



W.P.No.23376 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2024

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.23376 of 2024

S.D.Gunasekaran

... Petitioner

VS.

1.The District Collector
Vellore District,
Vellore.

2.The Special Tahsildar
(Land Acquisition)
Tamil Nadu Housing Board
Tirupathur.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to return the land acquired from the petitioner's family in respect of property situated in survey No.87/1 with an extent of 4.18 acres, survey No.88/1 with an extent of 3 acres total of 7.18 acres at Kondasamudaram Village, Gudiyatham Taluk, Vellore District by invoking section 101 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioner : Mr.D.Rajagopal

For R1 : Mr.A.Selvendran
Special Government Pleader



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For R2

: Mr.J.Pachaiyappan
Standing Counsel

ORDER

The petitioner herein seeks a direction to the 1st respondent to return the land acquired from the petitioner's family in respect of property comprised in Survey No.87/1 with an extent of 4.18 acres and Survey No.88/1 with an extent of 3 acres situated in Kondasamudaram Village, Gudiyatham Taluk, Vellore District by invoking Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. It is seen from the affidavit filed by the petitioner that his land was acquired in the year 1987 for the purpose of Tamil Nadu Housing Board and award was passed on 20.09.1988. The award amount was determined as Rs.1,66,360/- by Special Tahsildar (Land Acquisition, Housing) Tirupathur for entire land. It is also admitted by the learned counsel appearing for the petitioner that compensation amount was already received by the petitioner. It is also seen that on request made by the petitioner, the matter was referred to Court for enhancement of compensation. The learned Special Sub Judge



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for Land Acquisition Proceedings cases passed order in LAOP No.1 of 2017, dated 25.09.2019 enhancing the compensation amount of Rs.950/- per cent.

3. Since the petitioner has already received compensation amount in respect of acquisition made under the Old Act, there is no lapse of acquisition proceedings. In such circumstances, the petitioner is not entitled to press into service and to invoke Section 101 of New Act.

4. The issue involved in this matter was already considered by the Constitution Bench of the Apex Court in ***Indore Development Authority vs. Manoharlal and others*** reported in ***(2020) 8 SCC 129***. The relevant observation of the Apex Court in this regard reads as follows:-

“364. Section 24 deals with lapse of acquisition. Section 101 deals with the return of unutilised land. Section 101 cannot be said to be applicable to an acquisition made under the Act of 1894. The provision of lapse has to be considered on its own strength and not by virtue of Section 101 though the spirit is to give back the land to the original owner or owners or the legal heirs or to the Land Bank. Return of lands is with



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respect to all lands acquired under the Act of 2013 as the expression used in the opening part is "When any land, acquired under this Act remains unutilised". Lapse, on the other hand, occurs when the State does not take steps in terms of Section 24(2). The provisions of Section 101 cannot be applied to the acquisitions made under the Act of 1894. Thus, no such sustenance can be drawn from the provisions contained in Section 101 of the Act of 2013. Five years' logic has been carried into effect for the purpose of lapse and not for the purpose of returning the land remaining unutilised under Section 24(2)." (Emphasis supplied by this Court)

5. In view of the law settled by Constitution Bench that provision of Section 101 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 cannot be applied to acquisition made under Old Act, this Court is not inclined to accede to the prayer made by the petitioner and accordingly, the Writ Petition stands dismissed. No costs.

19.08.2024

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



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