



W.A(MD)No.682 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2024

CORAM :

**THE HONOURABLE MR.JUSTICE R.SURESHKUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A(MD)No.682 of 2024
and
CMP(MD)No.5027 of 2024**

P.Chellaiah @ Velu Konar (Died)

1. S.Mohan Palanichamy

2. R.Uma Lakshmi

... Appellants

(A2 and A3 were substituted vide Court order dated 27.10.2022 in
WMP(MD)No.2304 of 2022 in W.P(MD)No.7643 of 2020)

vs.

1. The State of Tamilnadu,
Represented by its Secretary to Government,
Adi -Dravidar Welfare Department,
Secretariat,
Fort St.George,
Chennai - 600 009.

2. The District Collector,
Collectorate,
Madurai - 625 020.

3. The District Adi-Dravidar Welfare Officer,
Madurai Collectorate Campus,
Madurai-625 020.

4. The Special Tahsildar (Land Acquisition),
Adi-Dravidar Welfare - Unit No.1,
Collectorate Campus,
Madurai - 625 020.

... Respondents



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Prayer : Appeal filed under Clause 15 of the Letters Patent, against the order dated 29.11.2023 made in W.P(MD)No.7643 of 2020.

For Appellants : Mr.T.Sakthikumaran
For R1 to R4 : Mr.A.Kannan, Additional Government Pleader

JUDGMENT

(Judgment of the Court was made by **R.SURESHKUMAR, J.**)

This writ appeal has been directed against the order passed by the Writ Court, dated 29.11.2023, made in W.P(MD)No.7643 of 2020.

2. The appellant/petitioner had moved the Writ Court with a prayer of Writ of Declaration to declare that, the acquisition had lapsed as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, (in short, '2013 Act') in respect of Survey No.117/2, measuring an extent of 1 Acre and 36 cents at Karadipatti Village, Madurai District.

3. The learned Judge having heard the matter, has recorded the proceedings under which, as per the award, the award amount to the extent of Rs.30,607/-, had been deposited in the court account on 24.01.2001 and subsequently, in the name of the correct person, it has been re-deposited on



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16.03.2001. Therefore, at any rate, before 16.03.2001, since the award amount had been deposited in the court concerned, the question of invoking Section 24(2) of 2013 Act, does not arise. The reason being that, as per the twin test, as has been explained by the Hon'ble Supreme Court in the Constitution Bench judgment in the case of **Indore Development Authority vs. Manohar Lal Sharma** reported in **2020 SCC Online SC 316**, either of the twin test, if it is passed or complied with, by the acquisition authority or the requisition authority, then the question of invoking Section 24(2) of 2013 Act, does not arise.

4. This position has been considered in proper perspective by the learned Judge and ultimately, he has dismissed the said writ petition through the impugned order.

5. We have heard Mr.T.Sakthikumaran, learned counsel appearing for the appellants and Mr.A.Kannan, learned Additional Government Pleader appearing for the respondents 1 to 4.

6. The learned counsel appearing for the appellants has made an attempt, by making the submission that, the award amount has not been paid to



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the appellant/petitioner, who is the owner of the property and therefore, it cannot be stated that the amount has been paid to the petitioner/appellant and therefore, on that ground, it cannot be stated that, one of the twin conditions has been complied with. He would also submit that, for the past 24 years after the acquisition, the land has not been utilised and it is in the physical possession of the petitioner/appellant. Therefore, the other condition also, since has not been complied with, according to the learned counsel appearing for the petitioner/appellant, both the twin test since have not been complied with, he is entitled to seek declaration as sought for, by invoking the provision of Section 24(2) of 2013 Act.

7. However, learned Additional Government Pleader appearing for the respondents 1 to 4, has submitted that the amount has been deposited in the court in the year 2001, which has been recorded by the learned Judge and also the land which has been acquired for the purpose of issuing house site to the Adidraavidars, has also been acted upon and the patta has been issued and in this regard, some of the proceedings to that effect issued by the respondent department has been produced before this Court. Therefore, the learned Additional Government Pleader would submit that, the said argument advanced on behalf of the appellant that, the possession has not been taken, is also



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incorrect. Therefore, on these two grounds, since Section 24(2) of 2013 Act, cannot be invoked, the order passed by the learned Judge is to be sustained, he contended.

8. We have considered the said rival submissions made by the learned counsel appearing for both sides and having regard to the said submission made by the learned Additional Government Pleader appearing for the respondents, if the land has already been taken possession and it has been distributed to the landless Adidraavidars for their welfare since the acquisition has been made, one of the twin test since has been complied with, question of invoking Section 24(2) of 2013 Act, does not arise.

9. Assuming that, the possession is still with the petitioner/appellant, insofar as the other part of the twin test is concerned, the amount has been deposited in the court concerned in the proceedings dated 24.01.2001 and 16.03.2001, which has been recorded by the learned Judge in the impugned order itself.

10. Therefore, it is immaterial whether the petitioner/appellant has received the amount or not. The fact remains that, the award amount since has



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been deposited in the court itself, the other part of the twin test also, has been fulfilled or complied with by the respondents. When that being so, as per the law that has been declared by the Constitution Bench of the Supreme Court in Indore Development Authority's case (cited supra), the petitioner/appellant is not entitled to seek invocation of Section 24(2) of 2013 Act. Hence, the order impugned passed by the learned Judge is to be sustained and accordingly sustained and the Writ Appeal since is failed, is dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.)

(G.A.M., J.)

15.04.2024

Index : Yes / No

Neutral Citation : Yes / No

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