



WEB COPY

W.A.No.1131 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.No.1131 of 2015

and

M.P.No.1 of 2015

The Tamil Nadu Housing Board,
Represented by its Chairman,
No.33, Anna Salai,
Nandanam, Chennai – 600 035.

... Appellant

Vs.

1.A.L.Arumugam (Died)

2.The State of Tamil Nadu,
Rep. by the Commissioner and Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai – 600 009.

3.The Special Tahsildar,
Land Acquisition Department – III,
Tamil Nadu Board Housing Scheme Unit,
Nandanam, Chennai – 600 035.

4.A.R.Indira

5.A.R.Ramesh



W.A.No.1131 of 2015

6.A.Magesh

... Respondents

[R1 died is substituted by R4 to R6 as Lrs od deceased R1 vide order dated 02.01.2024 made in CMP.No.20311/2023 in WA.No.1131/2015]

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to allow the writ appeal by setting aside the order passed by the learned Judge in W.P.No.28699 of 2014 dated 08.01.2015.

For Appellant	: Mr.P.Kumaresan Additional Advocate General Assisted by Dr.N.Moorthy
For R1	: Died – Steps Taken
For R2 & R3	: Mr.A.Selvendran Special Government Pleader
For R4 to R6	: Mr.T.Sriram For Mr.B.Sanjay Balachander

J U D G M E N T

[Judgment was delivered by **S.M.SUBRAMANIAM, J.**]

The present Intra-Court appeal has been instituted challenging the order dated 08.01.2015 passed in W.P.No.28699 of 2014.



W.A.No.1131 of 2015

2. The land acquisition proceedings are quashed by the Writ Court and challenging the same, the Tamil Nadu Housing Board preferred the present writ appeal.

3. Mr.P.Kumaresan, learned Additional Advocate General appearing on behalf of the appellant would submit that by merely referring the acquisition proceedings of the adjacent land, the Writ Court quashed the land acquisition proceedings, which is untenable. The due process followed in the present case by the authorities competent are not considered by the Writ Court. Thus, the Housing Board preferred the present appeal.

4. The fact remains that Section 4(1) Notification under the Land Acquisition Act, was approved by the Government in G.O.Ms.No.412, Housing and Urban Development Department dated 09.05.1975. 4(1) Notification was published in Tamil Nadu Government Gazatte on 11.06.1975. Draft declaration under Section 6 and draft direction under Section 7 of the Land Acquisition Act were approved by the Government vide G.O.Ms.No.952, Housing dated 07.06.1978. The draft declaration under section 6 and direction under Section 7 of the Act were published in the Tamil Nadu Government Gazatte on 09.06.1978.



W.A.No.1131 of 2015

WEB COPY

5. Award No.2 of 1984 was passed in respect of lands in survey No.69/1B measuring to an extent of 0.72 acres in Nesapakkam Village on 25.09.1984. Possession of the subject land was taken over by the Tamil Nadu Housing Board from the Land Acquisition Officer on 06.11.1984. Thereafter, the award amount was deposited before the Chennai City Civil Court under Sections 30 and 31 of the Land Acquisition Act on 25.09.1989.

6. After passing of award, Late.Mr.A.L.Arumugam / 1st respondent purchased the land through a Sale Deed dated 25.05.2007. Based on the purchase, the 1st respondent submitted an application seeking permission for building construction. However, the Board rejected the said application. Subsequently, the writ petition was filed for a direction not to insist for No Objection Certificate from the Tamil Nadu Housing Board. Another writ petition was filed for a declaration that the land acquisition proceedings are lapsed under Section 24(2) of Act 30 of 2013 (New Land Acquisition Act).

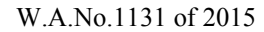
7. We are of the considered opinion that the new Land Acquisition Act of the year 2013 has no application with reference to the facts of the present case. The acquisition proceedings initiated in the year 1975 ended by passing



W.A.No.1131 of 2015

an award on 25.09.1984. The award amount was deposited in the City Civil Court in the year 1989. Therefore, declaration under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 would not arise at all. More so, the respondent is a subsequent purchaser, who had purchased the acquired land after passing of the award. After passing award, the land absolutely vest with the Government and therefore, the sale will become invalid and non-est in law. The legal position regarding application of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 has been settled by the Constitution Bench of the Hon'ble Supreme Court of India in the case of ***Indore Development Authority vs. Manoharlal and Others*** reported in ***(2020) 8 SCC 129***. Subsequently, the three Judges Bench of the Hon'ble Supreme Court of India in the case of ***Shivkumar and Another vs. Union of India and Others*** reported in ***(2019) 10 SCC 229***, held as follows;

“18. Even otherwise, proviso to Section 24(2) does not recognise a purchaser after Section 4 notification inasmuch as it provides that where an award has been made, and the compensation in respect of a majority of landholdings has not been



19. The 2013 Act presupposes that a person is required to be rehabilitated and resettled. Such a person who has purchased after Section 4 notification as sale deed is void under the 1894 Act, cannot claim rehabilitation and resettlement as per policy envisaged under the 2013 Act, as his land has not been acquired, but he has purchased a property which has already been acquired by the State Government, he cannot claim even higher compensation, as per proviso to Section 24(2) under the 2013 Act. An original landowner cannot



WEB COPY



W.A.No.1131 of 2015

be deprived of higher value under the 2013 Act, which higher compensation was not so contemplated when the void transaction of sale had been entered, and right is conferred under the proviso to Section 24(2) on recorded owners under the 1894 Act. We have come across instances in which after notifications under Section 4 were issued and, the property was purchased at throwaway prices by the builders and unscrupulous persons, such purchases are void and confer no right even to claim higher compensation under Section 24(2) of the 2013 Act as it is to be given to the owner as mentioned in the notification.

20. *Given that, the transaction of sale, effected after Section 4 notification, is void, is ineffective to transfer the land, such incumbents cannot invoke the provisions of Section 24. As the sale transaction did not clothe them with the title when the purchase was made; they cannot claim “possession” and challenge the acquisition as having lapsed under Section 24 by questioning the legality or regularity of proceedings of taking over of possession under the 1894 Act. It would be unfair and profoundly unjust and against the*



policy of the law to permit such a person to claim resettlement or claim the land back as envisaged under the 2013 Act. When he has not been deprived of his livelihood but is a purchaser under a void transaction, the outcome of exploitative tactics played upon poor farmers who were unable to defend themselves.

21. Thus, under the provisions of Section 24 of the 2013 Act, challenge to acquisition proceeding of the taking over of possession under the 1894 Act cannot be made, based on a void transaction nor declaration can be sought under Section 24(2) by such incumbents to obtain the land. The declaration that acquisition has lapsed under the 2013 Act is to get the property back whereas, the transaction once void, is always a void transaction, as no title can be acquired in the land as such no such declaration can be sought. It would not be legal, just and equitable to give the land back to purchaser as land was not capable of being sold which was in process of acquisition under the 1894 Act. The 2013 Act does not confer any right on purchaser whose sale is ab initio void. Such void transactions are not validated under the 2013 Act. No rights are conferred by the provisions



WEB COPY



W.A.No.1131 of 2015

contained in the 2013 Act on such a purchaser as against the State.”

8. The Writ Court has proceeded merely based on Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which has no application with reference to the facts on hand. Thus, the order passed by Writ Court is not in consonance with the legal position settled by the Apex Court of India.

9. Accordingly, the order impugned dated 08.01.2015 made in W.P.No.28699 of 2014 is set aside and consequently, the Writ Appeal stands allowed. Connected Miscellaneous Petition is closed. However, there shall be no orders as to costs.

[S.M.S., J.] [C.K., J.]
13.06.2024

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



W.A.No.1131 of 2015

To

WEB COPY

- 1.The Commissioner and Secretary to Government,
The State of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Chennai – 600 009.
- 2.The Special Tahsildar,
Land Acquisition Department – III,
Tamil Nadu Board Housing Scheme Unit,
Nandanam, Chennai – 600 035.



WEB COPY



W.A.No.1131 of 2015

S.M.SUBRAMANIAM, J.
and
C.KUMARAPPAN, J.

Jeni

W.A.No.1131 of 2015

13.06.2024