



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-03-2025

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

WA No. 352 of 2025

M.Kishanlal
S/o.Mohanlal, No.12-B, Anna Nagar
Street, Manavalan Nagar, Thiruvallur,
Thiruvallur District.

Appellant(s)

Vs

1. The Secretary,
Government of Tamil Nadu,
Revenue Department, Fort St. George,
Chennai-9.

2.The District Collector,
Thiruvallur District.

3.The Revenue Divisional Officer
(Land Acquisition), Nehru Road,
Thiruvallur.



4. The Tahsildar,
Thiruvallur Taluk, Jawaharlal Nehru
Road, Thiruvallur.

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Respondent(s)

PRAYER Writ Appeal filed under Clause 15 of the Letters Patent Act, to set aside the order dated 30.03.2022 in W.P.No.17594 of 2014.

For Appellant(s): Mr.G.Mutharasu
for Mr.M.Balasubramanian

For Respondent(s): Mr.A.Selvendran
Special Government Pleader for
R1 to R4

ORDER

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

Under assail is the order dated 30.03.2022 passed in W.P.No.17594 of 2014.

2. The writ petitioner is the appellant before this Court.
3. The writ petition has been instituted to declare the land acquisition proceedings issued under Section 4(1) of the Old Land Acquisition Act as null



and void and further to declare the acquisition proceedings lapsed by virtue of

Section 24 (2) of the New Act 30 of 2013.

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4. Writ Court dismissed the writ petition. Thus, the present appeal.

5. The learned Counsel appearing on behalf of the appellant would mainly contend that the appellant is in possession and compensation had not been deposited. By virtue of an interim order passed in writ proceedings, the claim of the appellant to declare the land acquisition proceedings lapsed is to be considered. The learned single Judge since not considered these aspects, the present writ appeal has been instituted.

6. The learned Special Government Pleader appearing on behalf of the respondents 1 to 4 would oppose by stating that the issues were elaborately considered in the previous writ petitions. The present claim made by the appellant is stale and therefore, to be rejected. Possession was taken long back.

Government Offices are constructed and the award was passed. Thus, the writ



Court has rightly rejected the claim.

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7. The undisputed facts remained that Section 4(1) notification was issued on 12.06.1998 and award was passed on 28.06.1999.

8. The petitioner filed W.P.No.20663 of 1998 challenging the land acquisition proceedings. This Court dismissed the writ petition on 19.02.2002. In paragraph no. 4 of the said order, this Court made a finding that after issuance of notification under Section 4 (1) of the Land Acquisition Act, the Government felt that it is very urgent to complete the acquisition proceedings at the earliest point of time as such the respondents (Official Respondents) thought fit to invoke Section 17 (1) of the Act. Subsequently, the declaration under Section 6 of the Act was made as per G.O.Ms.No.539, Revenue Department dated 23.06.1998, which was also published in the Tamil Dailies "Malai Malar" on 04.07.1998 and in "Theekadhir" on 05.07.1998. Notices were issued under Section 9 and 10 of the Act fixing the award enquiry on 03.11.1998. But the appellant do not participate in the enquiry. Therefore 80% of the award was



deposited by the Official Respondents to the credit of the appellant in Tiruvallur

Treasury on 23.12.1998 and thereafter possession was taken on the same date

i.e., on 23.12.1998. Subsequently the appellant has sent a letter to the District

Collector opposing the acquisition proceedings and the Collector issued a reply

notice stating the above facts to the appellant.

9. Thus, the writ order passed by this Court on 19.02.2002 in W.P.No.20663 of 1998 reveals that the acquisition proceedings have completed.

Urgent provisions were invoked. Possession was taken and the award amount was deposited in Tiruvallur Treasury on 23.12.1998.

10. After the above Judgment of this Court, the appellant filed a Review Petition in Review Appl.No.10 of 2002. The Review Petition was dismissed on 26.04.2002.

11. The appellant again filed W.P.No.28738 of 2004. In the said writ petition, an interim order not to disturb the appellant was granted. The Official



Respondents filed a detailed counter affidavit in the said writ petition on 21.01.2013. In the said counter affidavit also the facts recorded by this Court in order dated 19.02.2002 has been reiterated. The dismissal of W.P.No.20663 of 1998 also has been stated by the respondents in the counter affidavit.

12. Taking note of the facts, the writ court has dismissed W.P.No.28738 of 2004 on 12.06.2013 and the relevant paragraphs are extracted hereunder:

"7. So far as the validity of the notification issued earlier under Section 4(1) of the Land Acquisition Act, this Court has affirmed the same by order dated 19.02.2002 in W.P.No.20663 of 1998 and therefore, the same cannot be reopened. In this Writ Petition, the petitioner has not challenged the award passed by the respondents on any ground. This is a simple Writ Petition for a mandamus to declare that the entire land acquisition proceedings have lapsed in view of the limitation provided in Section 11-A of the Land Acquisition Act. Therefore, the only question to be decided on facts in this Writ Petition is as to whether any award was passed within two years from the date of publication of the declaration under Section 6 of the Land Acquisition Act. Admittedly, the amended declaration in this case was published on 24.07.1998 and the award was passed on 19.07.2000. This is well within the period of two years of limitation provided under Section 11-A of the Land Acquisition Act. Thus,



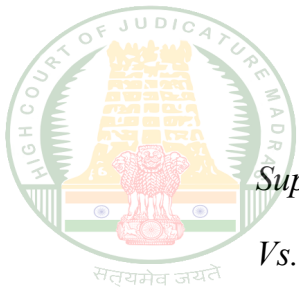
the land acquisition proceedings have not lapsed at all as it is contended by the learned counsel for the petitioner.

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8. *The learned counsel for the petitioner would nextly contend that actual possession of the land has not been taken and only symbolic possession has been taken by the respondents. In my considered opinion, the question as to whether actual possession was taken or symbolic possession was taken, is irrelevant for deciding the issues involved in this writ petition. The said question would be relevant if only the maintainability of the writ petition is under challenge. As per the settled law, if physical possession of the land has been taken, then only the acquisition cannot be challenged after the award. But, that is not the objection raised in this writ petition by the respondents. Therefore, that question does not require any consideration at all."*

13. The appellant preferred writ appeal in W.A.No.2432 of 2013. The Division Bench of this Court dismissed the writ appeal on 19.12.2013 and the relevant paragraphs are extracted hereunder:

"7. *The factual matrix indicates that the Government resorted to urgency clause under Section 17 of the Act. The Government have already taken possession of the land by depositing 80% of the compensation. It was only thereafter, the award was passed. The*



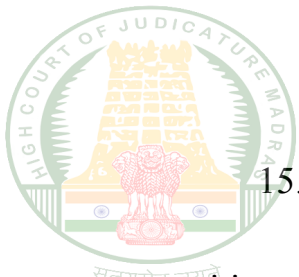
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Supreme Court in 1996 (6) SCC 424 (Allahabad Development Authority Vs. Naziruzzaman) by following the earlier judgments in 1995 (6) SCC 31 at 38 (Awadh Bihari Yadav & Ors. etc. Vs. State of Bihar & Ors), 1971 (1) SCR 413 (Lt. Governor of H.P. Vs. Avinash Sharma, Municipal Committee), 1969 (3) SCR 447 at 454 (Amritsar & Anr. Vs. State of Punjab & Ors) and 1993 (4) SCC 369 (Satendra Prasad Jain & Ors. Vs. State of U.P. & Ors), held that Section 11-A would not apply to cases of acquisition under Section 17 of the Land Acquisition Act, where possession has already been taken and the land stood vested in the State.

8. *In view of the binding Judgment, the issue raised by the appellant was rightly answered by the learned Single Judge. We do not find any error or illegality in the order passed by the learned single Judge warranting interference in this intra-court appeal."*

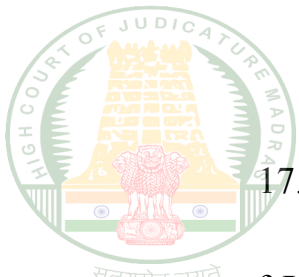
Thus, the validity of the acquisition reached finality.

14. After dismissal of the writ appeal on 19.12.2013, again the appellant have restarted the litigation by filing a fresh writ petition in W.P.No.17594 of 2014, after the new Land Acquisition Act was notified. The said writ petition was filed mainly under Section 24(2) of the New Act. The writ Court has considered the facts and circumstances and dismissed the writ petition on 30.03.2022.



15. The only question is to be considered is whether the appellant / petitioner is entitled for the relief under Section 24 (2) of the New Land Acquisition Act.

16. As far as the compliance of twin conditions contemplated, even in the first writ order passed by the learned single Judge in W.P.No.20663 of 1993 dated 19.01.2002, has recorded that award was passed. Possession was taken by the Government by invoking Section 17(1) of the Act (emergency clause) and the award amount was deposited in Tiruvallur Treasury on 23.12.1998. It is made clear that the possession was taken by the Government in the year 1998 itself. Thus, the land absolutely vest with the Government. It is brought to the notice of this Court that Government Offices are constructed in a portion of the land and remaining portions are kept vacant for future developments. Therefore, by citing the balance vacant land, the appellant / petitioner cannot claim that the land acquired has not been utilised. It is made clear that the Government Offices have been constructed in a portion of the land.



17. The learned Counsel for the appellant relied on the Judgment in the case of *Indore Development Authority* and other cases.

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18. The Apex Court consistently held that the conditions stipulated under Section 24(2) of the New Act is to be established. In absence, an erstwhile owner is not entitled for the relief for declaration and the land acquisition proceedings become lapsed.

19. In the present case, the appellant has not established that he is entitled for the relief under Section 24 (2) of the New Act. Therefore, the subsequent claim is to be construed as stale and barred. Thus, this Court do not find any infirmity in respect of the writ order impugned.



Accordingly, the Writ Appeal stands **dismissed**. No costs. Consequently,

connected miscellaneous petition is closed.

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

05-03-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

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