



W.P.No.2170 of 2016

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.01.2024

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THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.2170 of 2016

Vanaguriki

... Petitioner

Versus

1. The Government of Tamilnadu
Represented by the Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Chennai – 9
2. The Special Tahsildar,
land Acquisition,
Housing Project,
Hosur – 635 109.
3. The Executive Engineer,
Tamil Nadu Housing Board,
Bagalur Road, Hosur.
4. The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai – 35.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
praying for the issuance of Writ of Declaration to declare the acquisition of land



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in S.No.974/2 in Hosur Village, Krishnagiri District comprising of an extent of 0.10.5 hectares, made pursuant to Section 4(1) notification dated 17.07.1991 as having lapsed by virtue of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act.

For Petitioner : Mr.V.Rghavachari, Senior Advocate
for V.Srimathi

For Respondents : Mr.P.Kumaresan, AAG, Assisted by
Mr.J.Daniel, Government Advocate
for R1 & R2

Mr.S.Ramachandran, Standing Counsel
for TNHB for R3 and R4

ORDER

This writ petition has been filed to declare the acquisition of land in S.No.974/2 in Hosur Village, Krishnagiri District comprising of an extent of 0.10.5 hectares, made pursuant to Section 4(1) notification dated 17.07.1991 as having lapsed by virtue of Section 24 of the Right to Far Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act.

2 Learned Senior Counsel appearing for the writ petitioner would submit that the petitioner owned a property situated at S.No.974/2 in Hosur



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Village, Krishnagiri District comprising of an extent of 0.10.5 hectares and he is in possession of the land. The Government of Tamil Nadu had issued a notification in G.O.No.812 Housing and Urban Development dated 17.07.1991 for the purpose of construction of dwelling units and declaration was also made under Section 6 of the Land Acquisition Act on 12.06.1991, but no steps were taken by the Government to deal with the property and finally award has been passed in the year 1994. In the award itself it has been stated that they could not find owner of the property and hence they proposed to deposit the award amount before the Civil Court as per Section 30 of the Land Acquisition Act. But, so far the award amount has not been deposited before the Civil Court and reference has also not been made till now. Further possession also was not taken and therefore the petitioner is entitled to get benefits under Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act. In support of his contentions, the learned Senior Counsel placed reliance on the judgment of the *Hon'ble First Bench of this Court in W.A.Nos.357 of 2021 batch dated 31.01.2023*.

3 Learned Additional Advocate General appearing for the respondents would submit that after following the due procedures under the Land Acquisition Act, Award was passed in the year 1994 and since the



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officials could not identify the owner of the subject property, the amount has been deposited in the revenue account in the year 1994 itself and possession has also been handed over TNHB and layout also formed. Therefore the acquisition proceedings has not been lapsed. The learned Additional Advocate General, to prove his submissions with regard to the formation of layouts, has produced draft layouts.

4 Heard the learned Senior Counsel for the petitioner and the learned Additional Advocate General for respondents and perused the materials available on record.

5 Admittedly notice under Section 4(1) of the Land Acquisition Act was issued on 17.07.1991 and subject land was acquired and award was also passed in the year 94 itself. It is the grievance of the writ petitioner that neither the Award amount deposited before the Civil Court nor possession taken and hence he is entitled to get benefits under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short the 'New Act'). It is seen that in the award itself it is stated that the subject land was acquired and they proposed to deposit the award amount before the Civil Court, since there was dispute regarding the ownership of the



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property. Now the learned Additional Advocate General produced a proof to show that the amount has been deposited in the treasury.

6 No doubt, if the land owner refused to receive the award amount, then the amount can be deposited before the Treasury, but, when there is dispute with regard to the title, the amount should be deposited before the Civil Court only. In this case, in the Award itself it has been stated that there is dispute with regard to ownership of the property and they proposed to deposit the amount before the Civil Court under Section 30 of the Land Acquisition Act. A perusal of the records produced by the learned Additional Advocate General shows that the amount has not been deposited before the Civil Court and reference under Section 30 has also not been made. Therefore this Court comes to the conclusion that the Award amount has not properly tendered/paid/deposited.

7 As far as possession is concerned, the learned Additional Advocate General produced documents, in which, survey number of the subject property has not been mentioned. However the learned Additional Advocate General submitted that TNHB taken the land and formed layouts. But, it is the contention of the learned Senior Counsel for the petitioner that when the



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petitioner sought for information under the RTI Act, he was informed that the land has not been handed over to the TNHB. The respondents have not produced any document to prove the fact that prior to the New Act came into force, the land was handed over to the requisition body i.e. TNHB and TNHB formed layouts, which got approved prior to the new Act. The above fact strengthen the submissions of the learned Senior Counsel for the petitioner that the land has not been handed over to TNHB.

8 In view of the above facts, this Court finds the acquisition proceedings of the respondents with regard to the subject land is lapsed under Section 24(2) of the New Act. However, if the lands in and around the subject lands are under the control of the respondents and if the subject lands is required, the respondents are at liberty to go with the fresh acquisition proceedings as per the Land Acquisition Act.

9 Accordingly, the writ petition shall stand allowed. No costs.

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Index: Yes/No
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P.VELMURUGAN, J.,

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