



W.P.(MD)No.8985 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.12.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.8985 of 2021

and

W.M.P.(MD).No.6767 of 2021

R.Mahalakshmi

... Petitioner

Vs

1.The State of Tamil Nadu,
Represented by its Secretary to the Government,
Housing and Urban Development Department,
Fort St.George,
Chennai-600 009.

2.The Special Tahsildar (Land Acquisition),
Neighbourhood Scheme,
Kovilpatti, Kovilpatti Taluk,
Thoothukudi District.

3.The Executive Engineer/ Administrative Officer,
Tamilnadu Housing Board,
Tirunelveli Housing Unit,
Kamarajar Salai,
Anbunagar, Tirunelveli-627011

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 3rd respondent in



W.P.(MD)No.8985 of 2021

his letter in Ni.A/5056/2004 dated 11.04.2019 and quash the same as illegal and consequently to declare the land acquisition proceedings initiated by the respondents as “deemed to be lapsed” as per Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 in respect of the property comprised in S.No./1B Plot No.36 of an extent of 0.16.0 Hectares situated at Alampatti Village, Kovilpatti Taluk, Thoothukudi District.

For Petitioner : Mr.C.Gangai Amaran

For R-1 & R-2 : Mr.Mr.K.S.Selvaganesan,
Additional Government Pleader

For R-3 : Mr.S.Velmurugan,
Standing Counsel

ORDER

This Writ Petition has been filed to declare the acquisition proceedings initiated by the respondents “deemed to be lapsed” as per Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (For brevity “the Act”).

2. The case of the petitioner is that the subject property was purchased through a registered sale deed dated 10.07.1991 registered as



W.P.(MD)No.8985 of 2021

Document No.2213 of 1991 and the petitioner was in possession and enjoyment of the same. The acquisition proceedings were initiated by the second and third respondents and the award was also passed on 18.11.1994 by the second respondent. According to the petitioner, the award amount has not been deposited and that the petitioner is continuing to be in possession and enjoyment of the subject property. In view of the same, the petitioner has sought for a declaration under Section 24 (2) of the Act to declare that the acquisition itself has lapsed.

3. Heard the learned counsel on either side.

4. A connected Writ Petition pertaining to the very same acquisition proceeding was dealt with by this Court in W.P.(MD).No.12606 of 2021. Even the award pertained to the very same award dated 18.11.1994. While dealing with the same, this Court held as follows:

“5. It is clear from the materials placed before this Court that the acquisition proceedings were initiated as early in the year 1991 and the award was passed in the year 1994 and it was also deposited before the Sub Court, Kovilpatti. Thereafter, Section 18 reference was also made



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W.P.(MD)No.8985 of 2021

and it was dealt with by the Sub Court, Kovilpatti in L.A.O.P.No.63 of 1998. The name of the petitioner is also found to be one of the claimants in Sl.No.118. A judgment and decree has also been passed in L.A.O.P.No.63 of 1998.

*6. For claiming a declaration that the acquisition is deemed to have been lapsed, the petitioner has to satisfy both the requirements of possession of the property not being taken over and compensation not being paid to the petitioner. It is clear from the stand in the counter affidavit that the compensation amount has been deposited and there was also Section 18 reference made before the concerned Court and a decree has also been passed in L.A.O.P.No.63 of 1998. Therefore, even assuming that the possession is with the petitioner, the acquisition proceedings cannot be held to have been lapsed under Section 24(2) of RFCTLARR-Act, 2013. In this regard, it will be useful to refer to the Judgment of Constitution Bench of Hon'ble Supreme Court in the case **Indore Development Authority vs Manohar Lal**, reported in **2020 SCC Online SC 316**."*



W.P.(MD)No.8985 of 2021

WEB COPY

5. In view of the above, it is clear that the award was passed in the year 1994 and the compensation was deposited before the Sub Court, Kovilpatti and the reference was made under Section 18 of the Land Acquisition Act, 1894, which was dealt with by the Sub Court, Kovilpatti in L.A.O.P.No.61 of 1998. The Judgment and Decree was passed on 03.08.2009. In view of the same, the stand taken by the petitioner as if the award amount has not been paid / deposited is un-sustainable.

6. The learned counsel appearing for the petitioner submitted that the order that was passed by the Sub Court, Kovilpatti, dated 03.08.2009 has not been complied with and the entire compensation has not been paid to the petitioner.

7. The grievance that has been raised by the learned counsel for the petitioner does not result in declaring the acquisition proceedings as lapsed. If the petitioner has not received the entire compensation amount as fixed in L.A.O.P.No.61 of 1998, it will be left open to the petitioner to make a representation before the second respondent and the second respondent on receipt of the representation shall settle the entire



W.P.(MD)No.8985 of 2021

compensation amount, if not already paid, within a period of six (6) weeks from the date of receipt of the representation from the petitioner.

8. This Writ Petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

07.12.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
TSG

To

1.The Secretary to the Government,
the State of Tamil Nadu,
Housing and Urban Development Department,
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2.The Special Tahsildar (Land Acquisition),
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W.P.(MD)No.8985 of 2021

N.ANAND VENKATESH, J.

TSG

W.P.(MD)No.8985 of 2021

07.12.2023