



W.P(MD)No.3882 of 2015

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3882 of 2015

and

M.P(MD)No.2 of 2015

1.S.Andi Nadar
2.S.Suyambu Nadar
3.S.Velliah

... Petitioners

Vs

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Special Tahsildar (ADW),
Nanguneri Taluk,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, declaring that the Land Acquisition proceedings initiated by the first respondent under G.O.(3D) No.216, Adi Dravidar and Tribal Welfare Department dated 21.03.1994 under the Land Acquisition Act, 1894 and the award no.3/94-95 dated 21.01.1995 passed by the second respondent in respect of the land situated in S.No.422/2 to an extent of 0.44.0 hectare, S.No.436/2A to an extent of 0.46.0 Hectare totally 0.90.0



W.P(MD)No.3882 of 2015

Hectares situated in Irukkanthurai Village, Radhapuram Taluk, Tirunelveli District as lapsed as per Section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioners : Mr.H.Arumugam

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The lands belonging to the petitioners family were acquired in the year 1994 under the Provisions of the Land Acquisition Act, 1894. The petitioners want this Court to declare that the said proceedings have lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Section 24(2) of the Act is as follows:

“24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.—

(1) ...

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under



WEB COPY



W.P(MD)No.3882 of 2015

the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

As rightly pointed out by the learned Additional Government Pleader appearing for the respondents, this provision has been authoritatively interpreted by the Hon’ble Constitution Bench of the Supreme Court in the decision reported in **(2020) 8 SCC 129 (Indoor Development Authority Vs Manoharlal and Others)**. The Hon’ble Supreme Court construed the word “or” as “and”. Thus, the proceedings can be said to have lapsed only if possession had not been taken and compensation had not been deposited.

3. The learned Additional Government Pleader draws my attention to the communication dated 22.05.1997 sent by the Special Tahsildar, Adi Dravidar



W.P(MD)No.3882 of 2015

Welfare, Nanguneri to the Principal Sub Judge, Tirunelveli. It is seen there from that for the acquired lands compensation was determined as Rs.4636/- (Rupees Four Thousand Six Hundred and Thirty Six only) and DD bearing No.MTTA/88392281 dated 08.02.1995 drawn in the name of Sub Judge, Tirunelveli was also sent for Court deposit. Since the materials placed by the learned Additional Government Pleader indicate that compensation amount had been deposited, the petitioner cannot invoke Section 24 of the New Act. The petitioners are however entitled to withdraw the amount so deposited. The petitioners will also be entitled to interest.

4. This writ petition is dismissed with the aforesaid observation. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

13.09.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

1.The District Collector,
Tirunelveli District,
Tirunelveli.



W.P(MD)No.3882 of 2015

2.The Special Tahsildar (ADW),
Nanguneri Taluk,
Tirunelveli District.



WEB COPY



W.P(MD)No.3882 of 2015

G.R.SWAMINATHAN, J.

MGA

W.P(MD)No.3882 of 2015
and
M.P(MD)No.2 of 2015

13.09.2023