



W.A.No.2580 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 12.06.2024

PRONOUNCED ON : 24.06.2024

CORAM

THE HONOURABLE Mr.JUSTICE **S.M.SUBRAMANIAM**

AND

THE HONOURABLE Mr.JUSTICE **C.KUMARAPPAN**

W.A.No.2580 of 2018

and

CMP.No.20997 of 2018

The Member Secretary,
Chennai Metropolitan Development Authority,
No.8, Gandhi Irwin Road,
Egmore, Chennai-600 008.

... Appellant

Vs.

1. K.Ponnamal
2. V.Rajeswari
3. P.Vasanth
4. K.Sivasubramaniam (Died)
5. K.Kumar
6. M.Jayashree
7. Ravi K.Viswanathan
8. The State of Tamil Nadu,
Rep. By Secretary to Government,
Housing and Urban Development (UD-III(1) Department,
Fort St. George,
Chennai-600 009.



W.A.No.2580 of 2018

9. The Special Deputy Collector,
(Land Acquisition) M.M.D.A. Schemes,
No.8, Gandhi Irwin Road,
Egmore, Chennai-600 008.

10.Kalarani Sivasubramaniam

(R10 brought on record as LR of the deceased R4
vide order dated 05.09.2023 made in CMP.No.19776/2023

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 19.01.2016 passed in W.P.No.29149 of 2014.

For Appellant : Mr.P.Sesu Balan Raja
for Mr.R.Sivakumar
Standing Counsel for CMDA

For Respondents : Mr.R.Thiagarajan for RR2, 3, 5 to 7 and 10
Mr.A.Selvendran
Special Government Pleader for R8
R1-Died vide Court order dated 03.08.2023
R4-Died

J U D G M E N T

[Judgment of the Court was made by **C.KUMARAPPAN, J.**]

The intra-Court appeal has been filed against the order dated 19.01.2016 passed in WP.No.29419 of 2014. By and in which the petitioner's prayer for the relief of writ of Declaration to declare that the Land Acquisition Proceedings initiated under the Land Acquisition Act,



W.A.No.2580 of 2018

1894 in respect of the petitioners lands comprised in Survey No.27/4 in Nerkundram Village as lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013 was allowed.

2. The appellant herein is the 2nd respondent before the Writ Court. The respondents 1 to 7 herein were the petitioners before the Writ Court. Similarly, the respondents 8 & 9 herein are the respondents 1 and 3 before the Writ Court. The 10th respondent is the LR of the deceased 4th respondent.

3. For the sake of convenience, the parties will be referred to according to their litigative status before the Writ Court.

4. It is the case of the writ petitioners/respondents 1 to 7 that, the subject land qua S.F.No.27/4, Nerkundram Village and other lands belongs to the petitioners' family. While so, 4(1) Notification under Land Acquisition Act 1894 (hereinafter shall be referred to as "Old Act") was issued on 07.04.1995. The same was challenged by the petitioners' predecessor-in-title by filing a writ petition in WP.Nos.11070 & 11071 of



W.A.No.2580 of 2018

1996. The said writ petitions were came to be allowed by this Court. In the meanwhile, the respondents have passed an award on 08.06.1998 under Section 11 of the Old Act in award No.Rc.No.LA/A1/1094/91. It is the further case of the petitioners that the award stipulates that the payment of compensation would only be paid after the disposal of WP.Nos.11070 & 11071 of 1996.

5. Thus, the learned counsel for the writ petitioner would contend that though the award was passed on 08.06.1998, neither the compensation amount was paid to them as contemplated under Section 31 of the Old Act, nor possession had been taken from them. Thus, it is the case of the writ petitioners that in view of Section 24 of “The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013” [hereinafter shall be referred to as “New Act”], the Land Acquisition proceedings got lapsed. Hence, the writ petitioners/respondents 1 to 7 would contend that the order passed by the Writ Court is well merited and prayed to dismiss the Writ Appeal.

6. Per contra, the learned counsel appearing on behalf of the 2nd respondent/ appellant would contend that after the 4(1) Notification dated



W.A.No.2580 of 2018

07.04.1995, the petitioners have challenged such 4(1) Notification, wherein an interim stay of dispossession was granted, only if possession had not been taken by the Authorities. It is the further contention of the learned counsel for the appellant that, in pursuance of 4(1) Notification, an award under Section 11 has been passed on 08.06.1998, and a compensation of Rs.17,27,095.54/- was determined and the Notice of Award under Section 12(2) was issued to the petitioners on 21.09.1998. By and in which it was informed that the award amount will be kept in Revenue Deposit, and will bear no interest. Therefore, it is the contention of the 2nd respondent/appellant that the award amount has been deposited as early as on 21.09.1998.

7. The learned counsel for the 2nd respondent/appellant would further contend that though the acquisition proceedings initially set aside by the learned Single Judge, subsequently, the order of the learned Single Judge was set aside, as a concomitant, acquisition proceedings were upheld and confirmed by the Division Bench of this Court and the Hon'ble Supreme Court of India, and that possession was taken on 23.05.2006, and the subject land was handed over to the requisition Authority viz., CMRLA. Therefore,



W.A.No.2580 of 2018

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it is the contention of the 2nd respondent/appellant that the attempt to bring the instant acquisition within Section 24 of the New Act is nothing but a speculative futile attempt. Therefore, the learned counsel for the 2nd respondent/appellant prayed to allow the Writ Appeal.

8. The learned Special Government Pleader also supports the case of the appellant.

9. We have given our anxious consideration to either side submissions.

10. It is the contention of the writ petitioners/respondents 1 to 7 that the land acquisition proceedings initiated under the Old Act viz., Act No.1 of 1894 becomes lapsed under Section 24 of The New Act, as the appellant neither paid the award amount, nor the possession was taken by them. Therefore, the land acquisition proceedings got lapsed. It is pertinent to mention here that the 2nd respondent/appellant herein has submitted that they have paid the award amount, in pursuance of the award dated 21.09.1998, as mandated under Section 31 of the Old Act, and also orders were issued to keep the compensation amount in a Revenue deposit.



W.A.No.2580 of 2018

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11. It is the contention of the learned counsel for the writ petitioners that, even according to the case of the 2nd respondent/appellant, on 21.09.1998, it was informed to the respondent herein that the amount would be deposited in a Revenue deposit. However, the learned counsel for the writ petitioners would contend that in the said letter, there is also a reference that the amount would be paid after the vacation of the stay dated 27.08.1996 passed in WP.Nos.11070 & 11071 of 1996. Therefore, it is the case of the writ petitioners that there would not have been any deposit by the 2nd respondent/appellant herein, since there was no vacation of stay as on 21.09.1998.

12. We are in disagreement with the submission made by the learned counsel for the writ petitioners on the simple reason that, the information in respect of deposit, and the condition for payment are two distinct statements. Therefore, the reference of payment subsequent to the vacation of the stay, could only be inferred that the respondent will be paid such amount after the vacation of the stay, from the Revenue deposit. Therefore, this Court is of the firm view that the contention put forth by the learned counsel for the respondent that no amount has been paid cannot be accepted at all.



W.A.No.2580 of 2018

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13. The learned counsel for the writ petitioners has also invited the attention of this Court in respect of the Revenue standing order in Appendix II. Wherein it refers about the payment in respect of the land acquisition award. Here, in the instant case on hand, though initially the respondent has objected for the acquisition, by virtue of the findings made in the award No.1/98 dated 08.06.1998, the subject land was acquired with the consent of the respondents herein. The respondents consented to receive the compensation amount without prejudice to their right to claim higher compensation subject to the orders of WP.Nos.11070 & 11071 of 1996. Therefore, the contention of the writ petitioners that the Revenue standing order has not been followed by the Authority is far fetched argument. As a matter of fact, there are no records available before this Court to show, as to the filing of any proceedings claiming the higher compensation.

14. At this juncture, this Court would like to refer the oft quoted judgment of the Hon'ble Supreme Court held in ***Indore Development Authority Vs. Shailendra & Ors.***, reported in (2018) 3 SCC 412. Wherein, the Hon'ble Apex Court categorically held that mere non deposit of the award amount will in no way lapse the proceedings initiated under the Old Act.



W.A.No.2580 of 2018

WEB COPY

15. It is pertinent to mention here that on 08.11.1999, the compensation amount was calculated and was ordered to be deposited in favour of Thiru.N.Kasiviswanathan at Revenue deposit, and this factum was also informed to him. Therefore, it is crystal clear that the order of the Writ Court invoking Section 24 of the New Act is contrary to the ratio laid down by the Hon'ble Supreme Court of India. Therefore, we are of the considered opinion that the 2nd respondent/appellant made out grounds to interfere with the order of the learned Single Judge. Hence, we are inclined to interfere the same.

16. Accordingly, the writ order impugned dated 19.01.2016 passed in W.P.No.29149 of 2014 is hereby set aside and the Writ Appeal stands allowed. No costs. Consequently, connected CMP is also closed.

[S.M.S., J.] [C.K., J.]
24.06.2024

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Index : Yes

Speaking order : Yes

Neutral Citation : Yes



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W.A.No.2580 of 2018

S.M.SUBRAMANIAM, J.
and
C.KUMARAPPAN, J.

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To

1. The Secretary to Government,
State of Tamil Nadu,
Housing and Urban Development (UD-III(1) Department,
Fort St. George,
Chennai-600 009.
2. The Special Deputy Collector,
(Land Acquisition) M.M.D.A. Schemes,
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W.A.No.2580 of 2018

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