



W.A. No.3068 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR
and
THE HONOURABLE MR. JUSTICE P. DHANABAL

W.A. No.3068 of 2023 and C.M.P. No.25419 of 2023

The Special Tahsildar
Land Acquisition Housing Scheme Unit II
Coimbatore 641 012

Appellant

vs.

G. Punniyavathi (died on 20.03.2018)
(Cause title accepted *vide* order dated
09.12.2022 made in C.M.P.No.21383 of
2022 in W.A.SR.No.129661 of 2022)

1. G. Mani
2. C.G. Ragupathy
3. The State of Tamil Nadu
represented by its Secretary to Government
Housing and Urban Development Department
Fort St. George
Chennai 600 009
4. Tamil Nadu Housing Board
represented by its Managing Director
493 Anna Salai
Nandanam
Chennai 600 035

Respondents



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Writ Appeal filed under Clause 15 of the Letters Patent challenging
the order dated 28.10.2021 passed in W.P. No.15711 of 2017.

For appellant Mr. R. Ramanlaal
 assisted by
 Mr. A.Selvendran
 Special Government Pleader

For RR 1 & 2 Mr. M.Vaidyanathan

For RR 3 & 4 Mr. M. Arun Kumar
 Standing Counsel

JUDGMENT

(delivered by S.S. SUNDAR, J.)

This writ appeal is preferred by the Special Tahsildar, Land Acquisition Housing Scheme Unit II, Coimbatore, as against the order dated 28.10.2021 passed by a Single Bench allowing the writ petition filed by the respondents 1 and 2 along with their mother, seeking a writ of declaration declaring that the acquisition proceedings initiated in respect of their land *vide* notification issued under Section 4(1) of the Land Acquisition Act and the declaration issued under Section 6, *ibid.*, have lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (Act 30 of 2013).



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2. The brief facts that are necessary for the disposal of this writ

appeal are as follows:

It is not in dispute that the first respondent, who is the writ petitioner, is the owner of the land measuring an extent of 0.09.5 hectares comprised in S.F.No.805/1A in Kalapatty East Village, Coimbatore North Taluk. The land of the writ petitioners, along with several other lands in Kalapatty Village, was acquired under different notifications. In respect of the land belonging to the writ petitioners, a notification under Section 4(1) of the Land Acquisition Act was issued *vide* G.O. Ms.No.519, Housing and Urban Development Department dated 03.04.1991 and a notification under Section 6 of the said Act was issued *vide* G.O.Ms.No.246, Housing and Urban Development Department dated 13.05.1992.

3. Even though it is stated by the Revenue that the Land Acquisition Officer has already passed an award, from the award produced before this Court, it is seen that it is only a draft award. There is no record produced before the Court to show that notice of award was issued to the land owner or the compensation was tendered to the land owner.



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4. Though it was initially contended by the learned Additional Advocate General that compensation was deposited before the Reference Court, he later submitted that the said amount was withdrawn by the appellant.

5. Therefore, when the passing of final award itself is doubtful, it can be legitimately inferred that there is no scope for tendering the amount of compensation as required under the provisions of the Act.

6. In the course of hearing today, it is also admitted that the writ petitioner and his legal representatives, who are brought on record, are now in possession of the property. The learned Additional Advocate General also acknowledged the fact that patta had been issued to the writ petitioners.

7. In such circumstances, this Court has no hesitation to hold that possession of the property is with the land owners, viz., the writ petitioners. It is true that Section 24(2) of Act 30 of 2013 has been explained and



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interpreted by a Constitution Bench of the Supreme Court in **Indore**

Development Authority vs. Manoharlal and others [(2020) 8 SCC 129]

and the operative portion of the judgment reads as under:

“365. Resultantly, the decision rendered in Pune Municipal Corpn. [Pune Municipal Corpn. v. Harakchand Misirimal Solanki, (2014) 3 SCC 183 : (2014) 2 SCC (Civ) 274] is hereby overruled and all other decisions in which Pune Municipal Corpn. [Pune Municipal Corpn. v. Harakchand Misirimal Solanki, (2014) 3 SCC 183 : (2014) 2 SCC (Civ) 274] has been followed, are also overruled. The decision in Sree Balaji Nagar Residential Assn. [Sree Balaji Nagar Residential Assn. v. State of T.N., (2015) 3 SCC 353 : (2015) 2 SCC (Civ) 298] cannot be said to be laying down good law, is overruled and other decisions following the same are also overruled. In Indore Development Authority v. Shailendra [Indore Development Authority v. Shailendra, (2018) 3 SCC 412 : (2018) 2 SCC (Civ) 426] , the aspect with respect to the proviso to Section 24(2) and whether “or” has to be read as “nor” or as “and” was not placed for consideration. Therefore, that decision too cannot prevail, in the light of the discussion in the present judgment.

366. In view of the aforesaid discussion, we answer the questions as under:

366.1. Under the provisions of Section 24(1)(a) in case the award is not made as on 1-1-2014, the date of commencement of the 2013 Act, there is no lapse of proceedings. Compensation has to be determined under the provisions of the 2013 Act.

366.2. In case the award has been passed within the window period of five years excluding the period covered by an interim order of the court, then proceedings shall continue as provided under Section 24(1)(b) of the 2013 Act under the 1894 Act as if it has not been repealed.

366.3. 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



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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 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.

366.4. The expression “paid” in the main part of Section 24(2) of the 2013 Act does not include a deposit of compensation in court. The consequence of non-deposit is provided in the proviso to Section 24(2) in case it has not been deposited with respect to majority of landholdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the 1894 Act shall be entitled to compensation in accordance with the provisions of the 2013 Act. In case the obligation under Section 31 of the Land Acquisition Act, 1894 has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the 2013 Act has to be paid to the “landowners” as on the date of notification for land acquisition under Section 4 of the 1894 Act.

366.5. In case a person has been tendered the compensation as provided under Section 31(1) of the 1894 Act, it is not open to him to claim that acquisition has lapsed under Section 24(2) due to non-payment or non-deposit of compensation in court. The obligation to pay is complete by tendering the amount under Section 31(1). The landowners who had refused to accept compensation or who sought reference for higher compensation, cannot claim that the acquisition proceedings had lapsed under Section 24(2) of the 2013 Act.

366.6. The proviso to Section 24(2) of the 2013 Act is to be treated as part of Section 24(2), not part of Section 24(1)(b).



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366.7. The mode of taking possession under the 1894 Act and as contemplated under Section 24(2) is by drawing of inquest report/memorandum. Once award has been passed on taking possession under Section 16 of the 1894 Act, the land vests in State there is no divesting provided under Section 24(2) of the 2013 Act, as once possession has been taken there is no lapse under Section 24(2).

366.8. The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the 2013 Act came into force, in a proceeding for land acquisition pending with the authority concerned as on 1-1-2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years.

366.9. Section 24(2) of the 2013 Act does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the 2013 Act i.e. 1-1-2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition.”

8. As adverted to earlier, it is an admitted position that possession has not been taken by the State and no compensation has been awarded or tendered to the writ petitioners. Further, the appellant is unable to produce even a copy of the award before this Court. In such circumstances, even as held in paragraph 366.8 extracted above, the acquisition proceedings has lapsed as no stay was pleaded.



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9. In view of the foregoing reasons, this Court finds that the entire acquisition has lapsed. In such view of the matter, the order impugned passed by the Single Bench is confirmed.

As a sequel, this writ appeal stands dismissed as devoid of merits. No costs. Connected C.M.P. stands closed.

(S.S.S.R., J.) (P.D.B., J.)
27.11.2024

cad
To

1. The Secretary to Government
Housing and Urban Development Department
Government of Tamil Nadu
Fort St. George, Chennai 600 009
2. The Managing Director
Tamil Nadu Housing Board
493 Anna Salai, Nandanam
Chennai 600 035

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