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WP.No.27779 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2024

CORAM

THE HONOURABLE MR. JUSTICE S. SOUNTHAR

WP.No.27779 of 2024

1.N.Yellamma

2.P.Bagyamma

.. Petitioners

Versus

1.The Government of Tamil Nadu

Rep by its Principal Secretary of Government,
Housing and Urban Development Department
Fort St.George, Chennai.

2.Tamil Nadu Housing Board

Rep by its Managing Director,
CMDA Building, E&C Market Road
Koyambedu, Chennai - 600 107.

3.The Executive Engineer,

Tamil Nadu Housing Board,
Bagalur Road, Hosur – 635 109

4.The Special Tahsildar,

Land Acquisition,
Housing Scheme,
Bagalur Road, Hosur – 635 109

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, declaring that the Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894 in respect of land bearing Plot No.43 measuring an extent of 1478 Sq.Ft comprised in Survey No.864 of Chennathur Village, Hosur Taluk, Krishnagiri District covered by Notification issued under Section 4(1) of the Land Acquisition Act, 1894 in



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G.O.Ms.No.890, Housing and Urban Development Department, dated 29.05.1991 and Section 6 Declaration in G.O.Ms.No.691 Housing and Urban Development Department, dated 09.10.1992 deemed to have lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioner : M/s.R.Divyapreathika
for Mr.R.Bharath Kumar

For Respondents : Mr.P.Sathish for R1 and R4
Additional Government Pleader

Mr.S.Ramachandran for R2 & R3
Standing Counsel

ORDER

The writ petition has been filed seeking a declaration that Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894 in respect of the petitioners land situated in Plot No.43 of Chennathur Village, Hosur Taluk, Krishnagiri District, covered by Notification issued under Section 4(1) of the Land Acquisition Act,1894, in G.O.Ms.No.890, Housing and Urban Development Department, dated 29.05.1991 and Section 6 Declaration in G.O.Ms.No.691, Housing and Urban Development Department, dated 09.10.1992 deemed to have lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.



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2. It is the case of the petitioners that they purchased house site with small extent in a layout called as Ragavendra Nagar situated in Plot No.43 situated at Chennathur Village of Hosur Taluk, Krishnagiri District during the year 1989 through registered Sale Deed from previous owners. The 1st respondent issued 4(1) notification for acquisition of lands situated in Survey No.43 for formation of Housing Scheme to be promoted by 2nd respondent. The 4(1) notification was issued on 29.05.1991. Subsequently, Section 6 declaration was made on 09.10.1992. The acquisition proceedings were challenged by the petitioner along with others through an association called as Sri Ragavendra Nagar Residents Welfare Association in W.P.No.13943 of 1994 and an interim stay of dispossession was also granted. The writ petition came to be dismissed on 20.07.2001. Sri Ragavendra Nagar Residents Welfare Association filed W.A.No.2832 of 2004 and the same was disposed on 02.08.2004 with the following observation:-

“4. Mr.Subba Reddy, learned counsel for the appellant submitted that as yet the possession has not been taken over even though twelve years have passed after the notification was issued and that he is still in possession of the property. It is for the appellant to choose to file a proper application under Section 48B of the Land Acquisition Act and if such an application is filed it is for the authority to consider it in accordance with law.”



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3. In the affidavit filed by the petitioner, it is asserted that though Section 6 declaration was made as early as 09.10.1992, physical possession has not been taken over by the respondents and petitioners are continued to be in possession of their property. It is also averred in the affidavit filed in support of this petition that though award was passed on 10.10.1994 vide Award No.27/1994, neither the compensation amount has been paid to the petitioners nor deposited into the Court. Therefore, it is the contention of the learned counsel appearing for the petitioners that the twin conditions laid down in the case of *Indore Development Authority vs. Manoharlal and others* reported in *2020 SCC Online SC 316* had been satisfied and as a consequence, land acquisition proceedings got lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

4. In the counter affidavit filed by the third respondent, the averments of the petitioners that the physical possession was not taken from the petitioners and the amount has not been paid to the petitioners have not been specifically denied. Though, in more than one place in the counter affidavit it was claimed that subject property was taken over by Housing Board as early as on 18.03.2002, the respondents have not produced any document to show that the



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physical possession of the subject property was taken by them from the petitioners by executing Panchanama signed by independent witnesses. As far as the payments to the petitioners are concerned, it is admitted by the respondents that already compensation amount was deposited in the treasury account. However, there is nothing on record to show that award amount was tendered to the petitioners and they refused to receive the same. In the award, it was stated that in view of pendency of writ petition and interim stay of dispossession, the amount was directed to be deposited in the court. However, the respondents have not produced any document to show that the amount was tendered to the petitioners or the previous land owners in whose favour the revenue records stood at the time of acquisition. Mere deposit of the compensation amount in the treasury account would not amount to tendering of the compensation amount to the land owners. Therefore, I hold, the respondents failed to establish that compensation amount was actually tendered to the land owners and refused by them.

5. In view of the discussion made earlier, the twin conditions mentioned in *Indore Development Authority* case namely failure to take possession from the land owners and failure to tender the compensation amount to the land owners are satisfied in the present case. Therefore, the Land Acquisition



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Proceedings initiated under the Old Act got lapsed under Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

6. In fact, the neighbouring land owners affected by the very same notification had filed a batch of writ petitions in W.P.Nos.19766 of 2017 etc cases and the said batch of writ petitions were allowed by this Court by following the ratio laid down in the *Indore Development Authority* case.

7. Accordingly, this writ petition stands allowed by issuing a writ of declaration as prayed for. No costs.

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Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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