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W.P.Nos.9215, 9236, 9237, 9241, 9244, 9247,
10533, 10538, 10540, 10542 and 10545 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2024

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

**W.P.Nos.9215, 9236, 9237, 9241, 9244, 9247,
10533, 10538, 10540, 10542 and 10545 of 2023
and WMP No.10486 of 2024 in WP No.10545 of 2023**

WP No.9215 of 2023

Govindha Reddy

... Petitioner

VS.

1. The Government of Tamilnadu,
Rep. by its Principal Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai.

2. The Tamil Nadu Housing Board,
Rep. by its Managing Director,
CMDA Building, E&C Market Road,
Koyambedu, Chennai – 600 107.

3. The Special Thasildhar,
Land Acquisition,
Housing Scheme, Hosur – 635 109.

4. The Taluk Tahsildar,
Hosur Taluk, Krishnagiri District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of



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India, to issue a Writ of Declaration, declaring that the acquisition proceeding initiated pursuant to the Section 4(1) notification dated 30.04.1991 in respect of the land situate in Survey Nos.811/8 and 811/15 to an extent of 5.67 cents only, in Chennathur Village, Hosur Taluk, Krishnagiri District (as per the Patta No.435 issued by Special Tahsildar, Natham Nilavari Thittam, and extent of 113 square meters in Survey No.811/8 and an extent of 113 square meters in Survey No.811/15) belonging to the petitioner, as lapsed in view of Section 24(2) of the Right to Fair Compensation, Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioner : Mr.T.Vedi
in all cases for Mr.R.Bharath Kumar

For Respondents : Mr.P.Sathish (for R1, R3 & R4)
in all cases Additional Government Pleader
Mr.S.Ramachandran (for R2)
Ms.Sivagama Sundari

COMMON ORDER

The petitioners herein seek a declaration that the land acquisition proceedings initiated pursuant to Section 4(1) notification of the Land Acquisition Act, 1894 (hereinafter called as 'old Act') dated 30.04.1991 in respect of lands situated in Survey Nos.811 and 813 in Chennathur Village, Hosur Taluk, Krishnaigir District, got lapsed, in view of Section 24(2) of the



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Right to Fair Compensation, Transparency in Land Acquisition,
Rehabilitation and Resettlement Act, 2013 (hereinafter called as 'new Act').

2. (i) It is the case of the petitioners that 4(1) notification for acquisition of the above lands, was published on 20.07.1991. Subsequently, Section 6 declaration was made on 29.05.1992. The award was also passed on 07.10.1994. In the affidavit filed in support of these petitions, it is stated that the respondents neither had taken physical possession of the property belonged to the petitioners nor had paid compensation to the landowners as determined till date.

(ii) Since the possession has not been taken and award amount also not been paid to the petitioners, the petitioners claim that the acquisition proceedings got lapsed under Section 24(2) of the Right to Fair Compensation, Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

(iii) The learned counsel for the petitioners in support of his



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contention relied on the judgment of the Hon'ble Apex Court in ***Indore Development Authority vs. Manoharlal and others***, reported in **2020 (2) SCC 129**.

3. The requisitioning authority, the 2nd respondent filed counter wherein the averments contained in the petitioners' affidavit that physical possession of the property was not taken, has not been controverted. As far as non payment of the compensation to the petitioners, is concerned, it is stated in the affidavit that award has been passed on 07.10.1994 and the compensation amount was ordered to be kept in the treasury deposit on 16.02.1995. Therefore, it is clear that the amount has not been tendered to the petitioners or deposited before the Civil Court.

4. In ***Indore Development Authority's case [cited supra]***, while considering lapse of land acquisition proceedings initiated under old Act, in cases where award had been passed five years prior to coming into force of the new Act, the Hon'ble Apex Court held as follows:

“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



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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.”

Hence, it is clear that in order to come to a conclusion the acquisition proceedings got lapsed, following three conditions shall be satisfied i.e.,

- (a) Award under Section 11 of old Act should have been passed five years prior to coming into force of the new Act;
- (b) the physical possession should not have been taken from land owners; and
- (c) the compensation amount should not have been paid to the land owners.

Even if any one of the conditions is not satisfied, there is no lapse of proceedings. In the case on hand, perusal of writ affidavit and counter affidavit filed by 2nd respondent would establish that the respondents neither paid compensation amounts to the petitioners nor had taken physical possession of the land.



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5. When all the three conditions laid down under Section 24(2) of the new Act, as explained by the Hon'ble Apex Court in ***Indore Development Authority's case [cited supra]***, are satisfied, this Court has no hesitation in coming into a conclusion that the acquisition proceedings initiated pursuant to Section 4(1) notification dated 30.04.1991, got lapsed by operation of Section 24(2) of the Right to Fair Compensation, Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

6. It is also brought to the notice of this Court that in respect of the very same notification, some other land owner has already filed a writ petition and the notification was declared lapsed by this Court by order dated 01.04.2016 in WP No.31591 of 2014.

7. Since the respondents are not able to produce any materials to show that physical possession of the property has been taken over in pursuance of the land acquisition proceedings or the compensation amount has been paid to the petitioners, as per the law laid down by the Hon'ble Apex Court in ***Indore Development Authority's case [cited supra]***, the acquisition



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proceedings got lapsed and accordingly, all the Writ Petitions stand allowed and it is declared that the impugned land acquisition proceedings got lapsed under Section 24(2) of the Right to Fair Compensation, Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. No Costs. Consequently, the connected Writ Miscellaneous Petition is closed.

27.08.2024

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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To

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Fort St. George, Chennai.

2. The Managing Director,
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S.SOUNTHAR, J.

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