



W.P.(MD)No.23230 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2024

CORAM

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.(MD)No.23230 of 2018

and

W.M.P(MD)No.21100 of 2018

1.Palanisamy Gounder

2.Vellasamy Gounder

3.Ponraj

... Petitioners

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Tahsildar,
Aadhi Dravidar Welfare Officer,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration, to declare the acquisition in respect of the petitioner's land in S.Nos.491/1 and 491/2 of Midapadi village, Palani Taluk, Dindigul District, to have lapsed in light of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.



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For Petitioners : M/s.Mamtha
For M/s.Ajmal Associates

For Respondents : Mr.A.Kannan
Additional Government Pleader

ORDER

The writ petition is filed for writ of declaration to declare the acquisition in respect of the petitioners' land in S.Nos.491/1 and 491/2 of Midapadi village, Palani Taluk, Dindigul District, as lapsed in light of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (herein after referred to the Act).

2. The petitioners 1 and 2 inherited the lands in S.No.491/2, from their father, namely, Mr.Kandasamy Gounder, and the third petitioner and his siblings inherited the lands in S.No.491/1 from their father, namely, Mr.Velusamy. The petitioners were in peaceful possession and enjoyment of the property by carrying on agricultural operations and raising coconut trees in the said lands. Even, the patta in respect of the said lands stood in the name of the petitioner and their predecessors. While so, the said lands were acquired by the Government under Tamil Nadu Act 31 of 1978. The 4(1) notification was issued in the year 1999, and 4(2) notification was served on the petitioner on 21.01.1999. Thereafter, award was passed on 19.03.1999. According to the



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petitioners, though award was passed as early as on 1999, compensation amount was not paid to the petitioners but was directed to be kept in revenue deposit vide Challan No.3390, dated 31.03.1999, at Sub Treasury, Dindigul. The petitioners stated that though acquisition took place in the year 1999, physical possession of the property continued with the petitioners and the same was admitted by the respondents in the communication, dated 31.08.2018. Thus, it was clear that as on 01.01.2014, neither possession was taken nor compensation was paid to the petitioners. Therefore, under Section 24(2) of the 2013 Act, acquisition proceedings were deemed to be lapsed.

3. The respondents filed counter and also additional counter.

4. The respondents stated that the lands in S.Nos.491/1 and 491/2 to an extent of 0.85.5 and 076.5 hectares, were acquired for the provision of free house sites to the Adi-Dravidar families living in and around the village of Midapadi, under the Tamil Nadu Act 31 of 1978. The award was also passed in Award No.9/98-99. In the award enquiry held on 19.03.1999, the second petitioner and his son attended enquiry and objected to the compensation amount awarded. Hence, the award amount was directed to be kept in revenue deposit on 22.03.1999, and the intimation was also sent for service to the land



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owners on 17.08.2000, through the Village Administrative Officer. The respondents submitted that the petitioners had earlier filed writ petition in W.P.(MD)No.5751 of 2008, for Writ of Mandamus forbearing the respondents from acquiring and dispossessing the petitioners from the lands in S.No.491/2 of Midapadi Village, Palani Taluk, Dindigul District without due process of law and this Court vide order, dated 29.06.2010, dismissed the writ petition stating that in the absence of any challenge to the land acquisition proceedings, which attained finality, Mandamus prayed could not be issued. The respondents further submitted that the second petitioner filed another writ petition in W.P.(MD)No. 6240 of 2008, for the relief of injunction restraining the respondents from dispossessing the petitioner from the lands in S.No.491/1, Midapadi Village, Palani Taluk, Dindigul District, without due process of law. Though initially interim order was granted on 21.07.2008, subsequently, the writ petition was dismissed on 21.09.2010, on the ground that the petitioners' had failed to challenge the 4(1) notification. After the dismissal of the writ petitions, the respondents initiated steps to grant free house site patta to the poor house less families and at that stage, the petitioner filed writ petition in W.P.(MD)No.8648 of 2011. The said writ petition was dismissed for non-prosecution. Thereafter, the petitioner filed W.P.(MD)No.8792 of 2011, to call for the records relating to the house site allotment proceedings. The said writ petition was dismissed vide



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order dated 31.10.2011. The respondents therefore submitted that the petitioners in order to stall the acquisition proceedings repeatedly filed writ petitions before this Court and this Court dismissed all the writ petitions. The petitioners even after the dismissal of the earlier writ petitions filed the present writ petition invoking Section 24(2) of the Act, without any justification and therefore, the respondents submitted that as the acquisition proceedings had attained finality, the present writ petition cannot be entertained and hence, prayed for the dismissal of the same.

5. The learned counsel for the petitioners submitted that the land acquisition proceedings are deemed to be lapsed under Section 24(2) of the Act in view of the fact that neither possession was taken nor compensation was paid to the petitioners. The learned counsel for the petitioners relying on the judgment in the case of Pune Development Authority, submitted that the revenue deposit was not valid deposit and therefore, the acquisition proceedings should be deemed to have lapsed. The learned counsel for the petitioners submitted that the fact that the respondents had issued notice for eviction established that the petitioners' continued to be in possession. The learned counsel for the petitioner therefore submitted that the writ petition deserved to be allowed.



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6. The learned Additional Government Pleader for the respondents on the other hand submitted that the writ petition amounted to sheer abuse of process of Court, inasmuch as, the petitioners having lost in the earlier rounds of litigations, filed the present vexatious writ petition for declaration that the acquisition proceedings were deemed to have lapsed. The learned Additional Government Pleader further submitted that the earlier rounds of litigations make it very clear that the acquisition proceedings had attained finality and therefore, the present writ petition was filed frivolously to revive a stale claim. The learned Additional Government Pleader therefore prayed that the writ petition deserved to be dismissed.

7. I heard both sides and perused the materials available on record.

8. It is admitted by the petitioners that the compensation amount was directed to be kept in revenue deposit vide Challan No.3390, dated 31.03.1999, at Sub Treasury, Dindigul . Therefore, one of the conditions for invoking 24(2) of the Act does not arise. The Hon'ble Supreme Court in the Constitutional Bench Judgment in the case of **Indore Development Authority Vs. Manoharlal** categorically held that treasury deposit was valid deposit. The reliance placed by the petitioners' counsel on the case of **Pune Municipal Corporation Vs.**



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Harakchand Misirmal Solanki, in this regard is untenable as the said Judgment was overruled in the aforementioned Constitutional Bench Judgment.

9. As far as possession is concerned, the Constitutional Bench judgment clearly states that only if compensation is not paid and possession is not taken then the acquisition would be deemed to have lapsed under Section 24 (2) of the Act. If one of the two is complied, then there is no lapse. Paragraph No.363(3) of the Constitutional Bench judgment is as follows:

"363(3). The word "or" used in Section 24(2) between possession and compensation has to be read as "nor" or as "and". The deemed lapse of land acquisition proceedings under Section 24(2) of the 2013 Act takes place where due to inaction of authorities for five years or more prior to commencement of the said Act, the possession of land has not been taken nor compensation has been paid. In other words, in case possession has been taken, compensation has not been paid then there is no lapse. Similarly, if compensation has been paid, possession has not been taken then there is no lapse."

Therefore assuming that the possession continues with the petitioners as compensation was admittedly kept in Treasury deposit, there is no lapse.

10. In any event, it is seen that in W.P(MD)No.5751 of 2008, this Court had categorically found that the acquisition proceedings had reached finality and therefore, the Mandamus sought for by the petitioner was rejected. Therefore, it is clear that as early as in the year 2010, this Court had recorded



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that the acquisition proceedings were completed. As rightly contended by the learned counsel for the respondents, the petitioners are seeking to revive a stale claim.

11. In view of the above, I find no merits in the writ petition and the same is dismissed. The compensation is lying in deposit in Sub Treasury, Dindigul as the petitioners refused to receive the same at the time of award proceedings. Therefore, the petitioners are given liberty to withdraw the amount lying in revenue deposit vide Challan No.3390, dated 31.03.1999, at Sub Treasury, Dindigul, by submitting a representation to the respondents within a period of 2 weeks from the date of receipt of a copy of this order. On receipt of such representation, the second respondent is directed to disburse the amount to the petitioners as expeditiously as possible, in any event, not later than four weeks thereafter. No costs. Consequently, the connected miscellaneous petition is closed.

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NCC:yes/no
Index:yes/no
Internet:yes/no
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To:

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Dindigul.
- 2.The Tahsildar,
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N.MALA, J.

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