



W.P.No.30012 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2024

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.P.No.30012 of 2018

1. S.B.Thangavel (died)

2. T.Angammal

3. T.Gnanamoorthi

4. T.Mahendran

5. T.Loganathan

[P2 to P5 substituted as

Lrs of the deceased sole petitioner
vide order dated 03.01.2024 made
in W.M.P.No.2785 of 2023]

... Petitioners

Vs.

1. State Represented by its Secretary,
Housing & Urban Development Department,
Fort St.George, Chennai – 600 009.

2. Tamil Nadu Housing Board,
Rep. By its Managing Director,
No.33, Anna Salai,
Nandanam, Chennai 600 035.

3. The Executive Engineer,



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Tamil Nadu Housing Board,
Bhagalur Road, Hosur 635 109.

4. The Special Tahsildar (L.A.),
Hosur Housing Scheme,
Bhagalur Road,
Hosur, Krishnagiri District.

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, 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 Nos.31 and 32 measuring an extent of 3453 sq. ft. Comprised in Survey No.929/1 and 100 sq.ft. in Survey No.930/1B Hosur Village and Taluk Krishnagiri District (3553 sq.ft.) covered by the Notification issued under Section 4(1) of the Land Acquisition Act 1894 vide G.O.Ms.No.1459 Housing and Urban Development Department dated 15.11.1991 and Declaration under Section 6 of the Land Acquisition Act 1894 vide G.O.Ms. No.20 Housing and Urban Development Department dated 08.01.1993 deemed to have lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013.

For Petitioner : M/s.R.Bharathikumar
For R1 and R4 : Ms.Akila Rajendran
Government Advocate
For R2 and R3 : Mr.S.Ramachandran
SC for TNHB

ORDER



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This Writ Petition has been filed 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 Nos.31 and 32 measuring an extent of 3453 sq. ft. Comprised in Survey No.929/1 and 100 sq.ft. in Survey No.930/1B Hosur Village and Taluk Krishnagiri District (3553 sq.ft.) covered by the Notification issued under Section 4(1) of the Land Acquisition Act 1894 vide G.O.Ms.No.1459 Housing and Urban Development Department dated 15.11.1991 and Declaration under Section 6 of the Land Acquisition Act 1894 vide G.O.Ms. No.20 Housing and Urban Development Department dated 08.01.1993 deemed to have lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013.

2. Heard the learned counsel appearing for the petitioner, learned Standing Counsel appearing for the respondents 2 and 3 and the learned Government Advocate appearing for the respondents 1 and 4.



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3. Learned counsel for the petitioner submitted that the first respondent initiated acquisition proceedings in respect of petitioners' property under the Central Act namely the Land Acquisition Act, in order to implement the housing scheme namely “Neighbourhood Scheme of Hosur” at the instance of the second respondent. The first respondent issued 4(1) Notification dated 15.11.1991 and subsequently declaration under Section 6 of the Land Acquisition Act was issued in G.O.Ms.No.20, Housing and Urban Development Department dated 08.01.1993. After enquiry, award was also passed on 12.01.1995 by the fourth respondent. The petitioner's name also reflected in the Award passed by the fourth respondent. Since the respondents have neither taken over possession of the petitioner's property nor disbursed the award amount to the petitioner till now, Land Acquisition Proceedings initiated under the Central Act 1894 has been lapsed in view of Section 24(2) of the “New Act”. Hence he filed the present writ petition.

4. Learned Government Advocate appearing for the respondents



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filed the counter stating that the respondents have taken over the possession on 18.01.1995 itself and handed over the same to the Acquisition Body and the Housing Board has also taken over the possession. Already the vendors approached the Tribunal for enhancement of compensation and they have also received the enhanced compensation amount. The petitioner refused to receive the award amount and hence the award amount was deposited in the Treasury and the same was informed to the petitioner under the RTI Act. In spite of receiving the award amount from the Treasury, the petitioner has filed the present writ petition. Since possession was taken prior to the New Act come into force, award amount was also deposited before the concerned Civil Court as well as Treasury, lapse in Land Acquisition proceeding under Section 24(2) of the New Act would not attract.

5. Acquisition of land and passing of Award are not in question. Since the possession was taken over by the acquisition body and award amount also deposited prior to the New Act come into force, the petitioner is not entitled to the relief sought for in this writ petition.



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However, the petitioners are at liberty to workout their remedy in the manner known to law.

6. In view of the above, the Writ Petition is dismissed. There shall be no order as to costs.

19.01.2024

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No



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To

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P.VELMURUGAN, J.

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