to the fact that the possession continues with the petitioner. The only other issue to be considered is as to whether the compensation amount was tendered / deposited.

9. The Hon'ble Apex Court in *Indore Development Authority v. Manohar Lal Sharma* reported in *2020 SSCOnline SC 316* has held that the acquisition proceedings will lapse under Section 24(2) of the 2013 Act, only if both the possession was not taken over and the compensation is also not paid. With respect to the expression 'paid' that is found under section 24(2) of the 2013 Act, the Hon'ble Apex Court gave a detailed explanation and came to a conclusion that where the compensation amount is tendered to the land owner and he refuses to receive it, the compensation amount is deemed to have been paid to the land owner.

10. Insofar as the deposit of the award amount in the Court, this Court had an occasion to deal with the same in the judgment in *K.Saraswathi &*



***Others vs. State of Tamil Nadu and Others* reported in 2020 (2) WritLR 345.**

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This Court, after considering the entire scope of the 1894 Act and also the judgment of the Hon'ble Apex Court in *Indore Development* referred to supra, came to a conclusion that it is mandatory to issue notice to the land owners after an award is passed under Section 12(2) of the 1894 Act. If such a notice was issued and inspite of the same, the award amount is not received by the land owner or they refuse to receive the compensation, the land owner will not be allowed to turn around at a later point of time and take the ground that the compensation amount was not paid. However, if this notice was not issued, the land owner will not know as to whether the compensation amount was deposited. In such circumstances, the requirement 'paid / deposited' does not get fulfilled.

11. In the instant case, even in the counter affidavit filed by the second respondent, it is seen that no notice was issued under Section 12(2) of the 1894 Act and the amount was not properly deposited before the Civil Court. Even though initially compensation amount was deposited on 01.02.1993, it was returned by civil Court and thereafter, it was never represented. Therefore, it cannot be held that the compensation amount was deposited by the respondents before the competent civil Court under Section 30(2) of the 1894 Act.



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12. In the light of the above discussion, it is clear that the compensation amount was not paid / deposited and the possession was also not taken over and therefore, the acquisition proceedings itself stand lapsed under Section 24(2) of the 2013 Act.

13. In the result, this writ petition is allowed. It is declared that the acquisition proceedings insofar as the lands belonging to the petitioner, stand lapsed under Section 24(2) of the 2013 Act. No costs.

08.12.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
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N.ANAND VENKATESH, J.

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