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W.P.No.33180 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2024

CORAM

THE HON'BLE **MS.JUSTICE P.T.ASHA**

W.P.No.33180 of 2024
and
W.M.P.No.35943 of 2024

R.Kavitha

... Petitioner

Vs.

1. The Secretary,
The Government of Tamil Nadu,
Housing and Urban Development Department,
Secretariat, Fort St.George,
Chennai – 600 009.
2. The Chennai Metropolitan Development Authority,
Represented by its Member Secretary,
No.1, Gandhi Irwin Road, Egmore,
Chennai – 600 008.
3. The Special Deputy Collector,
Land Acquisition,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road, Egmore,
Chennai – 600 008.
4. The Special Tahsildar,
Land Acquisition Cell,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road, Egmore,
Chennai – 600 008.



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5. The Chairman,
The Tamil Nadu Slum Clearance Board,
Chepauk,
Chennai – 600 005.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of declaration to declare that the acquisition proceedings initiated under the Land Acquisition Act, 1894 in respect of the petitioner's lands of an area of 19 cents in Survey No.357/7A and 23 cents in Survey No.357/8 situated at Perumal Koil Street, Edaiyanchavadi Village, Ponneri Taluk, Tiruvallur District have lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, permit the Petitioner to retain possession of the said lands.

For Petitioner : Mr.O.Padma Prakash
For Respondents :
For R1, R3 & R4 : Mr.G.Velu
Additional Government Pleaders
For R2 : M/s.K.Mageswari
Standing Counsel

ORDER

Mr.G.Velu, learned Additional Government Pleader takes notice on behalf of the Respondents 1, 3 and 4. M/s.K.Mageswari, learned Standing Counsel takes notice on behalf of the 2nd Respondent.



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2. This Writ Petition has been filed for a Mandamus to declare the acquisition proceedings initiated in respect of his lands measuring 19 cents and 23 cents in respect of Survey No.357/7A and Survey No.357/8 has lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation, Rehabilitation and Resettlement Act, 2013 hereinafter referred to as (Fair Compensation Act) to permit him to retain possession of the lands.

3. The learned counsel for the Petitioner would submit that the Petitioner had purchased lands in question under a registered Sale Deed dated 27.07.2015 from one M.Gajendran. On 25.07.2018, the officials from the 2nd Respondent Office had visited the lands and on 20.08.2018 they had started levelling the adjacent land. When the Petitioner had questioned the officials, he came to learn that the lands in question including his lands had been acquired for the purpose of developing Manali New Town Development Project.



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4. The learned counsel for the Petitioner would submit that the Petitioner was not aware of the acquisition proceedings and he has been in possession and enjoyment of the said land ever since his purchase from the vendor.

5. The learned counsel for the Petitioner would submit that after enquiring with the neighbouring land owners, the Petitioner had filed a Writ Petition in W.P.No.26662 of 2018 for a Mandamus that acquisition proceedings in respect of his lands had lapsed as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

6. The learned counsel for the Petitioner would further submit that in the said Writ Petition, the Petitioner was unable to furnish the details regarding the acquisition as he was not served with any notice. The Court by Order dated 12.10.2018 dismissed the Writ Petition on the ground of want of particulars, however the Petitioner was given liberty to file a fresh petition.



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Thereafter, the Petitioner had filed an application under the Right to Information Act with the 2nd and the 5th Respondents seeking details of the acquisition proceedings and whether the lands purchased by him had been acquired. By a reply dated 01.04.2019, the 2nd Respondent has informed the Petitioner that his lands had been acquired under Award No.2 of 2001 dated 03.08.2001 by the 3rd Respondent and possession was handed over to the 5th Respondent on the basis of the resolution passed by the 2nd Respondent in A.R.No.126 of 2015 dated 22.12.2015. The Petitioner was also informed that compensation had been paid under LAOP.No.23 of 2004 on the file of the Subordinate Judge, Ponneri.

7. The learned counsel for the Petitioner would further submit that the Petitioner had also come to know that Section 6 of the Land Acquisition Act, 1894 was published in the Tamil Nadu Government Gazette on 06.03.1992 and the Tamil Daily Dinamani on 02.03.1991. The Award was passed on 03.08.2001 fixing the compensation for the Petitioner's lands at Rs.5,80,079/- and the said sum has also been deposited before the Subordinate Judge, Ponneri by the 3rd Respondent vide Letter No.LA/A1/184/88. Therefore, the Award has been passed 9 years after notification under Section 6(1) and the



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amount deposited 2 years thereafter according to the proceedings of the Member Secretary of the 2nd Respondent. Possession of the Petitioner's land have been handed over on 10.03.2016. The Petitioner's vendor got a right to the property under Partition Deed dated 10.04.1990.

8. That apart, the learned counsel for the Petitioner would submit that the Petitioner's vendor had got a Patta issued in his name on 25.06.1997 and the 2nd Respondent as well as the Commissioner, Panchayat Union, Minjur had approved the Petitioner's plan for construction of the building on 24.11.2008, all of which were subsequent to the acquisition proceedings. Therefore, the Petitioner would submit that the allegations that the property was acquired is totally erroneous and by reason of the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 since possession has not been handed over although an Award has been passed on 03.08.2001, the acquisition proceedings lapsed.

9. The learned counsel for the Petitioner would submit that the Petitioner is entitled to retain the said land and therefore, he has come



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forward with the above writ petition.

10. Mr.G.Velu, learned Additional Government Pleader appearing for the Respondents 1, 3 and 4 would submit that not only the possession has been taken but compensation has also been deposited into the Court.

11. Heard the learned counsel on either side.

12. Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, reads as follows:-

“Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act;

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under Section 4 of the said Land Acquisition Act, shall be entitled to compensation



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in accordance with the provisions of this Act.”

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13. In the instant case, the Award has been passed in the year 2001 under Award No.2 of 2001 and LAOP had been filed in the year 2004. The provisions of Section 24(2) of the above said Act would be applicable only in case of an Award that has been passed 5 years or more prior to the commencement of the Fair Compensation Act provided physical possession had not been taken over or their compensation has not been paid.

14. Since the Award has been made in the year 2001 and a compensation has also been deposited, the provisions of the said Act are not available to the Petitioner. Accordingly, this Writ Petition is dismissed. In case, the person covered under the same acquisition proceedings had sought enhancement of compensation and such compensation has been awarded by the Civil Court, it is well open to the Petitioner to move an application for enhancement under Section 28A of the Act before the 4th Respondent and on such application being made, the same shall be considered in accordance with law.



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15. The Writ Petition is dismissed with the above observations. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No
Speaking/Non-speaking Order
Neutral Citation :Yes/No
rgm

To

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Secretariat, Fort St.George,
Chennai – 600 009.
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P.T.ASHA, J.

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