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W.A. No.2548 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE S.S.SUNDAR
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.A.No.2548 of 2022
and
C.M.P.No.20049 of 2022

1. S.Jaganathan

2. K.Kappal Munusamy

.. Appellants

/versus/

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Fort St. George, Chennai 600 009.

2. The Special Tahsildar,
Adi Dravidar Welfare,
Salem.

3. The Tahsildar,
Valapadi Taluk,
Valapadi, Salem District.

4. M.Muthu

.. Respondents



Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 24.06.2022 passed in the Writ Petition in W.P.No.29564 of 2016.

For the Appellants : Mr.K.Thanigavel
for Mr.S.Doraisamy

For the Respondents : Mr.A.Selvendran
Special Government Pleader,
for RR 1 to 3

No appearance for R4

J U D G M E N T

(Judgment of the Court was made by S.S.SUNDAR,J.)

The writ appeal is filed against the order dated 24.06.2022 made in W.P.No.29564 of 2016, dismissing the writ petition filed by the appellants to issue a writ of declaration.

2. The appellants/ petitioners, who are the owners of the property filed the writ petition only on the ground that the acquisition proceedings are deemed to have been lapsed on account of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 i.e., the Tamil Nadu Act 30 of 2013.



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3. The learned Single Judge dismissed the writ petition following the judgment of the Hon'ble Supreme Court in ***Indore Development Authority Vs. Manoharlal and others*** reported in ***AIR 2020 SC 1496*** holding that the fact that the award has been passed and compensation money payable to the acquired lands had been deposited in Court is not in dispute.

4. Heard the learned counsel for the appellants and the learned Special Government Pleader appearing for the respondents 1 to 3.

5. The fact that the award has been passed and compensation money payable for the acquired lands had been deposited in Court is not disputed by the appellants. Even in the dates and events furnished by the appellants the fact that the award was passed on 16.03.1992 and that award amount was deposited at Sub-Court, Salem on 10.04.1992 is admitted.

6. It is also to be noted that the 1st appellant challenged the acquisition proceedings before this Court in a writ petition earlier in W.P.No.16331 of 1991 and the same was also dismissed on 30.06.1999. It was thereafter the



1st appellant sold the property in favour of the 2nd appellant by a document dated 20.08.1999.

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7. The 2nd appellant filed a writ petition in W.P.No.23034 of 2012 for issuance of a writ of mandamus directing the respondents not to dispossess the 2nd appellant without due process of law. This Court disposed of the writ petition by order dated 15.09.2015 directing the 2nd respondent in the writ petition to pass appropriate orders. Thereafter, the 2nd respondent in the said writ petition passed the order on 05.08.2016 stating that the lands have been acquired for providing house sites to Arunthathiyar. However, it is stated that the possession of the land had not been handed over to the land Acquisition officer. It is in this circumstance, the 2nd respondent, appears to have written a letter to the 1st appellant directing the 1st appellant to deliver possession of the land on or before 24.06.2010 to the 2nd respondent.

8. Taking advantage of the letter that was sent by the Tahsildar dated 05.08.2016, the appellants have contended that possession has not been taken pursuant to the acquisition proceedings which was completed in the year 1992.



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9. In this case, the acquisition proceedings was challenged by the 1st appellant and it is only after the dismissal of the writ petition by order dated 30.06.1999, the 1st appellant sold the property in favour of the 2nd appellant. Therefore, the 2nd appellant is a person who will get no right since the sale in favour of the 2nd appellant itself is null and void. The 2nd appellant, after several years filed the writ petition for issuing a direction to the respondents not to dis-possess the 2nd appellant without due process of law. It is only because of the pendency of previous writ petition, there was delay in taking possession. There is no merit in this writ petition in view of the judgment in ***Indore Development Authority Vs. Manoharlal and others*** reported in ***AIR 2020 SC 1496***, wherein, Hon'ble Supreme Court has 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 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



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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.”

10. In view of the same, the appellants are not entitled to any relief under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. We do not see any merit in this writ appeal, accordingly, this writ appeal is **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

(S.S.S.R., J.) (A.D.M.C., J.)
21.10.2024

dsa

Index : Yes/No

Neutral Citation : Yes/No



To

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