



WP(MD)No.15415 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.15415 of 2016
and
WMP(MD)No.11349 of 2016

Mohamed Ibrahim

... Petitioner

v.

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Adi Dravidar Welfare,
Secretariat,
Chennai – 9.

2.The District Collector,
Tiruchirappalli.

3.The Special Tahsildar,
Adi Dravidar Welfare and Land Acquisition,
Thuraiyur Post,
Trichy District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the third respondent to revoke the acquisition proceedings in Rc.A.979/1999 dated 19.07.1999.



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For Petitioner : No appearance

For Respondents : Mr.P.T.Thiraviam,
Government Advocate

ORDER

This writ petition is filed by the petitioner seeking issuance of a Writ of Mandamus to revoke the land acquisition proceedings dated 19.07.1999.

2. Learned Government Advocate, on instructions, submitted that the petitioner is a subsequent purchaser and that the compensation amount has already been deposited before the Sub Court, Trichy. He further submitted that the possession of the land was also taken over, by drawing memorandum / panchanama.

3. 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. 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.

... ..



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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.”*

4. The Hon'ble Supreme Court in the said decision has also 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



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no lapse. Similarly, if compensation has been paid, possession has not been taken then there is no lapse.”

5. In the case on hand, though the petitioner has denied the factum of compensation, it is evident from the submission made by the learned Government Advocate for the respondents that the compensation amount has been deposited. Therefore, notwithstanding the taking over of possession, on this ground alone, the writ petition is liable to be dismissed.

6. The petitioner has also taken a stand that she was not put on notice; the award was not passed in her name; she is in peaceful possession and occupation of the property. This Court is not inclined to accede this contention, inasmuch as it the stand of the respondents that they have issued notice to the landholder, as per the revenue records; passed award on the name of the landholder, as per the revenue records. That apart, it is an admitted case of the petitioner that he is a subsequent purchaser.



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WEB COPY 7. In view of the submission made by the learned Government Advocate for the respondents and taking note of the decision of the Hon'ble Supreme Court, this Court is not inclined to entertain this writ petition. However, the respondents are directed to furnish the details with regard to the deposit of compensation to the petitioner, enabling him to receive the same, after proving his rights.

In fine, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

Index : Yes / No
NCC : Yes / No
gk

22.06.2023

To

1. The Secretary to Government,
State of Tamil Nadu,
Adi Dravidar Welfare,
Secretariat,
Chennai – 9.

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2.The District Collector,
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B.PUGALENDHI, J.

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