



Writ Appeal Nos.1540 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.01.2024

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Appeal Nos.1540 to 1542 of 2016 and
191 & 192 of 2017
C.M.P.No.19650 of 2016**

Belaraman Varghees ... Appellant in W.A.No.1540/2016
Mrs.E.D.Ruby ... Appellant in W.A.No.1541/2016

1.Mrs.Winnie (Deceased)
Mrs.Leena Samuel
2.Sundaraj Premraj
3.Sheela Shyam ... Appellants in W.A.No.1542/2016

D.Anbu ... Appellant in W.A.No.191/2017

1.S.Santha
2.Sampath ... Appellants in W.A.No.192/2017

Vs

1.The Government of Tamilnadu,
Rep., by its Secretary to Govt.,
Housing & Urban Development Dept.,
Fort St., George, Chennai -9.

2.The Tamilnadu Housing Board,
Rep., by its Chairman & Managing Director,



Writ Appeal Nos.1540 of 2016

Nandanam, Anna Salai,
Chennai – 600 035.

3.The Executive Engineer and
Administrative Officer,
Vellore Housing Unit,
No.7th Road, Bharathi Nagar,
Phase-I, Sathuvachari,
Vellore – 632 009.

4.The District Collector,
Office of the District Collector,
Vellore – 632 009.

5.The Special Tahsildar (LA),
Housing Neighbourhood Scheme,
Ranipet – 632 401, Vellore District.

... Respondents

COMMON PRAYER: Writ Appeals have been filed under Clause 15 of
Letter Patent against the order dated 20.01.2016 made in W.P.Nos.5954,
5955, 5956 5820 & 5953 of 2014.

For Appellants : Mr.Maheshnath for
Mr.R.N.Amarnath in all W.As.,

For Respondents : Mr.K.V.Sajeevkumar Spl GP for RR1, 4& 5

Mr.Ravindranath Jeuyapal for RR2 & 3

COMMON JUDGMENT

(Order of the Court was made by Mr.K.KUMARESH BABU.,J.)

These Intra-Court Appeals have been preferred against the order



Writ Appeal Nos.1540 of 2016

passed by the learned Single Judge wherein the learned Single Judge had dismissed the claim of the appellants invoking Section 24 of Sub-section (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short Act 2013).

2. Heard Mr.Maheshnath learned counsel appearing for Mr.R.N.Amarnath learned counsel appearing for the appellants, Mr.K.V.Sajeevkumar learned Special Government Pleader appearing for the respondents 1, 4 and 5 and Mr.Ravindranath Jeyapal, learned counsel appearing for the respondents 2 & 3.

3. Mr.Maheshnath, learned counsel appearing for the appellants would submit that the lands of the appellants were sought to be acquired by issuance of Section 4(1) notification for the Tamil Nadu Housing Board in the year 1985, which had been followed up with the Section 6 declaration in the year 1986. He would submit that an award had been passed on 29.07.1988 and thereafter, no notice as provided under Section 12(2) of the Land Acquisition Act, 1894 was served on the appellants. The possession as



contemplated under the provisions of the Act particularly by drawing a Panchnama had not been made by the respondents. Even though the learned Single Judge had recorded that the possession of the lands have been taken from the appellants, however based on the transfer of charge would not mean that the possession has been taken in the manner known to law. He would submit that no Panchnama had been produced before the Court, to substantiate that the possession had been validly taken. He would submit that the Hon'ble Apex Court in the Constitution Bench judgment had elucidated how the possession of the lands should be taken under the Land Acquisition Act. Therefore, he would submit that if possession had not taken in such a manner, there can be no valid possession of lands.

4. He would further submit that the respondent herein namely the second respondent who had filed a counter affidavit in the Writ Petitions before the learned Single Judge had misinformed this Court that the compensation pursuant to the award had been paid by the respondents. He would submit that the counter had been filed in the year 2014, but however, by a subsequent proceedings dated 21.08.2015, the Revenue Divisional



Writ Appeal Nos.1540 of 2016

Officer, Ranipet, in clear terms had recorded a finding of fact that the compensation in respect of five individuals were lying in revenue deposit as the land owners including the appellants have not claimed the compensation and had directed the authorities to deposit the aforesaid amount before the appropriate subordinate Judge under Section 31(2) of the Land Acquisition Act, 1894. Therefore, he would submit that they have not made the payment to the land owners, muchless they have also not followed the provisions of Section 31(2) of the Land Acquisition Act, 1984 and therefore, in the eye of law, there has been no payment made to the land owners. Therefore, he would contend that the twin conditions prescribed under Section 24(2) Act, 2013, would have to be applied to the facts of the present case and the Writ Petitions ought to have been allowed. However, the learned Single Judge without considering these facts had rejected the Writ petitions and therefore, he would seek interference of this Court.

5.Countering his arguments, Mr.K.V.Sajeevkumar, learned Special Government Pleader appearing for the respondents would submit that the possession of lands have all been taken over from the land owners



Writ Appeal Nos.1540 of 2016

and that the lands have been transferred to the Tamil Nadu Housing Board as early as on 31.10.1988 and the lay out had been approved by the competent authority and the same have been sold to various third party beneficiaries. He would further submit that by proceedings, dated 15.09.2017, the Revenue Divisional Officer had also deposited the aforesaid amounts pursuant to the proceedings referred to by the learned counsel appearing for the appellants in the year 2015. He would also rely upon the 'Form C' receipts in respect of the land owners wherein they have acknowledged the payment of compensation by revenue stamp receipts. Therefore, he would submit that the compensation of the lands have been taken over from the appellants as early as in the year 1988 and handed over to the beneficiary Housing Board who had also infact obtained a layout approval and sold the same to the third party beneficiaries under the scheme. Therefore, he would submit that the lands of the appellants have been taken possession off. He would further submit that even assuming that the appellants have not paid the compensation in the manner known to law, by applying the judgment of the Constitutional Bench of the Hon'ble Apex Court, the appellants would not be entitled for any relief.



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6.He would further submit that utmost they would be entitled for a relief under Section 24(2) of Act 2013 only when the majority of the land holdings have not been paid only then the provisions of Act, 2013 could be made applicable for determining the compensation. He would submit that in these cases, the appellants' land holdings does not even form part of 1/3rd of the land which had been acquired and in respect of all other land owners compensation had been paid which is also evidenced by their stamp receipts issued by the respective land owners. Therefore, he would submit that the claim of the appellants could not be entertained and there is no error or infirmity in the order of the learned Single Judge.

7. We have considered the rival submissions made on either side and perused the materials placed on record.

8. It is an admitted case that the lands had been acquired from the appellants for the Tamil Nadu Housing Board. Even though a Panchnama for possession for proving possession has not been placed before this Court,



Writ Appeal Nos.1540 of 2016

the Transfer Charge Certificate of the Special Tahsildar evidencing handing over the possession by the Revenue Department to the Housing Board (beneficiaries) have been produced before us and the same is of the year 1988. It is also not disputed by the learned counsel appearing for the appellants that the lay out had been approved in the said land, though the learned counsel had contended that the major portion of the lands are remaining vacant. It is an admitted case that some of the portion atleast had been transferred in the name of purchasers from the Housing Board. In such event, it cannot be said that the appellants continued to be in possession of the lands. Therefore, the law declared by the Hon'ble Apex Court in the Constitutional Bench judgment, the benefit of Section 24(2) of Act 2013 could not be extended to the appellants. On this ground alone, the Writ Appeals have to fail.

9. Further, as rightly contended by the learned Special Government Pleader that the land holdings of the appellants do not form a part of the major lands that had been acquired for us to even direct the respondents to consider the case of the appellants under proviso to Section 24(2) of Act 2013.



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10. Be that as it may, now it has been brought to our notice that for the lands that had been acquired, an award was passed in the year 1988 and the proceedings have been initiated only in the year 2017 for depositing the same before the appropriate Court. From the proceedings produced before us evidencing such deposit, we find that the respondents have not acted in accordance with law and have belatedly, after 29 years deposited the amount.

11. It is also admitted by the respondents that the Tamil Nadu Housing Board had made the payment of compensation to the Revenue authorities and it is only the Revenue authorities namely the Land Acquiring Authorities had failed to deposit the said amount. In such circumstances, it would only be appropriate for us to direct the first respondent to calculate the interest at the rate of 12% per annum on yearly rest and deposit the interest component from the date of the award till the date of the deposit within a period of 8 weeks from the date of receipt of a copy of this order. It is also made clear that if any of the other land owners had made any reference under Section 18 of the Land Acquisition Act 1894



Writ Appeal Nos.1540 of 2016

and had got higher compensation, the appellants also would be entitled for such higher compensation as fixed by the appropriate Court. Since no records had been produced before us to substantiate that Section 12(2) notice had been served on the appellants, the appellants are at liberty to seek enhancement of the compensation, if they desire so. Such request shall be made before the authorities, within a period of two (2) weeks from the date of receipt of a copy of this order.

12. With the aforesaid observations and liberty, the Writ Appeals are dismissed. Consequently, connected Miscellaneous Petition is also closed. However, there shall be no order as to costs.

(R.S.K.,J.)

(K.B., J.)

22.01.2024

Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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Page No.10/12



Writ Appeal Nos.1540 of 2016

To

WEB COPY

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