



W.P.(MD)No.18124 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2024

CORAM

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.(MD)No.18124 of 2018

and

W.M.P(MD)No.16030 of 2018

S.Raja

... Petitioner

Vs.

- 1.The Secretary to the Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George, Chennai - 600 009.
- 2.The Managing Director,
Tamilnadu Housing Board (TNHB),
Nanthanam, Anna Salai,
Chennai - 600 035.
- 3.The Executive Engineer / AO,
Uchapatti - Thoppur Satellite Town Division,
Tamilnadu Housing Board (TNHB),
Ellis Nagar, Madurai - 625 016.
- 4.The District Collector,
Madurai District, Madurai - 625 020.
- 5.The Revenue Divisional Officer,
O/o. The Revenue Divisional Office,
Madurai Revenue Division,
Madurai - 625 020.



W.P.(MD)No.18124 of 2018

6.The Special Tahsildar (Land Acquisition),
south Neighbourhood Scheme,
Old Ramnad Collectorate Complex,
Madurai - 625 020.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration, declaring the entire land acquisition proceedings initiated under the Land Acquisition Act, 1894 in respect of his plot No.12 of sub divided resurvey number.28/1A3 for six cents (3061.25 sq.ft) of Thoppur Village, Thirupparankundram Taluk Madurai District in Award No.14/94, dated 16.12.1994 and LAC No.1/86, which was passed by the sixth Respondent / Special Tahsildar (Land Acquisition), South Neighbourhood Scheme, Madurai -20 as lapsed in view of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and consequently directly the respondents to release this survey number from the patta number.1250 and not to interfere with the physical possession over the said property as still he is in possession and occupation.

For Petitioner : Mr.C.Masilamani

For R2 & R3 : Mr.R.Sivakumar
Senior Counsel

For R1, R4 to R6 : Mr.M.Muthumanikkam
Government Advocate



W.P.(MD)No.18124 of 2018

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ORDER

The petitioner, subsequent purchaser of the property in Plot No.12 in S.No.28/1A3, to an extent of 6 cents (3061.25 square feet), in Thoppur Village, Thirupparankundram Taluk, Madurai District has filed the writ petition for writ of declaration that the proceedings have lapsed under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, (herein after referred to as the Act) on the premise that physical possession was not taken from him and also compensation was not paid to him.

2. The land in Plot No.12 in S.No.28/1A3 to an extent of 6 cents (3061.25 square feet) in Thoppur Village, Thirupparankundram Taluk, Madurai District originally belonged to one Perumal Raj. The said Perumal Raj sold the property to S.Natarajan and his wife, N.Meenalochini Bai, under registered sale deed, dated 10.04.1995. The said S.Natarajan and his wife sold the property to one S.Susila, under registered sale deed, dated 05.03.2007. The said Susila sold the property to R.Sagunthala Devi under registered sale deed, dated 13.08.2013. The petitioner thereafter purchased the property from R.Sagunthala Devi in the year 2013, under registered sale deed, dated 13.08.2013. The petitioner's land



W.P.(MD)No.18124 of 2018

along with other lands were acquired by the Government for the purpose of Tamil Nadu Housing Board's Proposed South Neighbourhood Scheme to form Satellite Town at Madurai. The section 4(1) notification was approved by the Government in G.O.Ms.No.1448, Housing and Urban Development Department, dated 13.11.1991, and Section 6 Declaration was approved by the Government in G.O.Ms.No.870, Housing and Urban Development Department, dated 17.12.1992. As the revenue records stood in the name of the original owner, Perumal Raj, all notices under the acquisition proceedings were issued to him and as he did not appear in the award enquiry held on 13.11.1994, award was passed in Award No.14 of 1994 and the same was directed to be kept in revenue deposit. In pursuance of the award, the lands were handed over to the Tamil Nadu Housing Board on 16.12.1995 and patta was also mutated in favour of the Tamil Nadu Housing Board vide Patta No.1250. While so, the petitioner filed the above writ petition for the aforesaid relief.

3. The respondents filed a detailed counter denying all the contentions raised in the petitioner's affidavit. The respondents narrated the entire facts relating to the acquisition and further submitted that the acquired lands changed three hands before the petitioner purchased it two decades after 4 (1) notification of the year 1991. As the petitioner was a subsequent purchaser, he



W.P.(MD)No.18124 of 2018

was not entitled to invoke the provision of Section 24(2) of the Act. The respondent therefore prayed for the dismissal of the writ petition.

4. The learned counsel for the petitioner submitted that the acquisition proceedings are deemed to have lapsed because physical possession continued with the petitioner and the compensation also was not paid to him. The learned counsel for the petitioner therefore submitted that the writ petition deserved to be allowed.

5. The learned counsel for the respondents on the other hand submitted that assuming without admitting, that the physical possession was not taken and the compensation was also not paid, the petitioner, who was a subsequent purchaser was not entitled to invoke section 24 (2) of the Act. The learned counsel for the respondents therefore submitted that the writ petition deserved to be dismissed.

6. Heard both sides and perused the available materials on record.

7. It is seen that Section 4 (1) notification was approved by the Government in G.O.Ms.No.1448, Housing and Urban Development



W.P.(MD)No.18124 of 2018

Department, dated 13.11.1991, and Section 6 Declaration was approved by the Government in G.O.Ms.No.870, Housing and Urban Development Department, dated 17.12.1992. The award enquiry was held on 30.11.1994, and the award was passed in Award No.14 of 1994 on 16.12.1994. The possession of the lands was handed over to the Tamil Nadu Housing Board on 06.12.1995, and patta was also issued in favour of the Tamil Nadu Housing Board vide Patta No.1250. It is seen that the petitioner purchased the subject lands from R.Sagunthala Devi, only on 13.08.2013. The subject lands changed atleast three hands before the petitioner purchased it in the year 2013.

8. Before embarking into the locus of the petitioner as a subsequent purchaser to challenge the acquisition proceedings invoking Section 24(2) of the Act, I would like to discuss the factual aspects on whether the twin conditions for invoking Section 24(2) of the Act exist. In the present case, as far as the payment of compensation is concerned, it is seen that the award was passed on 13.11.1994, and as the original owner of the land did not come forward to receive the compensation amount, the same was directed to be kept in revenue deposit and therefore, the condition as to payment of compensation is satisfied. On the aspect of possession, I find that the possession was handed over to the Tamil Nadu Housing Board as early as on 16.12.1995, and even the



W.P.(MD)No.18124 of 2018

patta was mutated in favour of the Tamil Nadu Housing Board vide Patta No. 1250. More-over, the petitioner himself admits that in the layout plan drafted by the Tamil Nadu Housing Board for the acquired lands, part of the petitioner's lands were utilised for formation of road. From the admission of the petitioner it is clear that possession was handed over to Tamil Nadu Housing Board. Hence, both the conditions for invoking Section 24(2) of the Act are not available. Be that as it may, let me now discuss on the locus of the petitioner to challenge the acquisition proceedings.

9. The locus of a subsequent purchaser to invoke Section 24(2) of the Act, is no longer *res integra*. The constitution Bench of the Hon'ble Supreme Court of India in the case of ***Indore Development Authority Vs Manoharlal and others*** reported in ***(2020) 8 SCC 129*** held that the beneficiaries referred to in Section 24 (2) of the Act, are those owners who were registered/specified in the 4(1) notification of 1894, Act. The purchasers, who were not registered/specified on the date of issuance of Section 4(1) notification are not entitled to invoke Section 24(2) of the Act and challenge the acquisition proceedings as lapsed under the said provision. The Hon'ble Supreme Court while considering similar issue in the case of ***Shiv Kumar and others Vs Union of India and others***, reported in ***2019 10 SCC 229***, held as follows:



“18. Even otherwise, proviso to Section 24(2) does not recognize a purchaser after Section 4 notification inasmuch as it provides that where an award has been made, and the compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition issued under the Act of 1894, shall be entitled to compensation under the provisions of the Act of 2013. The proviso makes it clear that in case of compensation concerning the majority of landholding has not been deposited, then recorded owner(s) at the time of issuance of notification under section 4 of the Act of 1894 shall have the right to receive the compensation. Purchasers after section 4 notification have not been given the right to receive the higher compensation under the provisions contained in the act of 2013.

20. Given that, the transaction of sale, effected after section 4 notification, is void, is ineffective to transfer the land, such incumbents cannot invoke the provisions of section 24. As the sale transaction did not clothe them with the title when the purchase was made; they cannot claim 'possession' and challenge the acquisition as having lapsed under section 24 by questioning the legality or regularity of proceedings of taking over of possession under the Act of 1894. It would be unfair and profoundly unjust and against the policy of the law to permit such a person to claim resettlement or claim the land back as envisaged under the Act of 2013. When he has not been deprived of his livelihood but is a purchaser under a void transaction, the outcome of exploitative tactics played upon poor farmers who were unable to defend themselves.

21. Thus, under the provisions of Section 24 of the Act of 2013, challenge to acquisition proceeding of the taking over of possession under the Act of 1894 cannot be made, based on a void transaction nor declaration can be sought under section 24(2) by such incumbents to obtain the land. The declaration that acquisition has lapsed under the Act of 2013 is to get the property back whereas, the transaction once void, is always a void transaction, as no title can be acquired in the land as such no such declaration can be sought. It would not be legal, just and equitable to give the land back to purchaser as land was not capable of being sold which was in process of acquisition under the Act of 1894. The Act of 2013 does



W.P.(MD)No.18124 of 2018

not confer any right on purchaser whose sale is ab initio void. Such void transactions are not validated under the Act of 2013. No rights are conferred by the provisions contained in the 2013 Act on such a purchaser as against the State.”

10. The Hon'ble Supreme Court of India in the case of **Government of NCT of Delhi Vs Sunil Jain and others** in Civil Appeal No.280 of 2023 following **Shiv kumar's case** (stated supra) held as follows:

“2.1 Now so far as the locus of the original writ petitioners being subsequent purchasers is concerned, the said issue is now not res integra in view of the decision of the three Judge Bench of this Court is the case of Shiv Kumar & Anr. Vs. Union of India & Ors. (2019) 10 SCC 229 which has been subsequently followed by this Court in the case of Delhi Administration Through Secretary, Land and Building vs. Pawan Kumar & Ors., Civil Appeal No.3646 of 2022 and Delhi Development Authority versus Godfrey Phillips (I) Ltd. & Ors, Civil Appeal No.3073 of 2022. In the aforesaid decisions this Court has specifically observed and held that the subsequent purchaser has no locus to challenge the acquisition and/or lapsing of the acquisition. In that view of the matter the High Court has materially erred in entertaining the writ petition preferred by the writ petitioners subsequent purchasers and declaring that the acquisition with respect to the land in question is deemed to have lapsed.”

11. Admittedly, the petitioner is a subsequent purchaser, he having purchased the property on 31.08.2013, two decades after the 4(1) notification dated 13.11.1991. Therefore, in view of the fact that the petitioner is a subsequent purchaser and in the light of the law laid down in the aforesaid judgments, I find that the petitioner has no locus to challenge the acquisition



W.P.(MD)No.18124 of 2018

proceeding as lapsed under Section 24(2) of the Act. Therefore, the writ petition is not maintainable.

12. Faced with an overwhelming legal challenge, the learned counsel for the petitioner submitted that as per the layout plan of the third respondent, the petitioner's remaining lands are available on either side of the road. It is further submitted that as the original owner's name was reflected in the revenue records, all notices were sent to the original owner and as he did not attend the award enquiry, the award was directed to be kept in revenue deposit. The learned counsel for the petitioner therefore prayed that the petitioner may be permitted to submit a representation to the first respondent for releasing the two pieces of his lands available on either side of the road as per the layout plan and for disbursement of the compensation amount lying in revenue deposit.

13. Under the facts and circumstances of the case and considering the submission made by the learned counsel for the petitioner, I am inclined to grant liberty to the petitioner to submit a representation to the first respondent for releasing the two pieces of his lands situated on either side of the road and for disbursement of the compensation amount lying in the revenue deposit.



W.P.(MD)No.18124 of 2018

14. Accordingly, the writ petition stands disposed of with the above liberty. No costs. Consequently, the connected miscellaneous petition is closed.

05.12.2024

NCC:yes
Index:yes
Internet:yes
SN

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