



W.P(MD)Nos.575 to 584 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)Nos.575 to 584 of 2019

W.P(MD)No.575 of 2019:-

N.R.S.Sukumar

... Petitioner

Vs

**1.The Secretary to Government,
Tamilnadu Housing Board and Urban
Development Department,
Chennai.**

**2.The Managing Director,
Executive Engineer and Administrative
Officer,
Tamilnadu Housing Board and Urban Development,
No.493, Anna Salai,
Nandanam,
Chennai.**

**3.The District Collector,
Karur District.**

**4.The Executive Engineer and
Administrative Officer,
Trichy Housing Unit,
TNHB, Kajamalai Colony, Trichy.**



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5.The Assistant Engineer,
Trichy Housing Unit,
TNHB, Kajamalai Colony,
Trichy.

Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to reconvey the land of an extent of 3600 sq.ft comprised in Survey No.1407/1 at Sanappiratti Village, Karur Circle, Karur SRO-I, Karur District to the petitioner.

For Petitioners : Mr.I.Velpradeep
For R1 & R3 : Mr.M.Sarangan
Additional Government Pleader
For R2, R4 & R5 : Mr.M.Suresh

COMMON ORDER

These writ petitions have been filed by the respective petitioners for a Mandamus, directing the first respondent to re-convey the land in S.Nos.1407/1, Sanappiratti Village, Karur Circle, Karur SRO-1, Karur District to an extent of 3600 sq.ft, 2400 sq.ft, 2700 sq.ft, 4800 sq.ft, 2400 sq.ft, 6909 sq.ft, 2100 sq.ft, 2400 sq.ft, 2100 sq.ft and 4438 sq.ft respectively to the petitioners.



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2.Since the issue involved in all these writ petitions is with regard to re-conveyance of the land in S.Nos.1407/1, Sanappiratti Village, Karur Circle, Karur SRO-1, Karur District, all these writ petitions are disposed of by this common order.

3.The case of the petitioners is that the subject lands were acquired by the Government for the purpose of housing board in the year 1982, for which, a notification under Section 4(1) of the Land Acquisition Act, 1894 has been issued vide G.O.997, dated 04.11.1982 and the same was published in Tamil Nadu Government Gazette, dated 24.11.1982. Subsequent to the same, the Government has declared that the above lands had been acquired under Section 6 of the Land Acquisition Act, 1894 and a Notification to that effect was also issued vide G.O.Ms.No.962, dated 16.11.1984 and the same was published in the Tamil Nadu Government Gazette Notification dated 19.12.1984. The Government has passed an award on 10.06.1987 and the amount was also deposited before the Sub Court, Karur on 26.11.1987. The petitioners have come up with



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these writ petitions to declare the impugned acquisition proceedings as lapsed, on the following grounds and the same, in brief, are as follows:

- i. the possession of the acquired land had not been taken by the authorities within a time stipulated under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013.
- ii. the acquired land had not been put into utilization within a time stipulated under Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013.

4. When these writ petitions are listed for hearing on 16.11.2023, there was no representation for the petitioner. Therefore, these writ petitions were ordered to be listed today under the caption "for dismissal". Today when these writ petitions are taken up for hearing, the learned counsel appearing for the petitioners submits



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that he has returned the papers to the petitioners. However, no memo has been filed to that effect.

5.The learned Additional Government Pleader appearing for the Government represented that the land in S.No.1407/1 to an extent of 8.59 acres has been taken over by the Government on 16.01.1984 and award has been passed vide award No.1 of 1987, dated 10.06.1987. Patta for the subject land has been transferred in the name of the Tamil Nadu Housing Board in Patta No.1674. As per the award, the land owners are 1.Kuppannagounder S/o Ramasamay Gounder, 2. Kandhasami Gounder S/o Ramasamy Gounder, 3.Suppuraya Gounder S/o, Ramasamay Gounder, 4.Vellaiyan S/o, Marappa Gounder, 5.Chellappan S/o Palaniyappa Gounder, 6.Muthusamy, S/o Palaniappa Gounder, 7.Palaniammal W/o, Karuppanna Gounder, 8.Ponnusamy S/o, Kandasami Gounder, 9.Chellamuthu S/o, Kandhasamy Gounder, 10. Subburaiyan S/o Kandasamy Gounder. The award amount of Rs.68,282.55/- has been deposited on 26.11.1987 before the Sub Court, Karur vide Cheque



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No.BN/10 897706, dated 08.10.1987. Therefore, he prays for the dismissal of these writ petitions.

6.In *Indore Development Authority v. Manoharlal & Others*, reported in *2020 (5) SCALE 34*, a Constitution Bench of the Hon'ble Supreme Court has held that the term 'paid' does not include 'deposit'. But, in the event of the authority being prevented from making payment, the available option is to deposit the compensation amount. The Court has further held that such deposit in treasury, instead of Court, causes no prejudice to the landowners, as such, the acquisition would not lapse. Therefore, the act of the respondents in depositing the award amount in treasury account cannot be found fault with. The relevant portion, in this regard, from the said decision is extracted thus:

“224. Thus, in our opinion, the word “paid” used in [Section 24\(2\)](#) does not include within its meaning the word “deposited”, which has been used in the proviso to [Section 24\(2\)](#). [Section 31](#) of the Act of 1894, deals with the deposit as envisaged in [Section 31\(2\)](#) on being ‘prevented’ from making the payment even if the amount has been deposited in the treasury under the Rules framed under [Section](#)



55 or under the Standing Orders, that would carry the interest as envisaged under Section 34, but acquisition would not lapse on such deposit being made in the treasury. In case amount has been tendered and the landowner has refused to receive it, it cannot be said that the liability arising from non-payment of the amount is that of lapse of acquisition. Interest would follow in such a case also due to non-deposit of the amount. Equally, when the landowner does not accept the amount, but seeks a reference for higher compensation, there can be no question of such individual stating that he was not paid the amount (he was determined to be entitled to by the collector). In such case, the landowner would be entitled to the compensation determined by the Reference court.

... ..

230. Deposit in treasury in place of deposit in court causes no prejudice to the landowner or any other stakeholder as their interest is adequately safeguarded by the provisions contained in Section 34 of the Act of 1894, as it ensures higher rate of interest than any other Government securities. Their money is safe and credited in the earmarked quantified amount and can be made available for disbursement to him/them. There is no prejudice caused and every infraction of law would not vitiate the act."

7. The respondents have also produced a memo showing the details, viz., the date on which the possession was taken by them; the extent of land acquired; the details as to the deposit of award



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amount; and the present status of the project, for which, the land has been acquired. The relevant details from the memo filed by the Government are extracted as under:

Case No. WP(MD) Nos.	Possession Taken on	Patta Details	Award Number & Date	Present stage
575/2019	06.01.1988	Patta No. 1674, in the name of TNHB	1/1987, dated 10.06.1987	TNHB Layout approved by DTCP, Chennai vide No. LP/DTCP No.149/2000
576/2019				
577/2019				
578/2019				
579/2019				
580/2019				
581/2019				
582/2019				
583/2019				
584/2019				

8.The Hon'ble Supreme Court in *Indore Development Authority's* case (supra), has held that either if compensation has been paid or possession has been taken, then there cannot be any lapse in the acquisition proceedings. For better appreciation, the relevant portion is extracted thus:



"363.3. The word "or" used in Section 24(2) between possession and compensation has to be read as "nor" or as "and". The deemed lapse of land acquisition proceedings under Section 24(2) of the 2013 Act takes place where due to inaction of authorities for five years or more prior to commencement of the said Act, the possession of land has not been taken nor compensation has been paid. In other words, in case possession has been taken, compensation has not been paid then there is no lapse. Similarly, if compensation has been paid, possession has not been taken then there is no lapse."

9. In the cases on hand, though the petitioners have stated that the possession of the acquired land had not been taken by the authorities within a time stipulated under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013 and the acquired land had not been put into utilization within a time stipulated under Section 101 of the Act, it is evident from the submission made by the learned Additional Government Pleader that the award has been passed vide award No.1/1987, dated 10.06.1987 and the land was taken over on 06.01.1988. Patta was also transferred in the name of Tamil Nadu Housing Board. The TNHB drawn a layout and the same has been



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approved by DTCP, Chennai. The award amount has been deposited on 26.11.1987 before the Sub Court, Karur vide Cheque No.BN/10 897706, dated 08.10.1987

10.Since the respondents have produced documents showing that they have taken possession of the acquired property and have stated about the present status of the project, for which the land was acquired, this Court is of the opinion that these writ petitions for declaring the acquisition proceedings as lapsed, in view of Section 24(2) of the Act, would not stand, as per the decision of the Hon'ble Supreme Court in *Indore Development Authority's* case (supra).

11. More over, the respondents have issued notice to the landholders, as per the revenue records; passed awards in the names of the landholders. For the failure on the part of the petitioners in taking steps to scrutinize the records while purchasing the lands, the respondents cannot be found fault with.



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12. In view of the foregoing discussions and reasonings and taking note of the decision of the Hon'ble Supreme Court as stated supra, this Court is not inclined to entertain these writ petitions. However, the respondents are directed to furnish the details with regard to the deposit of compensation to the respective parties.

13. Accordingly, all these writ petitions are dismissed.

No costs.

22.11.2023

NCC:Yes/No
Index:Yes/No
Internet:Yes
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B.PUGALENDHI, J.

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Common Order made in
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22.11.2023