



W.A.No.2172 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2024

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THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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B.Krishnakumar

.. Appellant

Vs.

1. The Secretary to Government of Tamil Nadu
Housing and Urban Development Department
St. Fort George, Chennai 600 009.

2. The Chairman cum Managing Director
Tamil Nadu Housing Board
Nandanam, Chennai 600 035.

3. The Land Acquisition Officer and
Special Tahsildar (L.A.)
Unit II, TNHB Scheme
Tamil Nadu Housing Board
Nandanam, Chennai 600 035.

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the
order dated 04.10.2021 made in W.P.No.33753 of 2017.



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For the Appellant : Mr.K.Sukumaran
For Mr.C.Veera Raghavan

For the Respondents : Mr.T.K.Saravanan
Government Advocate
for Respondents 1 & 3

Mr.D.R.Arunkumar
for Respondents-2

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.K.Sukumaran, learned counsel for Mr.C.Veera Rahavan, learned counsel for the appellant, Mr.T.K.Saravanan, learned Government Advocate for the respondents 1 and 3 and Mr.D.R.Arun Kumar, learned counsel for the second respondent.

2. The present appellant filed writ petition before the learned Single Judge purportedly under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.



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3. It is the case of the appellant that the land was acquired under the award dated 25.07.2005. The compensation amount is not paid nor the possession is taken by the respondents. In view of Section 24(2) of the Act of 2013, the acquisition stands lapsed.

4. The learned Single Judge dismissed the writ petition on the ground that the acquisition body has deposited the compensation as awarded by the Land Acquisition Officer.

5. Learned counsel for the appellant submits that the respondents, during the pendency of the writ petition or prior to that, never relied upon any notice under Section 12(2) of the Land Acquisition Act, 1894. The same is produced for the first time in appeal. The appellant disputes his signature on the said notice. The circumstances may be taken into consideration. The appellant, at no point of time, received notice under Section 12(2) of the Act of 1894. The possession is also not taken. Even the record maintained



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by the respondents would demonstrate that the possession is only paper possession. The actual physical possession has not been taken. This aspect has not been considered by the learned Single Judge in its proper perspective.

6. Learned counsel for the second respondent submits that notice under Section 12(2) of the Act of 1894 was issued to the appellant. The appellant has acknowledged the receipt of notice under Section 12(2) of the Act of 1894, by putting his signature on it. The said fact was also mentioned in the counter affidavit filed before the learned Single Judge. The possession notice was also issued. Thereafter, possession was taken and handed over to the Housing Board.

7. We have considered the submissions.

8. In view of the judgment of the Apex Court in the case of ***Indore Development Authority v. Manoharlal [(2020) 8 SCC***



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129], wherein it has been held that to attract the provisions of Sub-section (2) of Section 24 of the Act of 2013, dual conditions of non-deposit and non payment of compensation amount and physical possession was not taken are not required to be satisfied. If either of the condition is satisfied, it would not entail lapsing of acquisition.

9. As far as possession is concerned, there is no clear proof of authority taking physical possession of the property by panchanama or any other mode known to law.

10. It is the stand of the second respondent that the appellant was issued with the notice under Section 12(2) of the Act, 1894 calling upon him to collect compensation amount. In the present appeal, documents are placed on record to suggest that notice under Section 12(2) of the Act of 1894 is served on the appellant. The signature of the appellant also appears on the same. The appellant disputes his signature on the said document. However, malafides are



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not alleged against the respondent authorities nor the respondent authorities have any animus against the appellant to come to the conclusion that the signature of the appellant may have been forged.

11. In view of the fact that the documents suggest that the notice under Section 12(2) of the Act of 1894 was issued, the compensation amount was not accepted by the appellant and thereafter, the compensation amount is deposited in the treasury, the acquisition would not lapse in view of the judgment of the Apex Court in the case of **Indore Development Authority** (supra).

12. In view of the above, the writ appeal stands disposed of. There shall be no order as to costs. Consequently, C.M.P.No.18609 of 2023 is closed.

(S.V.G., C.J.)

(D.B.C., J.)

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Index : Yes/No
Neutral Citation : Yes/No



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