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WA No. 1231 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-03-2025

CORAM

**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**WA No. 1231 of 2024
and
CMP.No.9053 of 2024**

1. M/s. Mohan Breweries and Distilleries Ltd.,
Rep by its Executive Chairman,
Mr. M. Nandagopal, 3 rd Floor,
No.605 and 606, Sundaram Avenue, Chennai 6.

Appellant(s)

Vs

1. The Government of Tamil Nadu
Rep by the Secretary to Government
Housing Department, Fort St.George,
Chennai 9.

2.The Tamil Nadu Housing Board
Rep by its Chairman, No.493, Anna
Salai, Nandanam, Chennai 35.

Respondent(s)

**PRAYER**

To allow the Writ Appeal by setting aside the Order dated 06.11.2023 passed in WP No.748 of 2017.

For Appellant(s): Mr.Kuberan For Rank Associates

For Respondent(s): Mr.R.Ramanlal Aag Vii Asst By
Mr.T.Arunkumar Agp For R1

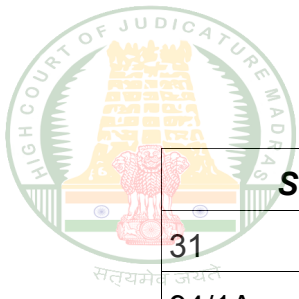
JUDGMENT

(Judgment of the Court was made by S.M.Subramaniam J.)

Under assail is the order dated 06.11.2023 passed in W.P.No.748 of 2017.

2. The Writ Petition has been instituted by the appellant before this Court to declare that the land acquisition proceedings initiated under the Land Acquisition Act, 1894 in respect of the land belonging to the petitioner comprised in,

<i>Survey No.</i>	<i>Extent</i>	<i>Sale Deed No</i>
33	0.66	1612 of 1988
33	0.66	1614 of 1988
34	1.62	5744 of 2002
44/1(44/1A)	3.77	5744 of 2002
45/3 (45/3C1)	1.15	5744 of 2002



Survey No.	Extent	Sale Deed No
31	0.30	2502 of 1993
94/1A	0.70	492 of 1987
94/2A	0.44	492 of 1987
99/3	0.85	492 of 1987
104	4.24	492 of 1987
213/1	0.75	2464 of 1984
213/2	2.10	2464 of 1984
217/2	0.28	621 of 1984

All in Valasarawakkam Village, Chennai, as lapsed, in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (Act 30/2013).

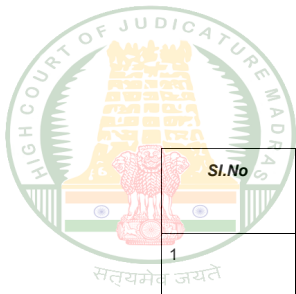
3. The uncontroverted facts are that land acquisition proceedings under the Old Act commenced in respect of the subject property in the year 1975. The Government in G.O.Rt.No.136, Housing Department, dated 14.05.1975, approved the Draft Notification under Section 4(1) of the Land Acquisition Act for an extent of 248.18 Acres of land in Valasaravakkam Village, Maduravoyal Taluk, Thiruvallur District, for the formation of New Ramapuram Neighbourhood Scheme by Tamil Nadu Housing Board. It was also



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published on 11.06.1975. The Draft Declaration and Direction under Sections 6 and 7 of the Land Acquisition Act was approved by the Government in G.O.Ms.No.963, Housing Department, dated 07.06.1978 and published in Tamil Nadu Government Gazette, dated 09.06.1978. After observing all the formalities under the Land Acquisition Act, Award Nos.4/86 dated 05.09.1986 and 12/86 dated 29.09.1986 were passed. The subject lands comprised in S.Nos.213/1, 213/2 and 217/2 are covered in the aforesaid awards passed by the Land Acquisition Officer. The possession of the said lands were taken by competent authorities and handed over to the Tamil Nadu Housing Board on 13.11.1986 and 15.12.1986 and since then the subject land vests with Tamil Nadu Housing Board.

4. Particulars such as ownership, extent, compensation amount etc., in respect of the subject land are categorically stated in the counter affidavit filed by the Tamil Nadu Housing Board in W.P.No.748 of 2017 as under,



Sl.No	Survey No	Total Extent in Award	Extent cover in this Present Court case	Award No & date	Name of Owner as per Award	Award Amount & Nature of Deposit	Possession taken over date	Patta Name & Patta No.
1	31/2	2.19	0.30	5/86 16.9.86	Eastern Clay and interested persons	Rs.581.05 Civil Court Deposit	24.04.2007	Mohan Brewaries & Distilleries Ltd., (patta No.3294, 133 & 3699)
2	33	1.32	1.32	5/86 16.9.86	Dhanakoti Ammal, Rathna Naicker & Narayana Naicker	Rs.350.20 Civil Court deposit	24.04.2007	
3	34	1.62	1.62	6/86 19.9.86	M/s.Sudarsan Trading Company	Rs.93,387.10 Civil Court Deposit	24.04.2007	Mohan Brewaries & Distilleries Ltd., (patta No.3294, 133 & 3699)
4	44/1A	3.86	3.77	8/86 19.9.86		Rs.8,36,189.85 Civil Court Deposit	24.04.2007	Mohan Brewaries & Distilleries Ltd., (patta No.3294, 133 & 3699)
5	45/3C1	1.15	1.15	7/86 17.9.86		Rs.48,837.10 Civil Court Deposit	24.04.2007	M/s.Sudarsan Trading Company (Patta No.119)
6	94/1A	0.70	0.70	9/86 10.9.86	V.Samasiva Rediyar	Rs.50,036.00 Civil Court Deposit	Not taken over	TNHB (Patta No.1462)
7	104	4.24	4.24				14.11.1986	
8	99/3	0.85	0.85	19/86 23.9.86	V.Samasiva Rediyar	Rs.225.60 Civil Court Deposit	23.1.1987	
9	94/2A	0.44	0.44	8/86 20.8.86		Rs.116.35 Civil Court Deposit	14.11.1986	
10	213/1	0.75	0.75	4/86 5.9.86	Venkata Rathina Naidu, Subbammal; Palavalli Rajeswari, M/s.Mohan Brewaries	Rs.755.15 Civil Court Deposit	13.11.1986	
11	213/2	2.10	2.10					
12	217/2	0.82	0.28	12/86 22.9.86	Govindaraja Naicker D.Divakar, Muthulakshmi Ammal & M/s.Mohan Breweries	Rs.217.50 Revenue Deposit	15.12.1986	S.Govindaraja Pillai & Others (Patta No.1104)

5. Batch of Writ Petitions filed challenging the land acquisition by the erstwhile owner was allowed by the learned Single Judge of this Court on 08.10.1991. The Writ Appeal in W.A.No.707 of 1995 filed by the Requisitioning authority, Tamil Nadu Housing Board against the order of the learned Single



Judge was allowed by the Division Bench of this Court on 26.07.2001 and thus,

the land acquisition proceedings in respect of land in Valasaravakkam Village attained finality.

6. After a lapse of about 42 years from the date of land acquisition proceedings, the appellant filed in WP.No.748 of 2017, on the ground that the acquisition proceedings lapsed in view of Section 24(2) of the New Land Acquisition of the year 2013. The Writ Court dismissed the Writ Petition, recording the facts relating to the acquisition proceedings and formed an opinion that the claim of the appellant is stale. Thus, the present Writ Appeal came to be instituted.

7. Learned counsel for the appellant would mainly contend that the possession still remains with the appellant. Admittedly, the appellant is the subsequent purchaser purchased the land after 4(1) notification issued by the Government under the Land Acquisition Act. The Housing Board project is dropped, and the possession is presently with the petitioner. The Distilleries



Company is running in the name of M/s.Mohan Breweries and Distilleries

Limited. As per the Government Order issued in G.O.Ms.No.180, Housing

Board, dated 04.10.2024, the petitioners are also eligible to avail the benefit for

re-conveyance of the acquired land. Therefore, the appellant is entitled for the

relief.

8. Learned Additional Advocate General appearing on behalf of the State would oppose by stating that the claim of the appellant is stale. The 4(1) notification under the Old Act was issued in 1975, and the award was passed in 1986. The possession was taken and handed over to the Tamil Nadu Housing Board by the Land Acquisition Officer, and the compensation amount was deposited in the Civil Court deposit. Therefore, the twin conditions contemplated under Section 24(2) of the New Land Acquisition Act had been complied and thus, the learned Single Judge has rightly dismissed the Writ Petition.

9. Section 44(A) of the Land Acquisition Act, 1894 provides



restriction on transfer etc and reads as under,

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“No Company for which any land is acquired under this Part shall be entitled to transfer the said land or any part thereof by sale, mortgage, gift, lease or otherwise except with the previous sanction of the appropriate Government.”

10. In view of the express bar imposed under Section 16(A) of the Land Acquisition Act, the subsequent purchase of the property under land acquisition is null and void. Consequently, the purchase of the subject property by the petitioner is rendered invalid.

11. In respect of Section 24(2) of the New Land Acquisition Act, in the present case, even as per the counter filed by the State in the Writ Proceeding, the Civil Court deposit was made, and particulars are clearly given. Though possession was taken and handed over to the Tamil Nadu Housing Board, the petitioner's claim of being in possession cannot be construed as legal possession, but rather amounts to an encroachment of the property belonging to the Tamil Nadu Housing Board, which is the requisitioning body.



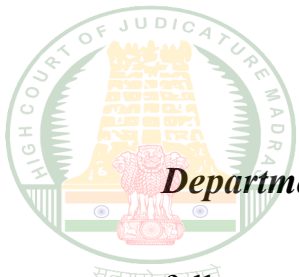
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12. As per the ratio laid down by the Constitution Bench of the Hon'ble Supreme Court of India in the case of *Indore Development Authority Vs. Manoharlal And Others*¹, settled cases cannot be reopened after the lapse of many years. It is sufficient if any one of the conditions contemplated under Section 24(2) of the New Land Acquisition Act has been applied with.

13. Regarding the compensation, it was deposited in the Civil Court deposit. As for the possession of a subsequent purchaser, it amounts to an encroachment of public property. Therefore, a subsequent purchaser, whose purchase is expressly barred under Section 16(A) of the Old Land Acquisition Act, cannot claim to the benefit of Section 24(2) of the New Land Acquisition Act.

14. Regarding the claim of the petitioner, who is a subsequent purchaser and purchase of the property barred under Section 16(A) of the Old Act, the Hon'ble Supreme Court of India in the case of *Land and Building*

¹ 2020 (8) SCC 129



Department through Secretary and Another Vs Attro Devi and Others² held as

follows,

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“12.....The vesting of land with the State is with possession. Any person retaining the possession thereafter has to be treated trespasser. When large chunk of land is acquired, the State is not supposed to put some person or police force to retain the possession and start cultivating on the land till it is utilized. The Government is also not supposed to start residing or physically occupying the same once process of the acquisition is complete. If after the process of acquisition is complete and land vest in the State free from all encumbrances with possession, any person retaining the land or any re-entry made by any person is nothing else but trespass on the State land....”

15. Therefore, the case of the petitioner is not falling within the ambit of the conditions stipulated under Section 24(2) of the New Land Acquisition Act. The occupation of the petitioner is illegal, and the respondents are bound to initiate all appropriate actions to remove the encroachers and utilize the land for the purpose for which it was acquired or for any other public purpose, subject to obtaining necessary orders from the Government.



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16. Consequently, the Writ Appeal stands dismissed. No costs.

Consequently, the connected Miscellaneous Petition is closed. Post the matter

on 21.04.2025 under the caption 'for reporting compliance'.

(S.M.SUBRAMANIAM J.)(K.RAJASEKAR J.)

20-03-2025

gd

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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