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W.P.No.33165 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

CORAM

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

W.P.No.33165 of 2024
and
W.M.P.No.35915 of 2024

1. K.C.Srinivasan
2. R.Nalina

... Petitioners

Vs.

1. The State of Tamil Nadu,
Represented by the Principal Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai – 600 009.
2. The Managing Director,
The Tamil Nadu Housing Board,
CMDA Complex, E & C Market Road,
Koyambedu,
Chennai – 600 107.
3. The Executive Engineer and Administrative Officer,
The Tamil Nadu Housing Board,
Salem Division,
Salem.
4. The Special Tahsildar (Land Acquisition),
Neighbourhood Scheme,
Ayyanthirumaligai Road,
Salem.

... Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Declaration to declare that the land acquisition proceeding initiated pursuant to the Section 4(1) Notification vide G.O.Ms.No.147, Housing and Urban Development (LA.IV(2)) dated 29.03.2000 and culminated in the passing of the Award bearing No. Award 1/2003-2004 dated 13.05.2003, in respect of the land situated in Survey No.69/2A to an extent of 2.05 Acres, in Kottagoundampatty Village, Omalur Taluk, Salem District belonging to the petitioners, as lapsed in view of Section 24(2) of the Right to Fair Compensation, Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioners : Mr.R.Bharath Kumar
For R1 & R4 : Mr.A.Selvendran
Special Government Pleader
For R2 & R3 : Mr.J.Pachiappan

ORDER

This Writ Petition has been filed for a Declaration to declare that the land acquisition proceeding initiated pursuant to the Section 4(1) Notification vide G.O.Ms.No.147, Housing and Urban Development (LA.IV(2)) dated 29.03.2000 and culminated in the passing of the Award bearing No. Award



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1/2003-2004 dated 13.05.2003, in respect of the land situated in Survey No.69/2A to an extent of 2.05 Acres, in Kottagoundampatty Village, Omalur Taluk, Salem District belonging to the petitioners, as lapsed in view of Section 24(2) of the Right to Fair Compensation, Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. It is the case of the Petitioners that the lands measuring an extent of 2.05 acres comprised in Survey No.69/2A at Kottagoundampatty Village belonged to their mother Eswari, who had obtained title to the same through a partition effected between herself and her brother-in-law namely Venugopal vide Partition Deed dated 07.08.2000 under registered Doc. No.1753/2000. The said Venugopal and the Petitioner's father late Chandrasekaran were siblings. After the registration of the Partition Deed revenue records were mutated in the name of Eswari in joint Patta No.205. In the meantime, the 1st Respondent had proposed to acquire vast extent of land in Survey No.25/5 etc in Kottagoundampatty Village in Omalur Taluk for the benefit of Respondents 2 & 3 for the purpose of constructing houses. The Notification under the Land Acquisition Act, 1984 was issued on 29.03.2000 under G.O.Ms.No.147, Housing and Urban Development (LA.IV (2)) Department.



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Thereafter, Section 6 declaration was made on 16.05.2001 and an Award was passed on 13.05.2003 in Award.No.1/2003-2004. The Petitioner would submit that their mother Eswari died on 17.03.2005 leaving behind the Petitioners as legal heirs. The Award was passed on 13.05.2003, however actual possession was not handed over to the respondents. The compensation has also not been paid as contemplated under Section 31 of the Land Acquisition Act. The Petitioner would state that the adjacent land owners namely A.Nagarajan and others had filed W.P.No.3880 of 2012 challenging the very same acquisition proceedings. By an order dated 12.12.2012, the Writ Petition was partly allowed and the matter was remitted back to the authorities for fresh consideration. This Order was challenged by A.Nagarajan and Others in W.A.Nos.368 of 2013, etc. batch. The said Writ Appeals were disposed of by a common Order dated 16.06.2014 holding that the acquisition proceedings had lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.



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WEB COPY 3. These orders were appealed before the Hon'ble Supreme Court in Civil Appeal Nos.5905 to 5906 of 2016. By an Order dated 25.04.2017, SLPs were dismissed and the Revenue Petition filed against the said Order in Review Petition filed against the said order in R.P.(C).No.2011-2012/2018 in C.A.No.5905-5906/2015 was also dismissed on 25.07.2018. As a result of which, the land acquisition proceedings in respect of the lands of the Petitioners therein had attained finality. The owners have thereafter applied for mutating their names in the revenue records as absolute owners. The Petitioners would submit that the compensation has also not been paid to them. Be that as it may, considering the fact that one set of land owners have got the acquisition proceedings declared as lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the petitioners have come forward with the above Writ Petition.

4. Heard the learned counsel on either side.



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WEB COPY 5. It is seen that W.P.No.3880 of 2012 was filed seeking for a Writ of Certiorari calling for the records relating to the very same notification under which the Petitioner lands have been acquired. By order dated 21.12.2012, the Writ Petition has been allowed with the following observations:-

“48. On analysing the legal principles and the rulings of the Supreme Court and also the records, the award passed by the 2nd respondent is not in accordance with law. Therefore, the challenge to that extent of the impugned award alone is interfered with. Accordingly, the award passed by the 2nd respondent in Award No.1/2003-2004, dated 30.04.2003 is quashed and the matter is remanded back to the authorities concerned to follow the procedures contemplated under the Act in passing the Award, if the land in question covering the said Awarad is required for public purpose.

The Writ Petition is allowed to the extent indicated above. No costs.”

6. This Order was taken up on appeal by the Petitioner as well as the Respondents therein. The Petitioners had filed W.A.No.368 of 2013 and the Respondents had filed W.A.No.538 of 2013. Ultimately, the W.A.No.368 of 2013 was allowed and the Order passed in W.P.No.3880 of 2012 was set aside and was declared that by virtue of Section 24(2) of the Right to Fair



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Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the proceedings initiated by the Respondents / Appellants in W.A.No.538 of 2013 in so far as related to the land of the Petitioner therein was deemed to have lapsed. The Order was confirmed by the Hon'ble Supreme Court in Civil Appeal.Nos.5905 to 5906 of 2015.

7. Considering the fact that the Petitioners land which also falls within the same acquisition proceedings and neither possession has been taken nor compensation has been paid, the Writ Petition is allowed on the same lines as W.P.No.3380 of 2012. No costs. Consequently, connected Miscellaneous Petition is closed.

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



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P.T.ASHA, J.

rgm

To

1. The Principal Secretary to Government,
The Government of Tamil Nadu,
Housing and Urban Development Department,
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Chennai – 600 009.
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The Tamil Nadu Housing Board,
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