



WEB COPY



WP.Nos.1955 of 2011 &
13157 of 2015

In the High Court of Judicature at Madras

Reserved on 05.3.2025	Delivered on : 12.3.2025
---------------------------------	------------------------------------

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition Nos.1955 of 2011 & 13157 of 2015 &
MP.Nos.2 and 3 of 2011 and 1 of 2012

W.P.No.1955 of 2011 :

- 1.K.Subramaniam (deceased)
- 2.K.Eswaran
- 3.K.Pavayee
- 4.K.Palaniammal (deceased)
- 5.Senthil
- 6.Rani

(P2 to P4 were substituted as
legal heirs of the deceased P1
as per order dated 28.4.2018
in WMP.No.3527 of 2017)

(P5 & P6 were substituted as
legal heirs of deceased P4 vide
order dated 22.9.2021 in WMP.
No.21712 of 2021 by GKIJ)

...Petitioners

Vs

- 1.State of Tamil Nadu, rep.by
its Secretary to Government,
Housing & Urban Development
Department, Fort St.George,
Chennai-9.

- 2.The Special Tahsildar, Land
Acquisition, Neighbourhood



WP.Nos.1955 of 2011 &
13157 of 2015

- Scheme, Namakkal.
- 3.The Tamil Nadu Housing Board, rep.by its Chairman, Anna Salai, Chennai-35.
- 4.The Executive Engineer & Administrative Officer, Tamil Nadu Housing Board, Salem Housing Units, Salem-8.

...Respondents

W.P.No.13157 of 2015 :

- 1.K.Eswaran
2.K.Pavayee
3.K.Palaniammal (deceased)
4.Senthil
5.Rani

(P4 & P5 were substituted as legal heirs of the deceased P3 vide order dated 22.9.2021 in WMP.No.21716 of 2021 by GKIJ)

...Petitioners

Vs

- 1.The Secretary to Government, Housing & Urban Development Department, Fort St.George, Chennai-9.
- 2.The Chairman, Tamil Nadu Housing Board, Nandanam, Chennai-2.
- 3.The Executive Engineer & Administrative Officer, Tamil Nadu Housing Board, Salem Housing Units, Salem-8.

...Respondents



WEB COPY



*WP.Nos.1955 of 2011 &
13157 of 2015*



*WP.Nos.1955 of 2011 &
13157 of 2015*

WEB COPY

PETITIONS under Article 226 of The Constitution of India praying
for the issuance of

(i) a Writ of Certiorarified Mandamus to call for the records comprised in the sale notice dated 19.12.2010 published in Dhina Thanthi Newspaper in respect of sale of vacant housing plots in Namakkal Neighbourhood Scheme Part III alone, quash the same and consequently direct the respondents to exempt 90 cents of lands acquired from the petitioner in Survey Nos.35/1, 35/2, 36/4 and 47/5 of Kondichettipatti Village, Namakkal Taluk and District and re-convey the same to the petitioner (WP.No.1955 of 2011); and

(ii) a Writ of Declaration declaring that the entire land acquisition proceedings initiated under the Land Acquisition Act, 1894 in respect of the lands belonging to the petitioner measuring 9.40 acres comprised in S.No.35/1, S.No.35/2 & S.No.36/4 of Kondichettipatti Village, Namakkal Taluk and District as lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (WP.No.13157 of 2015).

For Petitioners 2, 3, 5 & 6
in WP.No.1955 of 2011 &
Petitioners 1, 2, 4 & 5 in
WP.No.13157 of 2015

: Mr.V.Janarthanan
assisted by
Mr.B.Nithishkumar



WP.Nos.1955 of 2011 &
13157 of 2015

WEB COPY

For State

: Mr.A.Selvendran, SGP

For TNHB

: Mr.C.Kalaichelvan,
Standing Counsel

COMMON ORDER

W.P.No.1955 of 2011 has been filed challenging the sale notice dated 19.12.2010 published in Dinathandhi newspaper for the sale of vacant housing plots in Namakkal Neighbourhood Scheme Phase III and for a consequential direction to exempt 90 cents of land acquired from the first petitioner in Survey Nos.35/1, 35/2, 36/4 and 47/5 of Kondichettipatti Village, Namakkal Taluk and District and to re-convey the same to the first petitioner.

2. W.P.No.13157 of 2015 has been filed for the issuance of a Writ of Declaration to declare that the entire land acquisition proceedings under the Land Acquisition Act, 1894 (for short, the Old Act) in respect of the lands belonging to petitioners 1 to 3 measuring 9.40 acres comprised in S.Nos.35/1, 35/2 & 36/4 of Kondichettipatti Village, Namakkal Taluk and District as lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (for brevity, the New Act).



*WP.Nos.1955 of 2011 &
13157 of 2015*

WEB COPY

3. During the pendency of the writ petitions, Mr.K.Subramaniam - the original petitioner in W.P.No.1955 of 2011 and Mrs.K. Palaniammal - the third petitioner in W.P.No.13157 of 2015 died and their legal heirs were brought on record subsequently.

4. Heard the learned counsel appearing on behalf of the surviving petitioners, the learned Special Government Pleader appearing for the State and the learned Standing Counsel appearing for the Tamil Nadu Housing Board (TNHB).

5. The case of the petitioners is as follows :

(i) The acquisition proceedings were initiated under the Old Act by issuing a Notification under Section 4(1) of the Old Act dated 04.2.1983. The said Notification came to be challenged by filing W.P.No.759 of 1986 before this Court by one Mr.Karuppa Gounder, who was the original owner of the property. The said writ petition came to be dismissed by a learned Single Judge of this Court by order dated 28.3.1994 and it was confirmed by a Division Bench of this Court by judgment dated 27.9.1994 in W.A.No.1239 of 1994.

(ii) The very same Notification dated 04.2.1983 issued under Section 4(1) and the Declaration dated 23.8.1985 under Section 6 of



WP.Nos.1955 of 2011 &
13157 of 2015

the Old Act came to be challenged by the erstwhile owner - one Mr.Subramani by filing W.P.No.17436 of 1995 and it was also dismissed by a learned Single Judge of this Court by order dated 17.10.2001.

(iii) In the meantime, the respondents proceeded to pass an award dated 26.9.1988 in Award No.4/1988-89. Two of the petitioners namely Mr.K.Eswaran and Mrs.K.Pavayee filed W.P.No.5916 of 1998 seeking to direct the Government to dispose of their representation dated 30.3.1998 for exclusion of their land from acquisition. This writ petition was disposed of by a learned Single Judge of this Court by order dated 24.4.1998 directing the Government to dispose of the said representation dated 30.3.1998 within a period of six months. Ultimately, the said representation dated 30.3.1998 came to be rejected by the Government by order dated 13.12.1999.

(iv) The said order dated 13.12.1999 was put to challenge by the said Mrs.Pavayee filing W.P.No.10454 of 2001 and it was disposed of by a learned Single Judge of this Court by order dated 11.6.2001 in the following terms :

"3. Learned counsel for the petitioner now contends that though the petitioner sought for exemption to an extent of 5.40 acres, having regard to the consideration of the respondents



WEB COPY



WP.Nos.1955 of 2011 &
13157 of 2015

relating to the adjacent land owner, namely one Palanisamy, whose lands were also acquired under the very same Notification, which was situated in S.No.34/2 to an extent of 2.17 acres, the said Palanisamy got his dwelling house and appurtenant areas where the well fitted with 5 H.P. motor was exempted from the acquisition proceedings, similar exemption can be granted to the petitioner as well.

4. In view of the said position, the petitioner would contend that similar such exemption may also be granted in favour of the petitioner restricting to the area covered by the dwelling house, in which, she is living with the area providing water supply for domestic purposes. In other words, the petitioner, though sought for exemption of larger extent of 5.40 acres, which was rightly rejected by the respondents in the communication dated 13.12.1999, the petitioner wants to restrict her claim for exemption to a very limited extent of few cents covering her dwelling house along with water sources appurtenant to it.

5. Taking into account of the fact that the very purpose of acquisition was for providing house sites and the petitioner being prepared to restrict her claim for the land covering her dwelling house, I feel that if the petitioner makes a representation restricting her claim for exemption in respect of the area covered by her dwelling house along with appurtenant water resources, such a representation could be considered by the



WEB COPY



WP.Nos.1955 of 2011 &
13157 of 2015

respondents on its own merits.

6. Accordingly, while dismissing the writ petition, the petitioner is permitted to approach the respondents, seeking for an exemption as mentioned above restricting her claim to the limited extent and on such representation being made, the first respondent shall consider and dispose of the said representation on merits and pass appropriate orders."

(v) Pursuant to the said order dated 11.6.2001, the claim made by the petitioners was rejected by the Government through letter dated 20.9.2002. Thereafter, steps were taken by the TNHB to sell the vacant plots available in the Namakkal Neighbourhood Scheme Phase III. The same has been put to challenge in W.P.No.1955 of 2011 by Mr.K.Subramaniam - the original petitioner. He also sought for a direction to exempt 90 cents of land acquired and to re-convey the same to him.

(vi) When W.P.No.1955 of 2011 is pending, W.P.No.13157 of 2015 has been filed by the said Mr.K.Eswaran, the said Mrs.K.Pavayee along with one Mrs.K.Palaniammal seeking to declare the acquisition proceedings as lapsed in view of Section 24(2) of the New Act.

6. A counter has been filed by the TNHB in both the writ petitions. In W.P.No.1955 of 2011, the TNHB took a stand that after



*WP.Nos.1955 of 2011 &
13157 of 2015*

the award was passed, the possession was taken over on 21.1.1995 and that steps were taken to construct about 60 to 80 houses under the scheme. Accordingly, they sought for dismissal of W.P.No.1955 of 2011.

7. in W.P.No.13157 of 2015, the TNHB took a stand that the award inquiry was conducted on 27.4.1988, that the petitioners participated in the award proceedings, that thereafter, the award was passed on 26.9.1988 in Award No.4/88-89 and that since the land owners did not accept the award amount, a sum of Rs.5,54,277.50 Ps was deposited into the Sub-Court, Namakkal under Sections 30 and 31 of the Old Act on 27.1.1989. They also took a stand that possession was taken over on 21.1.1995, that subsequently, a layout was prepared in the year 1996 and that tenders were called for construction of 85 houses in Phase III of the Namakkal Neighbourhood Scheme. Thus, a specific stand has been taken by the TNHB to the effect that the compensation amount was determined and deposited since the land owners refused to receive the same and that possession was already taken over. Ultimately, the TNHB sought for dismissal of W.P.No.13157 of 2015 also.



WP.Nos.1955 of 2011 &
13157 of 2015

WEB COPY

8. The main ground that was urged by the learned counsel appearing on behalf of the petitioners is that the compensation was not tendered to the land owners, that possession was not taken over in accordance with law and that therefore, the land acquisition proceedings has lapsed. To substantiate this submission, the learned counsel relied upon the following propositions :

(i) a decision rendered by me in the case of ***K.Saraswathi & another Vs. State of Tamil Nadu, rep.by its Secretary to Government & others [reported in 2021 (2) CTC 300];***

(ii) a judgment of the First Bench of this Court in the case of ***N.Devanathan Vs. State of Tamil Nadu rep.by its Secretary to Government, Housing & Urban Development Department [reported on 2024 (1) CWC 136];*** and

(iii) a decision of the Hon'ble Supreme Court in the case of ***Indore Development Authority (Lapse-5J) Vs. Manoharlal [reported in 2020 (8) SCC 129].***

9. As an alternative submission, on demurrer, the learned counsel appearing on behalf of the petitioners submitted that if this Court is not convinced with the main prayer sought for by the



WP.Nos.1955 of 2011 &
13157 of 2015

WEB COPY

petitioners and is not inclined to grant the relief of declaring the acquisition proceedings as having lapsed, at least, the respondents may be directed to redetermine the compensation under the New Act by taking the cut off date as 01.1.2014. To substantiate this submission, the learned counsel relied upon paragraphs 244 and 245 of the judgments of the Apex Court (a) in the case of **Indore Development Authority (Lapse-5J)**; and (b) in the case of **Tamil Nadu Housing Board Vs. Poovatha [Civil Appeal Nos.13256 & 13257 of 2024 dated 27.11.2024]**.

10. Per contra, the learned Special Government Pleader appearing for the State and the learned Standing Counsel appearing for the TNHB submitted that this is a clear case of abuse of process of law wherein the petitioners and the original owners were repeatedly attempting to put spokes at every stage by filing one writ petition after the other, that all their earlier writ petitions came to be dismissed by this Court, that the original owner - the said Mr.Karuppa Gounder participated during the award proceedings, that the notice was also served under Section 12(2) of the Old Act by the Collector, that possession was also taken over on 21.1.1995 and that therefore, there is no question of declaring the land acquisition proceedings as having



*WP.Nos.1955 of 2011 &
13157 of 2015*

lapsed.

WEB COPY

11. The learned Special Government Pleader appearing for the State and the learned Standing Counsel appearing for the TNHB further submitted that on the one hand, the petitioners are seeking for re-conveyance and on the other hand, they want the proceedings to be declared as lapsed, that these two claims are mutually exclusive, that the relief sought for, by itself, would clarify that possession has already been taken over, as the petitioners are asking for re-conveyance of the lands and that since the contractor has already been appointed and since he is in the process of constructing houses in the lands acquired, there is no question of even considering the request for re-conveyance of the lands acquired as was sought for in W.P.No.1955 of 2011. Accordingly, they sought for dismissal of these writ petitions.

12. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned order in W.P.No.1955 of 2011.



WP.Nos.1955 of 2011 &
13157 of 2015

WEB COPY

13. When these writ petitions came up for hearing on 24.2.2025,
this Court passed the following order :

"This court heard the learned counsel for the petitioner, the learned Special Government Pleader appearing on behalf of the first respondent and the learned Standing Counsel appearing on behalf of the Tamil Nadu Housing Board.

2. The crux of the issue involved in these writ petitions is as to whether the land acquisition proceedings has lapsed in the light of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. This court has considered the law on this issue in greater detail in the judgement "K.Saraswathi and Another -vs- State of Tamil Nadu" reported in (2021) 2 CTC 300. The learned counsel for the petitioner submitted that the possession has not been taken over in line with the requirement as stated in paragraph 16 of the above judgement. The learned counsel further submitted that there is no record to show that the owner of the property participated in the award proceedings under Section 12 and the notice under Section 12(2) was never issued to the owner of the property. In view of the same, it was contended that neither possession was taken nor the compensation was paid in line with the requirements as spelt out in the above judgment.

3. The learned Standing Counsel appearing



WEB COPY



WP.Nos.1955 of 2011 &
13157 of 2015

on behalf of the Tamil Nadu Housing Board shall produce the original records and establish before this court that the requirements at Paragraph No.16 or Paragraph No.30 was complied with. If the same is able to be established, there is no question of reopening the concluded proceedings since the earlier challenge to the acquisition proceedings were all negated by this court.

4. The learned Standing Counsel sought for some time in this regard. Post these writ petitions under the caption "part-heard cases" on 05.03.2025 at 02:15 p.m."

14. Pursuant to the said order dated 24.2.2025, the original records were placed before this Court. This Court also carefully scrutinized the records.

15. On such scrutiny, it is seen that the said Mr.Karuppa Gounder, the said Mr.K.Subramaniam, the said Mr.K.Eswaran, the said Mrs.K.Pavayee, the said Mrs.K.Palaniammal and one Mrs.Kaliyammal (a) Ettammal had participated in the award proceedings pursuant to the notice issued to them under Sections 9(1) and 10 of the Old Act. They submitted their objections. Ultimately, during the proceeding that was held on 27.4.1988, they agreed for receiving the compensation amount under protest with liberty to seek for enhancement of



*WP.Nos.1955 of 2011 &
13157 of 2015*

compensation before the court and also permitted the said Mr.Karuppa Gounder to receive the entire compensation. Thus, it is clear that the petitioners and the said Mr.Karuppa Gounder were issued with notices and had participated in the award proceedings.

16. The next document that was scrutinized by this Court is the notice issued under Section 12(2) of the Old Act. This notice has been issued only to one Mr.K.Palanisamy, who is one of the adjacent owners of the property in S.No.35/2. There is absolutely no material available in the records to show that the notice was served on the petitioners and the said Mr.Karuppa Gounder under Section 12(2) of the Old Act. Thereafter, a sum of Rs.5,47,280/- has been deposited before the Sub-Court, Namakkal and a reference has been made under Sections 30 and 31 of the Old Act. Apart from this, a sum of Rs.10 lakhs was kept in the revenue deposit. It is also seen from the records that the said Mr.Palanisamy received the compensation amount.

17. In view of the above, the question that arises for consideration is as to whether the participation in the award proceedings will suffice to satisfy the requirements of tendering the compensation amount to the land owners.



WP.Nos.1955 of 2011 &
13157 of 2015

WEB COPY

18. In the decision (rendered by me) in the case of **K.Saraswathi**, this Court went into the meaning of the expression '**tendering of compensation**' and ultimately, it was held at paragraph 30 as follows :

"It is clear from the above judgments that it is the duty of the Collector to make payment by issuing proper notice to the concerned land owner and calling him to receive the compensation amount. Unless this crucial step is followed, the land owner may not even know whether it was deposited and if so, when the amount was deposited. Even if a notified person or his representative participates in the Award proceedings, that will not amount to a presumption that he has the notice of the compensation amount being readily available for payment. That is why Section 12(2) of the 1894 Act specifically mandates issuance of such notice. If the notice is issued and thereafter, the land owner refuses to receive the compensation or does not come to the specified place to receive the compensation and the compensation amount gets deposited in a Treasury account or the Court, as the case may be, the land owner cannot be permitted to turn around at a later point of time and complain that the compensation amount was not tendered/paid to him."



WP.Nos.1955 of 2011 &
13157 of 2015

WEB COPY

19. It will also be relevant to take note of yet another decision rendered by me in the case of ***M.Palanisamy & Others Vs. State of Tamil Nadu rep.by its Secretary, Housing & Urban Development Department [reported in 2020 (7) MLJ 734]*** wherein paragraph 45 is extracted as hereunder :

"It is clear from the above judgments that it is the duty of the Collector to make payment by issuing proper notice to the concerned land owner and calling him to receive the compensation amount. Unless this crucial step is followed, the land owner may not even know whether it was deposited and if so, when the amount was deposited. Even if a notified person or his representative participates in the Award proceedings, that will not amount to a presumption that he has the notice of the compensation amount being readily available for payment. That is why Section 12(2) of the 1894 Act specifically mandates issuance of such notice. If the notice is issued and thereafter, the land owner refuses to receive the compensation or does not come to the specified place to receive the compensation and the compensation amount gets deposited in a Treasury account or the Court, as the case may be, the land owner cannot be permitted to turn around at a later point of time and complain that the compensation amount was not tendered / paid to him."



WP.Nos.1955 of 2011 &
13157 of 2015

WEB COPY

20. The decision rendered by me in the case of **M.Palanisamy** was subsequently confirmed by a Division Bench of this Court in the decision in the case of **N.Devanathan**.

21. All the above judgments were delivered based on the judgment of the Constitution Bench of the Hon'ble Apex Court in the case of **Indore Development Authority (Lapse-5J)**.

22. The ratio laid down in the above judgments is that it is the duty of the District Collector to make payment of compensation by issuing proper notice to the concerned land owner and calling upon him to receive the compensation amount. If this requirement is not fulfilled, even if a notified person or his representative participates in the award proceedings, that will not give rise to a presumption that he has the notice of the compensation being readily available for payment. Once such a notice is given under Section 12(2) of the Old Act and the compensation amount is refused to be received, it will be left open to the Authorities to deposit the same into the treasury account or before the court, as the case may be.



*WP.Nos.1955 of 2011 &
13157 of 2015*

WEB COPY

23. In the case in hand, even though the land owners participated in the award proceedings, there is absolutely no material available in the original records to substantiate that the notice was issued to them by the District Collector under Section 12(2) of the Old Act. What is available is the notice that was issued to the said Mr.Palanisamy, who is the adjacent land owner. In the light of this finding, this Court must hold that the compensation amount has not been tendered to the land owner.

24. The next issue to be gone into is as to whether possession was taken over in accordance with the procedure by drawing a panchanama since, admittedly, the properties in question were vacant lands. There is no material available in the original records to establish that a panchanama was drawn while taking over possession of the properties.

25. The issue regarding possession cannot be decided merely on the above finding that there is no material available in the original records for having prepared a panchanama for taking over possession. This is in view of the fact that the owners of the properties were knocking the doors of this Court seeking for excluding the lands from



*WP.Nos.1955 of 2011 &
13157 of 2015*

the acquisition proceedings. This relief was sought for on the ground that the adjacent lands were exempted. This request made by the land owner was rejected and when the same was put to challenge before this Court by filing W.P.No.10454 of 2001 by one of the petitioners namely the said Mrs.Pavayee, it was dismissed by order dated 11.6.2001 permitting her to seek for exemption to a limited extent of land where she put up a dwelling house. However, this request also came to be rejected subsequently.

26. In W.P.No.1955 of 2011, while challenging the sale notice issued by the TNHB, the petitioner actually sought for the re-conveyance of the properties acquired at least to an extent of 90 cents. At one stage, the land owners themselves understood and claimed for the re-conveyance of the lands on the ground that they were not utilized. If the land owners are seeking for re-conveyance of the lands, that would only mean that possession has been taken over by the TNHB. In spite of it, if they managed to be in possession of the properties, they can be termed only as 'trespassers'.

27. The fact that possession has been taken over is further substantiated by the fact that the TNHB entered into an agreement



*WP.Nos.1955 of 2011 &
13157 of 2015*

with M/s.Annamar & Co. for construction of houses at Phase III of the Namakkal Neighbourhood Scheme. This agreement was entered into on 05.3.1998. Possession of the site was also handed over to the construction company on 25.10.2000 and they started the work. In the meantime, there was a dispute regarding the loss suffered by the contractor after he reached the basement level and he was forced to stop the construction as the TNHB failed to supply cement and steel as was agreed. The dispute was referred to the sole Arbitrator, who passed the award on 03.11.2017 and this award was also stated to have been confirmed in the proceedings initiated under Section 34 of the Arbitration and Conciliation Act, 1996.

28. In the light of the above discussions, this Court holds that possession was taken over by the TNHB. As a consequence, since the twin requirements have not been satisfied as was held by the Hon'ble Supreme Court, this Court cannot declare the acquisition proceedings as lapsed under Section 24(2) of the New Act.

29. This Court will now proceed to deal with the alternative submission made by the learned counsel appearing on behalf of the petitioners seeking for redetermination of the compensation under the



WP.Nos.1955 of 2011 &
13157 of 2015

New Act by taking into consideration the cut off date as 01.1.2014.

This Court has already held that the compensation amount has not been tendered to the land owners since the mandatory requirement under Section 12(2) of the Old Act has not been fulfilled. In view of the same, the issue to be considered is as to whether a direction must be issued to the respondents to redetermine the compensation in accordance with the New Act by taking the cut off date as 01.1.2014.

30. The Constitution Bench of the Hon'ble Apex Court, in the case of **Indore Development Authority (Lapse-5J)**, held at paragraphs 244 and 245 as follows :

"244. The proviso to Section 24(2) of the 2013 Act, intends that the Collector would have sufficient funds to deposit it with respect to the majority of landholdings. In case compensation has not been paid or deposited with respect to majority of land holdings, all the beneficiaries are entitled for higher compensation. In case money has not been deposited with the Land Acquisition Collector or in the treasury or in court with respect to majority of landholdings, the consequence has to follow of higher compensation as per proviso to Section 24(2) of the Act of 2013. Even otherwise, if deposit in treasury is irregular, then the interest would follow as envisaged under Section 34 of Act



WEB COPY



WP.Nos.1955 of 2011 &
13157 of 2015

of 1894. Section 24(2) is attracted if acquisition proceeding is not completed within 5 years after the pronouncement of award. Parliament considered the period of 5 years as reasonable time to complete the acquisition proceedings i.e., taking physical possession of the land and payment of compensation. It is the clear intent of the Act of 2013, that provision of Section 24(2) shall apply to the proceeding which is pending as on the date on which the 2013 Act has been brought into force and it does not apply to the concluded proceedings. It was urged before us by one of the Counsel that lands in the Raisina Hills and Lutyens' Zones of Delhi were acquired in 1913 and compensation has not been paid. The 2013 Act applies only to the pending proceedings in which possession has not been taken or compensation has not paid and not to a case where proceedings have been concluded long back, Section 24(2) is not a tool to revive those proceedings and to question the validity of taking acquisition proceedings due to which possession in 1960s, 1970s, 1980s were taken, or to question the manner of deposit of amount in the treasury. The 2013 Act never intended revival such claims. In case such landowners were interested in questioning the proceedings of taking possession or mode of deposit with the treasury, such a challenge was permissible within the time available with them to do so. They cannot wake from deep slumber and raise such claims in order to defeat



WEB COPY



WP.Nos.1955 of 2011 &
13157 of 2015

the acquisition validly made. In our opinion, the law never contemplates -nor permits- misuse much less gross abuse of its provisions to reopen all the acquisitions made after 1984, and it is the duty of the court to examine the details of such claims. There are several litigations before us where landowners, having lost the challenge to the validity of acquisition proceedings and after having sought enhancement of the amount in the reference succeeding in it nevertheless are seeking relief arguing about lapse of acquisition after several rounds of litigation.

245. The expression used in Section 24(1)(b) is 'where an award under Section 11 has been made', then 'such proceedings shall continue' under the provisions of the said Act of 1894 as if the said Act has not been repealed'. The expression "proceedings shall continue" indicates that proceedings are pending at the time; it is a present perfect tense and envisages that proceedings must be pending as on the date on which the Act of 2013 came into force. It does not apply to concluded proceedings before the Collector after which it becomes functus officio. Section 24 of the 2013 Act, does not confer benefit in the concluded proceedings, of which legality if question has to be seen in the appropriate proceedings. It is only in the pending proceedings where award has been passed and possession has not been taken nor compensation has been paid, it



WEB COPY



WP.Nos.1955 of 2011 &
13157 of 2015

is applicable. There is no lapse in case possession has been taken, but amount has not been deposited with respect to majority of land holdings in a pending proceeding, higher compensation under the 2013 Act would follow under the proviso to Section 24(2). Thus, the provision is not applicable to any other case in which higher compensation has been sought by way of seeking a reference under the Act of 1894 or where the validity of the acquisition proceedings have been questioned, though they have been concluded. Such case has to be decided on their own merits and the provisions of Section 24(2) are not applicable to such cases."

31. On carefully going through the above extracted paragraphs, it is clear that where the amount has not been deposited or paid with respect to the land holding, the beneficiaries will be entitled for a higher compensation as per the Proviso to Section 24(2) of the New Act.

32. The Proviso to Section 24(2) of the New Act intends that where an award has been made and compensation, in respect of majority of the land holdings, has not been deposited into the accounts of the beneficiaries, then all the beneficiaries specified in the



WP.Nos.1955 of 2011 &
13157 of 2015

Notification shall be entitled to compensation in accordance with the New Act. The Apex Court made it clear that this provision will not be applicable to any other case, in which, higher compensation has been sought for by way of a reference or where the validity of the acquisition proceedings has been questioned, though it has concluded.

33. The original owner of the property acquired as well as the erstwhile owner had questioned the acquisition proceedings by challenging the Notification issued under Section 4(1) of the Old Act and those writ petitions were dismissed. Once again, the petitioners have challenged the acquisition proceedings on the ground that it has lapsed in view of Section 24(2) of the New Act. It is not a case of non deposit of the compensation amount to a majority of the land holdings. The case in hand is an isolated case where the concerned land owners alone have approached this Court. Therefore, the petitioners cannot seek for redetermination of the compensation under the New Act as they do not satisfy the requirements as was enunciated by the Apex Court in the case of **Indore Development Authority**. For all purposes, the acquisition proceedings have come to an end under the Old Act and the writ petitions, in which, such acquisition proceedings, have been put to challenge, were rejected and there is no question of



WP.Nos.1955 of 2011 &
13157 of 2015

directing the respondents to redetermine the compensation under the New Act. Such a claim made on the side of the petitioners is wholly unsustainable and is hereby rejected.

34. In the result, both the writ petitions are dismissed. No costs. Consequently, the connected MPs are also dismissed.

12.3.2025

Index : Yes
Neutral Citation : Yes

To

- 1.State of Tamil Nadu, rep.by its Secretary to Government, Housing & Urban Development Department, Fort St.George, Chennai-9.
- 2.The Special Tahsildar, Land Acquisition, Neighbourhood Scheme, Namakkal.
- 3.The Tamil Nadu Housing Board, rep.by its Chairman, Anna Salai, Chennai-35.
- 4.The Executive Engineer & Administrative Officer, Tamil Nadu Housing Board, Salem Housing Units, Salem-8.

RS



WEB COPY



*WP.Nos.1955 of 2011 &
13157 of 2015*

N.ANAND VENKATESH,J

RS

W.P.Nos.1955 of 2011
& 13157 of 2015 &
MP.Nos.2 & 3 of 2011
and 1 of 2012

12.3.2025