

W.P.Nos. 34558, 34569 of 2023, 12221, 12223 & 12219 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 31.01.2025

DELIVERED ON : 29.04.2025

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.Nos.34558, 34569 of 2023, 12221, 12223 & 12219 of 2024
and
W.M.P.Nos.34477, 34484 of 2023, 13313, 13318, 13320, 13321,
13322 & 13323 of 2024

[W.P.No.34558 of 2023]

1.Krishnammal

2.Sivasundaravadivelan

3.Sakunthala

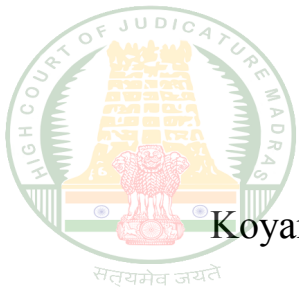
4.Varma Constructions Private Limited
Rep. By Its Managing Director, P.Vijayarman,
68, Kitchipalayam Main Road,
Vijay Towers, Salem-636 001.

... Petitioners

Vs.

1.The Secretary To Government
Housing And Urban Development Department, Fort St.George,
Chennai-600 009.

2.The Managing Director
Tamil Nadu Housing Board, CMDA Complex, E And C Market Road,



Koyambedu, Chennai 600 107.

3. The Executive Engineer And Administrative Officer
Administrative Officer, Tamil Nadu Housing Board, Salem Housing
Unit, Ayyanthirumaligai Main Road, Salem-636 008.

4. Special Tahsildar (L.A.)
Neighbourhood Scheme, Salem-636 008.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Declaration to declare that the acquisition proceedings of the respondents in respect of Award No. 4/88-89 dated 24.12.1988 for Survey No. 81/2C, admeasuring 0.37 acres and Survey No. 81/2G, admeasuring 0.65 acres, totally 1.02 acres as lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013).

For Petitioner : M/s.Shankar Narayanan,
Senior Counsel for M/s.Aarthi Rao

For Respondents :
(for R1 & R4) : M/s.P.S.Raman, Advocate General
Assisted by M/s.A Selvendran,
Special Government Pleader
for M/s/Row & Reddy

(for R2 & R3) : M/s.M.K.Kabir, Senior Counsel
for M/s.C.Kalaichelvan



W.P.Nos. 34558, 34569 of 2023, 12221, 12223 & 12219 of 2024

WEB CO **[W.P.No.34569 of 2023]**

1.M.Thangarajan

2.K.M.Ponnam Poosari

3.M.Shanmugam

4.Varma Constructions Private Limited

Rep. By Its Managing Director,

P.Vijayavarman,

"Vijay Towers"

68, Kitchipalayam Main Road,

Vijay Towers, Salem-636 001.

... Petitioners

Vs.

1.The Secretary To Government

Housing And Urban Development Department, Fort St.George,

Chennai-600 009.

2.The Managing Director

Tamil Nadu Housing Board, CMDA Complex, E And C Market Road,

Koyambedu, Chennai 600 107.

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Administrative Officer, Tamil Nadu Housing Board, Salem Housing

Unit, Ayyanthirumaligai Main Road, Salem-636 008.

4.Special Tahsildar (L.A.)

Neighbourhood Scheme, Salem-636 008.

... Respondents



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Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Declaration to declare that the acquisition proceedings of the respondents in respect of Award No.4/88-89 dated 24.12.1988 for Survey No. 81/2A, admeasuring 2.42 as lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013).

For Petitioner : M/s.Shankar Narayanan,
Senior Counsel for M/s.Aarthi Rao

For Respondents :
(for R1 &. R4) : M/s.P.S.Raman, Advocate General
Assisted by M/s.A Selvendran,
Special Government Pleader
for M/s/Row & Reddy

(for R2 & R3) : M/s.M.K.Kabir, Senior Counsel
for M/s.C.Kalaichelvan

[W.P.No.12219 of 2024]

Varma Constructions Private Limited
Rep. By Its Managing Director,
P.Vijayavarman,
68, Kitchipalayam Main Road,
Vijay Towers, Salem-636 001.

... Petitioners

Vs.



W.P.Nos. 34558, 34569 of 2023, 12221, 12223 & 12219 of 2024

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1.The Secretary To Government

Housing And Urban Development Department, Fort St.George,
Chennai-600 009.

2.The Managing Director

Tamil Nadu Housing Board, CMDA Complex, E And C Market Road,
Koyambedu, Chennai 600 107.

3.The Executive Engineer And Administrative Officer

Administrative Officer, Tamil Nadu Housing Board, Salem Housing
Unit, Ayyanthirumaligai Main Road, Salem-636 008.

4.The Zonal Deputy

Tahsildar

Salem District and Taluka

Tamil Nadu

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus to call for the records of the 4th respondent comprised in Patta proceedings No. 2023 / 0153 / 08 / 020919TR dated 10.11.2023 passed by the 4th respondent in respect of Survey No. 81/2G admeasuring 26 ares (0.65 acres) dated 10.11.2023 and quash the same and consequently issue a mandamus forbearing the respondents, their officers, employees, subordinates or any person claiming or acting under them from in any manner interfering with the petitioners peaceful possession and



W.P.Nos. 34558, 34569 of 2023, 12221, 12223 & 12219 of 2024

enjoyment of his land admeasuring 26 Ares (0.65 acres) comprised in S.F.No. 81/2G situated in Ayyamperumalpatti Village, District Salem.

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For Petitioner : M/s.Ravi Senior Counsel
for M/s.N.P.Vijaya Kumar

For Respondents :
(for R1 & R4) : M/s.P.S.Raman, Advocate General
Assisted by M/s.A Selvendran,
Special Government Pleader
for M/s/Row & Reddy

(for R2 & R3) : M/s.M.K.Kabir, Senior Counsel
for M/s.C.Kalaichelvan

[W.P.No.12221 of 2024]

Varma Constructions Private Limited
Rep. By Its Managing Director,
P.Vijayavarman,
68, Kitchipalayam Main Road,
Vijay Towers, Salem-636 001.

... Petitioners

Vs.

1.The Secretary To Government
Housing And Urban Development Department, Fort St.George,
Chennai-600 009.

2.The Managing Director
Tamil Nadu Housing Board, CMDA Complex, E And C Market Road,
Koyambedu, Chennai 600 107.



3. The Executive Engineer And Administrative Officer
Administrative Officer, Tamil Nadu Housing Board, Salem Housing
Unit, Ayyanthirumaligai Main Road, Salem-636 008.

4. The Zonal Deputy
Tahsildar
Salem District and Taluka
Tamil Nadu

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus to call for the records of the 4th respondent comprised in Patta proceedings No. 2023 / 0153 / 08 / 020919TR dated 10.11.2023 passed by the 4th respondent in respect of Survey No. 81/2A admeasuring 98 ares (2.42 acres) dated 10.11.2023 and quash the same and consequently issue a mandamus forbearing the respondents, their officers, employees, subordinates or any person claiming or acting under them from in any manner interfering with the petitioners peaceful possession and enjoyment of his land admeasuring 98 Ares (2.42 acres) comprised in S.F.No. 81/2A situated in Ayyamperumalpatti Village, District Salem.

For Petitioner : M/s.Shankar Narayanan,
Senior Counsel for M/s.Aarthi Rao



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W.P.Nos. 34558, 34569 of 2023, 12221, 12223 & 12219 of 2024

For Respondents :
(for R1 & R4) : M/s.P.S.Raman, Advocate General
Assisted by M/s.A Selvendran,
Special Government Pleader
for M/s/Row & Reddy

(for R2 & R3) : M/s.M.K.Kabir, Senior Counsel
for M/s.C.Kalaichelvan

[W.P.No.12219 of 2024]

Varma Constructions Private Limited
Rep. By Its Managing Director,
P.Vijayavarman,
68, Kitchipalayam Main Road,
Vijay Towers, Salem-636 001.

... Petitioners

Vs.

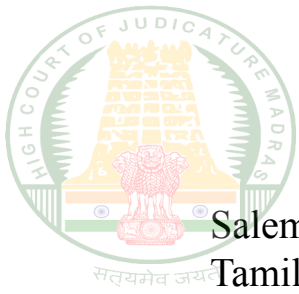
1.The Secretary To Government
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2.The Managing Director
Tamil Nadu Housing Board, CMDA Complex, E And C Market Road,
Koyambedu, Chennai 600 107.

3.The Executive Engineer And Administrative Officer
Administrative Officer, Tamil Nadu Housing Board, Salem Housing
Unit, Ayyanthirumaligai Main Road, Salem-636 008.

4.The Zonal Deputy
Tahsildar

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Salem District and Taluka
Tamil Nadu

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... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus to call for the records of the 4th respondent comprised in Patta proceedings No. 2023 / 0153 / 08 / 020919TR dated 10.11.2023 passed by the 4th respondent in respect of Survey No. 81/2C admeasuring 26 ares (0.65 acres) dated 10.11.2023 and quash the same and consequently issue a mandamus forbearing the respondents, their officers, employees, subordinates or any person claiming or acting under them from in any manner interfering with the petitioners peaceful possession and enjoyment of his land admeasuring 98 Ares (2.42 acres) comprised in S.F.No. 81/2A situated in Ayyamperumalpatti Village, District Salem.

For Petitioner : M/s.Shankar Narayanan,
Senior Counsel for M/s.Aarthi Rao

For Respondents :
(for R1 &. R4) : M/s.P.S.Raman, Advocate General
Assisted by M/s.A Selvendran,
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for M/s.C.Kalaichelvan



W.P.Nos. 34558, 34569 of 2023, 12221, 12223 & 12219 of 2024

WEB CO... **[W.P.No.12223 of 2024]**

Varma Constructions Private Limited
Rep. By Its Managing Director,
P.Vijayavarman,
68, Kitchipalayam Main Road,
Vijay Towers, Salem-636 001.

... Petitioners

Vs.

1.The Secretary To Government
Housing And Urban Development Department, Fort St.George,
Chennai-600 009.

2.The Managing Director
Tamil Nadu Housing Board, CMDA Complex, E And C Market Road,
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3.The Executive Engineer And Administrative Officer
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Unit, Ayyanthirumaligai Main Road, Salem-636 008.

4.The Zonal Deputy
Tahsildar
Salem District and Taluka
Tamil Nadu

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus to call

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for the records of the 4th respondent comprised in Patta proceedings No. 2023 / 0153 / 08 / 020919TR dated 10.11.2023 passed by the 4th respondent in respect of Survey No. 81/2A admeasuring 15 ares (0.37 acres) dated 10.11.2023 and quash the same and consequently issue a mandamus forbearing the respondents, their officers, employees, subordinates or any person claiming or acting under them from in any manner interfering with the petitioners peaceful possession and enjoyment of his land admeasuring 98 Ares (2.42 acres) comprised in S.F.No. 81/2A situated in Ayyamperumalpatti Village, District Salem.

For Petitioner : M/s.Shankar Narayanan,
Senior Counsel for M/s.Aarthi Rao

For Respondents :
(for R1 &. R4) : M/s.P.S.Raman, Advocate General
Assisted by M/s.A Selvendran,
Special Government Pleader
for M/s/Row & Reddy

(for R2 & R3) : M/s.M.K.Kabir, Senior Counsel
for M/s.C.Kalaichelvan



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W.P.Nos. 34558, 34569 of 2023, 12221, 12223 & 12219 of 2024

COMMON ORDER

W.P.No.34558 of 2023 has been filed to declare that the acquisition proceedings of the respondents in respect of Award No. 4/88-89 dated 24.12.1988 for Survey No. 81/2C, admeasuring 0.37 acres and Survey No. 81/2G, admeasuring 0.65 acres, totally 1.02 acres as lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013).

2. W.P.No.34569 of 2023 has been filed to declare that the acquisition proceedings of the respondents in respect of Award No.4/88-89 dated 24.12.1988 for Survey No. 81/2A, admeasuring 2.42 as lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013).



WEB COPY **3. W.P.No.12219 of 2024** has been filed to call for the records of the 4th respondent comprised in Patta proceedings No. 2023 / 0153 / 08 / 020919TR dated 10.11.2023 passed by the 4th respondent in respect of Survey No. 81/2C admeasuring 26 ares (0.65 acres) dated 10.11.2023 and quash the same and consequently issue a mandamus forbearing the respondents, their officers, employees, subordinates or any person claiming or acting under them from in any manner interfering with the petitioners peaceful possession and enjoyment of his land admeasuring 98 Ares (2.42 acres) comprised in S.F.No. 81/2A situated in Ayyamperumalpatti Village, District Salem.

4. W.P.No.12221 of 2024 has been filed to call for the records of the 4th respondent comprised in Patta proceedings No. 2023 / 0153 / 08 / 020919TR dated 10.11.2023 passed by the 4th respondent in respect of Survey No. 81/2A admeasuring 98 ares (2.42 acres) dated 10.11.2023 and quash the same and consequently issue a mandamus



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forbearing the respondents, their officers, employees, subordinates or any person claiming or acting under them from in any manner interfering with the petitioners peaceful possession and enjoyment of his land admeasuring 98 Ares (2.42 acres) comprised in S.F.No. 81/2A situated in Ayyamperumalpatti Village, District Salem.

5. W.P.No.12223 of 2024 has been filed to call for the records of the 4th respondent comprised in Patta proceedings No. 2023 / 0153 / 08 / 020919TR dated 10.11.2023 passed by the 4th respondent in respect of Survey No. 81/2A admeasuring 15 ares (0.37 acres) dated 10.11.2023 and quash the same and consequently issue a mandamus forbearing the respondents, their officers, employees, subordinates or any person claiming or acting under them from in any manner interfering with the petitioners peaceful possession and enjoyment of his land admeasuring 98 Ares (2.42 acres) comprised in S.F.No. 81/2A situated in Ayyamperumalpatti Village, District Salem.



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6. Since there is a commonality with reference to the facts, a common judgement is being passed in all these writ petitions. The issue that is involved in the present writ petitions which have been filed by the original owners and the subsequent purchaser is whether the Land Acquisition Proceedings in Survey No.81/2A measuring 2.48 acres, Survey No.81/2C measuring 0.37 acres and Survey No.81/2G, measuring 0.65 acres at Ayyamperumalpatti Village Salem, stood lapsed by virtue of the provisions of 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 “2013 Act”). The land in Survey Nos.81/2C and 81/2G belong to one K.M.Arumugam and the land in Survey N.81/2A belongs to Palaniappa Poosari.

7. The facts are as follows:-



The following lands besides other lands were subject to

acquisition proceedings:-

<i>S.No.</i>	<i>Survey Nos.</i>	<i>Extent</i>	<i>Owner</i>
i.	S.No.81/2A	2.48 acres	Palaniappa Poosari.
ii.	S.No.81/2C	0.37 acres	K.M.Arumugam
iii.	S.No.81/2G	0.65 acres	K.M.Arumugam

(i) Petitioner's Case:-

8. On 23.06.1981, a Section 4(1) Notification under the Land Acquisition Act, 1894 (herein after referred to as the “1894 Act”) was issued in respect of the above-referred properties. This was followed by a Declaration under Section 6 of the 1894 Act dated 07.07.1984. These proceedings were challenged by the said K.M.Arumugam by filing W.P.No.12845 of 1984. Palaniappa Poosari had also challenged the said proceedings by filing WP.No.12848 of 1984. Ultimately, by an order dated 02.08.1994, the Writ Petitions were allowed. Challenging the orders passed in W.P.Nos.12845 and 12848 of 1984, the State had preferred an appeal by filing Writ Appeal Nos.1233 & 1234 of 1995,



respectively. By an order dated 04.10.1996, the Division Bench of this Court had allowed the appeals filed by the State by holding that a recommendation of the Collector directing the exclusion of the lands from acquisition cannot be a ground for setting aside the Acquisition Proceedings. The petitioners had, however, enjoyed an interim stay of dispossession alone pending the Writ Appeals.

9. Thereafter, on 24.12.1988, Award No.4/88-89 came to be passed under Section 11 of the 1894 Act. This award was challenged by K.M.Arumugam and a few other land owners in W.P.Nos.19853 of 1990, stating that the petitioners were not given an opportunity to be present for the award inquiry under Section 9 of the 1894 Act. The Writ Petition was dismissed by the Single Judge of this Court on 12.12.1998, giving liberty to the petitioners to approach the District Collector seeking exemption of their lands from the scope of the Acquisition Proceedings and the District Collector was directed to consider the application as and when the same was filed in accordance



with law. Challenging the said order, Writ Appeals Nos.535 and 541 of 1999 were filed by the said Arumugam and others, which were dismissed on 16.10.2000. Therefore, the dispute regarding the acquisition proceedings had reached finality in the year 2000. It is, however, the case of the petitioners that the acquisition proceedings had not reached its finality as neither was possession taken nor steps taken to compensate the land owners.

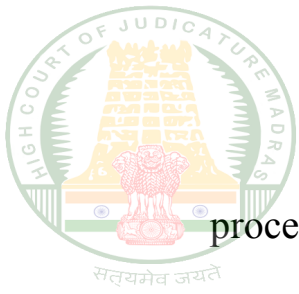
10. On 09.08.2006, the said Arumugam passed away and his legal representatives who had financial commitments, had decided to sell the property as there was no further action initiated by the Government pursuant to the award to pursue the acquisition proceedings.

11. In the meanwhile, the 2013 Act came into force and it was understood by the parties that the acquisition proceeding itself had lapsed in view of Section 24(2) of the 2013 Act. This Act came into force on 01.01.2014, and from 1988, when Section 11 proceedings



were initiated, till 01.01.2014, neither was possession taken nor were the landowners compensated. Since the petitioners continued to be in possession and enjoyment of the properties, and as they were in need of financial assistance, they had executed a sale deed in favour of the 4th petitioner on 31.03.2015. It is also an admitted fact that the revenue records, particularly the patta was mutated in the name of the 4th petitioner after the purchase.

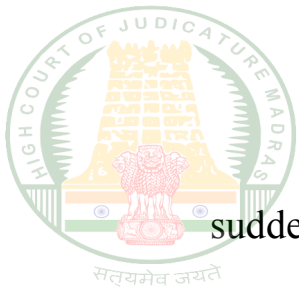
12. While so, in the year 2018, the 4th petitioner had decided to put the property to effective use. Therefore, they had engaged the services of a person to peruse the encumbrance in respect of the property. It was only then that the 4th petitioner had come to know about the very acquisition proceedings. Therefore, the 4th petitioner had filed W.P.Nos.16059 & 16060 of 2018 to quash the acquisition proceedings. The Writ Petition were dismissed on the ground that the subsequent purchaser had no locus to challenge the acquisition



proceedings.

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13. The 4th petitioner therefore approached the petitioners 1 to 3 herein pointing out the defect in their title and in furtherance of the undertaking given by them in the sale deed to indemnify the purchaser/the 4th petitioner, the petitioners 1 to 3 had filed WP.No.31821 of 2022 to rectify the said defect and sought for quashing of the acquisition proceedings on the ground that the same had lapsed under Section 24 (2) of the 2013 Act. When the matter had come up on 01.12.2022 for admission, the Court had questioned the locus of the petitioners to file the Writ Petition as they were no longer the owners of the land in question. The petitioners, therefore, sought leave of the Court to withdraw the said Writ Petition with a liberty to file a fresh comprehensive Writ Petition. This Court was also pleased to dismiss the Writ Petition as withdrawn with liberty to workout the remedy in the manner known to law. While so, the 4th respondent had



suddenly posted notices that the subject property belonged to the Government and that the encroachers in occupation of the property had to vacate the same.

14. It is the contention of the petitioners that when the 4th petitioner had challenged the acquisition proceedings as having lapsed, the Writ Petition was rejected on the ground that it is only the original land owners who could assail the proceedings. However, when the original land owners had filed the Writ Petition, pleading that acquisition proceedings stood lapsed in the light of Section 24(2) of the Act, it was rejected on the ground that they no longer had an interest in the property in question. Therefore, they have jointly filed these Writ Petitions.

15. The petitioners seek to challenge the acquisition proceedings declared as having lapsed by invoking the provisions of Section 24(2) of the 2013 Act on twin grounds:-



WEB COPY (a) The physical possession of the land has not been taken by the

authorities and the same continues to remain with the owners; and

(b) The compensation for acquiring the land has not been paid/tendered/deposited in accordance with law.

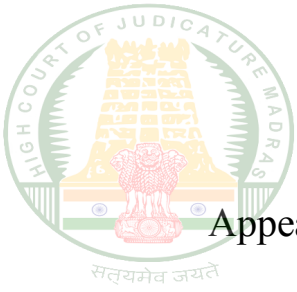
(ii) Case of the Respondents:-

16. The 1st respondent had filed a counter inter alia contending that the Government of Tamil Nadu had decided to acquire an extent of 42.69 acres in Ayyamperumampatty Village, Salem District for the construction of houses under the Neighbourhood Scheme of the Tamil Nadu Housing Board. In furtherance to this, the Government had issued the notification under Section 4(1) of the 1894 Act on 22.07.1981, followed by the enquiry under Section 5 (A) on 21.12.1981. Thereafter, the declaration under Section 6 of the 1894 Act was also published on 18.07.1984, overruling the objections of the land owners.



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17. It is their further contention that after notices under Sections 9(1) and 10 to the general public and Sections 9(3) and 10 to the interested persons, an award enquiry under Section 11 of the Act was held on 20.12.1988. The pattadars and interested persons, including the said Arumugam had participated in the award enquiry. Meanwhile, interested persons/the land owners had filed WP.Nos.12845& 12824 of 1984 challenging the Section 4(1) Notification and the same was allowed. This order was subsequently reversed in WA.Nos.1233 and 1234 of 1995 on 04.10.1996. That apart, the said Arumugam and others had filed W.P.No.19853, challenging the award no.4/88-89. This Court by order dated 12.12.1998 had dismissed the said writ petition giving liberty to the petitioners to approach the District Collector seeking exemption of their lands from the scope of the Land Acquisition Proceedings and the District Collector was directed to consider the application as and when the same was filed in accordance with law. Aggrieved by this order, the said Arumugam and others had filed Writ



Appeal nos.535 and 541 of 1999, which were also dismissed on 16.10.2000. Therefore, the dispute regarding the acquisition proceedings had reached finality in the year 2000.

18. During the award enquiry, interested persons/claimants who were served notices under Section 9(3) and 10 of the 1894 Act had appeared before the Land Acquisition Officer and refused to depose or produce documents of title. Ultimately, compensation was fixed for an extent of 4.72 acres covered under award number 4/88-89, amounting to a sum of Rs.3,94,492.65/-. This amount was ordered to be deposited in the Sub Court, Salem since the petitioners had refused to accept the award. Therefore, a reference was sent to the Principal Sub Judge, Salem, for a decision under Sections 30 and 31(2) of the 1894 Act on 17.02.1989 along with a bankers cheque drawn on State Bank of India to the tune of Rs.3,94,492.65/-.

19. Neither the original owners nor their successors in title had



claimed the compensation amount. It is also stated that originally, the entire amount was deposited in the Sub Court, Salem. Later, it was brought to the notice of the Land Acquisition Officer that the banker's cheque drawn on the Principal Sub Judge was still pending payment to the beneficiaries and the bank had advised them to encash the same. The Land Acquisition Officer had therefore credited the entire amount to the Government account.

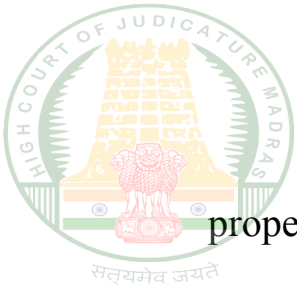
20. It is also stated that on 04.10.1996, after the disposal of the Writ Appeal Nos.1233 to 1238 of 1996, the Special Tahsildar/Land Acquisition Officer has handed over possession of 2.41 acres in S.No.81/2A covered in award No.4/88-89 dated 30.12.1988 to the requisitioning body, namely, The Tamil Nadu Housing Board on 06.10.1999. Therefore, acquisition with reference to an extent of 2.41 acres in S.No.81/2A had attained finality.

21. After the proceedings had come to an end, the 4th petitioner



had filed WP.Nos.16059 and 16060 of 2018 before this Court once again challenging the notification under Section 4(1) of the Act and the draft declaration under Section 6 of the 1894 Act and to quash these notifications as per Section 24(2) of the 2013 Act. On 02.08.2022, these Writ Petitions were dismissed on the ground that the subsequent purchasers had no right to make a claim. Thereafter, the legal heirs of one of the land owners filed W.P.Nos.31816 and 31821 of 2022 for the same relief and cause of action. These Writ Petitions were dismissed as withdrawn and it is these very petitioners who have joined together to file the present Writ Petitions.

22. The 1st respondent would reiterate that physical possession of the land was taken and handed over to the Housing Board in the year 1999. They were not able to take possession earlier on account of the order of stay of dispossession passed by this Court which was in force from 1984 to 1998. They would further submit that once the award is passed and compensation is also paid, the continued possession of the



property would not clothe the petitioners with rights. Therefore, the contention of the 1st respondent is that the twin conditions required for declaring acquisition proceedings as lapsed under Section 24(2) of the 2013 Act are not available to the petitioners before the Court.

23 The respondents 2 to 4 had also filed their counter, more or less adopting the counter filed by the 1st respondent.

(iii). Submissions:-

24. Though elaborate arguments by counsels appearing on either side were advanced, the arguments have now been condensed into written submissions and therefore, this Court is referring to the written submissions.

(iv). Written submissions of the petitioners:-

25. The petitioners have sequenced their arguments on the basis of the facts in issue and the questions of law. Four facts in issue that



has been raised by the petitioners are as follows:-

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a) Whether the Special Tahsildar took possession from K.M.Arumugam and Palaniappa Poosari or from their legal heirs at any time before 2009?

b) Whether the Land Acquisition Officer tendered or paid the compensation to K.M. Arumugam or his legal heirs and PalaniappaPoosari or his legal heirs at any time before 2009?

c) Whether the compensation amount was deposited in the Court?

d) Whether the K.M. Arumugam or his legal heirs and PalaniappaPoosari or his legal heirs had knowledge of the deposit of compensation at any point of time?

26. These issues are sought to be analysed on the basis of the following questions of law:-

a) What is the method in which possession is to be taken by the



Land Acquisition Officer in accordance with law?

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b) What is meant by tender of payment?

c) How is the deposit to be made by LAO and when can it be made?

d) Whether acquisition proceedings are concluded?

e) Whether the claim is hit by delay and laches?

f) What is the scope of proviso to Sec. 24(2)?

g) Whether the lapse contemplated under Section 24(2) is automatic on the happening of events set out in Sec. 24(2)?

h) Whether in the facts and circumstances, the acquisition proceedings have lapsed?



WEB COPY i) What is the locus of a purchaser purchasing after commencement of 2013 Act (i.e. 01.01.2014)?

27. The petitioners would submit that the burden of proving that the land owners or their legal representatives were informed about the award of compensation and the quantum awarded to them is upon the respondents as also the burden of proving that possession has been taken in accordance with law. According to the petitioners, no document has been produced on the side of the respondents to show that the possession has been taken by the Land Acquisition Officer from the land owners at any point in time.

28. They would point out that even in the counter, there is no statement giving the details of the date on which the possession has been taken over from the land owners. On the contrary, the counter of the 3rd respondent would only state that possession was handed over by



the 4th respondent to the Surveyor of the 3rd respondent on 06.10.1999.

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Even in the counter, it has only been stated that S.Nos.81/2 C and 81/2G which were covered by award number 4/88-89 have been handed over and there is no mention about the lands comprised in S.No.81/2A.

29. The petitioners would further submit that a perusal of the document which has been produced on the side of the 3rd respondent to show that the possession has been taken is an un-dated possession certificate bearing ROC No.36/97 which does not mention about the lands comprised in S.No.81/2A. The date of handing over has been written in ink. Yet another possession certificate dated 12.12.2023 has been filed in the typed set of papers produced by the 3rd respondent, wherein it has been stated that an extent of 37 cents in S.No.81/2C was handed over by the 4th respondent to the Surveyor of the 3rd respondent. Interestingly, this possession certificate refers to an award



No.4/94-95 dated 30.04.1994, whereas the award which is the subject

matter of these Writ Petitions is the award no.4-88/89 dated 24/30.12.1988. Both these possession certificates are certificates inter-se department and it does not indicate as to when the lands were taken possession from the land owners. The petitioners would therefore submit that there is nothing on record to show as to when and how the possession has been taken over from the land owners.

30. Coming to the issue of compensation, it is the contention of the petitioners that as per the counter of the 3rd respondent it is stated that the compensation fixed under the award was directed to be deposited in the Sub Court, Salem in view of the petitioners refusing to accept the award which was later credited to the civil deposit account. In fact, the petitioners would submit that there is no pleading in the counter that compensation has been tendered to the landowners. In the absence of such proof, it has to be concluded that the compensation was not paid to the land owners nor were the land owners made aware



about the compensation.

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31. The petitioners would submit that an over view of the 1984 Act is required to be considered in order to appreciate the scope and width of Section 24 of the 2013 Act. The seven stages of the land acquisition proceedings are as follows:-

(i) 1st Stage - Every acquisition proceeding under the 1984 Act commences with the publication under Section 4 of the Act, bringing to the notice of the public that there is a proposal to acquire the lands. This is preceeded by an enquiry under Section 5(A). After the enquiry under Section 5(A) when the objections of the land owners are rejected, the next procedure is a declaration under Section 6(1) that the lands are required for a public purpose.

(ii) 2nd Stage - Thereafter, the District Collector takes over the acquisition of lands and under Section 8, the lands are marked out,

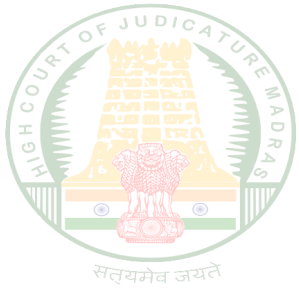


measured and planned.

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(iii) 3rd stage- It starts with the issue of notices under Section 9 where a public notice is given and persons who are interested in the lands, like the owner of the land or any other person having an interest in the land, should appear before the District Collector to explain their interest in the land, and their claim of compensation. Section 9(3) mandates the District Collector to serve notice to the same effect on all the persons interested in the land. After the notice under Section 9(3) an enquiry is held and under Section 10 statements are recorded.

(iv) 4th Stage – At this stage, an enquiry under Section 11 is conducted, wherein the District Collector examines the objections raised by any person interested in the land who has received notice under Section 9 of the Act. The enquiry also includes measurements being taken under Section 8 and an assessment of the land's value, followed by the issuance of an award.



WEB COPY (v) 5th Stage - Once the award is made, the award has to thereafter be intimated under Section 12 to the interested persons. Section 12(2) requires the District Collector to give immediate notice to all persons interested in the land, if such persons have not appeared before him. In other words, where a person interested in a property that is sought to be acquired has not appeared before the award enquiry, notice has to compulsorily be served.

(vi) 6th Stage - After the Section 12 (2) notice, under Section 16, the District Collector is entitled to take possession of the land and it is at this stage that the lands vests in the Government absolutely.

(viii) 7th Stage – Part V of the Land Acquisition Act deals with payment. This is the final stage. Section 31 deals with payment of compensation or deposit of same in Court.



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32. The petitioners would argue that notice under Section 12 (2) is mandatory in case of land owners who have not participated in the award enquiry and unless proof of such service is shown, it cannot be stated that a notice has been served merely on looking at its copy in the files of the respondents. This notice assumes significance as it is this notice that informs the person that an enquiry under the Land Acquisition Proceeding has been completed and to inform him about the amount of compensation. The Land Acquisition Proceedings, according to the petitioners, concludes once the procedure contemplated under Section 31 (1) of the 1894 Act is complied with or in given cases the provisions of Section 31(2) of the 1894 Act. Therefore, they would submit that since the intimation of compensation has not been given to the petitioners, it has to be held that Section 31 proceedings is pending as the payment has not been tendered.

33. They would also analyse the provisions of Section 24(2) of the 2013 Act and submit that the provisions of Section 24(2) would



override the provisions of Section 24(1) when the contingencies referred to in Section 24(2) are present i.e., if compensation has not been paid, tendered or received or if physical possession has not been taken, the provision of Section 24(1) would cease to have any effect on such proceedings. In such contingencies, the Government has to initiate acquisition proceedings afresh under the provisions of the 2013 Act.

34. The petitioners would also submit that the proviso to Section 24(2) carves out an exception to Section 24(2) to save acquisition. The proviso to Section 24(2) is attracted in case where possession has been taken, payment has been paid to some of the land owners and the amount has not been deposited with respect of the majority of the holdings, then in such an event not only the persons who have not received the compensation but all the beneficiary shall be entitled to a higher compensation in accordance with the provisions of the 2013 Act. This proviso can be pressed into service only when possession has been taken and payment of compensation has not been paid.



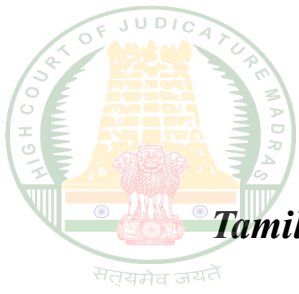
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35. The provisions of Section 24(2) has been interpreted by a Constitution Bench of the Hon'ble Supreme Court, in the case of ***Indore Development Authority Vs. Manoharlal*** reported in - **2020 SCC Online SC 316**, where the Hon'ble Supreme Court had held that from the language of Section 24(2) the lapse of the proceedings occurs the minute the twin conditions, namely, possession not having been taken and compensation not having been paid, exists. Therefore, it is for the authority to prove that the possession has been taken and compensation has been given in order to confirm the acquisition proceedings.

36. The petitioners have also relied upon the following judgements in support of the aforesaid argument:-

i) ***2020(7) MLJ page 734 – M.Palanisamy and Others Vs. State of Tamil Nadu rep. by its Secretary to Government and Others.***

ii) ***2024 (1) CWC 136–N.Devnathan and others Vs. State of***



Tamil Nadu, rep by its Secretary to Government and Others.

WEB COPY iii) 2025 (1) CTC page 145 – ***T.Venkatesh and Another Vs.State of Tamil Nadu and Others.***

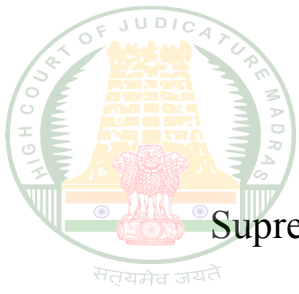
37. They have relied upon the judgement reported in ***2016 (2) LW 122 - The Tamil Nadu Housing Board rep. by its Managing Director Vs. iGate Global Solutions Ltd. and another, 2021 (2) CTC 300 - K.Saraswathi and another Vs. State of Tamil Nadu*** and an unreported judgement in ***WP.No.3351 of 2022 - The Coimbatore Cricket Club Trust Vs. The Secretary to Government and 3 others*** to demonstrate how taking of possession is contemplated under the Land Acquisition Act.

38. In WP.Nos.12219, 12211 and 12223 of 2024, the petitioners would contend that the patta transfer orders dated 10.11.2023 are bad in as much as the cancellation of patta has been done behind the back of the petitioners without following due process of law. It is their



contention that after the purchase of the property by the 4th petitioner, patta transfer proceedings were initiated on 14.07.2015 and the patta was also issued to the petitioners on 12.04.2018, recognizing the right and ownership of the petitioners. Thereafter, the patta has been sou motu cancelled by an order dated 14.11.2023. In this regard they would rely upon the judgement reported in ***2008 (4) CTC 193– Malarkodi and others Vs. The Secretary to the Government of Tamil Nadu, Adi Dravida and Tribal Welfare Department and others***, in which case it had been held that from the Revenue Standing Orders, it is clear that patta cannot be cancelled without giving the allottees the opportunity of a personal hearing. Therefore, even on this ground, the orders of the respondents have to necessarily be set aside, especially when mandatory procedure has not been followed.

39. In support of the argument that where a statute provides that a thing to be done in a particular manner, the same has to be done in that manner alone, reliance is placed on the judgement of the Hon'ble



Supreme Court reported in **2021 (6) SCC 707 – *Opto Circuit India***

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Limited Vs. Axis Bank and Others. The petitioners, therefore, pray that the Writ Petitions be allowed.

v. Written submissions of the respondents 2 and 3:-

40. Per contra, the respondents would submit that the acquisition proceedings had been challenged right up to the Hon'ble Supreme Court, where the land owners lost and the acquisition proceedings were upheld. After the disposal of the Writ Appeal Nos.1233 and 1234 of 1995 on 04.10.1996, the Land Acquisition Officer/Special Tahsildar has handed over possession of 1 acre and 2 cents comprised in S.No.281/2C, and 281/2G to the Tamil Nadu Housing Board on 06.10.1999. Therefore, the acquisition proceedings had concluded.

41. They would further submit that the said Arumugam had appeared for the award enquiry and his contention that he was not present is absolutely incorrect. It has been clearly mentioned in the



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award enquiry that K.M.Arumugam did not depose in the award enquiry but had submitted an objection petition when he had appeared on 20.12.1988. It is also contended that K.M.Arumugam had passed away on 09.08.2006. Thereafter, the award amount has also been deposited in the Sub Court, Salem by cheque dated 17.02.1999 and the deposit is also reflected in the letter sent by the Special Tahsildar to the Branch Manager dated 04.03.1993. The award dated 24.12.1988 includes the subject properties comprised in S.No.81/2C and 81/2G in the name of Arumugam and the award enquiry states that the total extent of land in Ayyamperumalpatty Village was 42.69 acres of which 29.38 acres was acquired. The award for an extent of 29.38 acres was passed in award bearing no.7/86-87 dated 18.09.1986. Therefore, excluding the balance, the extent of 13.31 acres is covered in the said award.

42. They would submit that the legal heirs of K.M.Arumugam had sold the subject property under a deed of sale dated 31.03.2015 to



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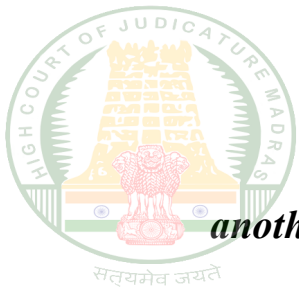
the 4th petitioner. The property that is sold is comprised S.No.81/2C and 81/2G. The earlier Writ Petitions filed by the 4th petitioner individually and the other petitioners 1 to 3 have been dismissed and thereafter, they have joined together to file the instant Writ Petitions which are not maintainable. They would plead that the present writ petitions are hit by the principles of res judicata and in this regard would rely upon the judgement reported in **2023 SCC Online SC 1182 - Samir Kumar Majumder v. Union of India.**

43. The following judgements are relied upon by the respondents in support of their argument regarding the conditions required for attracting the provisions of Section 24(2) of the 2013 Act:-

(i) 2023 (11) SCC 564 - Lucknow Development Authority Vs. Mehdi Hasan (deceased) through legal representatives and others.

(ii) 2023 (11) SCC 545 - Delhi Development Authority Vs. Rambir and Others.

(iii) 2023 (2) SCC 348 - Government of NCT of Delhi and



another Vs. Ram Prakash Ssehrawat and Others.

WEB COPY (iv) 2022 (14) SCC 88 -*Ayodhya Faizabad Development*

Authority Vs. Ram Newaj and Others.

(v) 2020 (6) SCC 340 - *Indore Development Authority Vs.*

Manohar Lal and Others.

44. A Brief Written Submission has been made independently by the learned Advocate General wherein he has divided the arguments in the form of four issues:-

i) Whether the present Writ Petitions are reviving, stale and barred claims?

In this regard, he would rely upon the judgement of the Hon'ble Supreme Court reported in (2020) 8 SCC 129 – *Indore Development Authority Vs. Manoharlal & Ors.*, (para 244) to state that the learned Judges have held that the provisions of Section 24(2) will not apply in the case of a concluded proceedings. In the instant case, the original owners had already challenged the acquisition proceedings as also the



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award and have failed. Therefore, 26 years after the proceedings, the petitioners herein cannot claim that the proceedings have lapsed. He would draw strength from the expression used in Section 24(1) (b) “*proceedings shall continue*” which indicates there must be some proceedings pending and will not apply to the concluded proceedings before the Collector. Since the District Collector becomes functus officio thereafter. This has been discussed elaborately in Para. 340 of the Indore Development Authority judgement cited supra. Therefore, it is his argument that a delay in making a claim questioning acquisition proceedings by 5 to 10 years is fatal and he would rely upon the judgement of the Hon’ble Supreme Court reported in **1990 2 SCC 268 - Vishwas Nagar Evacuees Plot Purchasers Association Vs. Delhi Admn.**

ii) Whether the subsequent purchaser can maintain the Writ Petition even when the original land owners are made co petitioners?

He would submit that in the instant case, the subsequent



purchaser has questioned the acquisition proceedings and failed as the Writ Petition had been dismissed by holding that the original owners having questioned the acquisition proceedings and having failed. It is not open to the subsequent purchaser to rake up the said issue once again. In the judgement in **2020 MLJ page 734 - M.Palanisamy & Ors. Vs State**, the learned single Judge had held that allowing the subsequent purchaser to question the acquisition proceedings would be going against dicta laid in the judgement reported in **2019 (10) SCC 229 - Shivkumar vs Union Of India**. He would also rely on the judgement in **DDA Vs. Godfrey Philips Manu – 2022 8 SC 751** in support of the argument regarding the locus of a subsequent purchaser to claim that an acquisition proceedings had lapsed.

iii) Whether possession has been taken?

It is their contention that there was an interim stay of dispossession throughout the pendency of the earlier proceedings and everything came to a finality on 12.12.1999. On 06.10.1999,



possession was taken over by the Housing Board from the State as evidenced by the possession certificate produced. The learned Advocate General would try to distinguish the judgements relied upon by the petitioners that in order to prove possession there must be a memorandum/Panchanama signed by witnesses. He would submit that in the case of vacant land the principle of possession followed title would apply and the moment the award is passed and the award amount is deposited in the treasury, by a legal fiction of Section 16, the lands will vest with the State and he would rely upon the judgements of the Hon'ble Supreme Court in ***Land and Building Department Through its Secreary Vs. Attro Devi & Ors in Civil Appeal No.2749 of 2023 reported in 2023 Livelaw (SC) 302*** and abd ***Delhi Development Authority Vs. Damini in Civil Appeal 7962/2022 reported in Manu/SC/1430/2022.***

iv) Whether deposit of compensation has been made?

In this regard he would rely upon the award itself which would



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clearly show that a set of land owners have been present in the award

enquiry. Therefore, considering the fact that the land owners were

present during the enquiry, there was no necessity to serve them notice.

The language of Section 12(2) clearly shows that notice is contemplated only in respect of owners who have not participated in the award enquiry. That apart, he would place reliance upon the letter written by the Tahsildar to the Branch Manager, Salem on 25.09.1992.

He would submit that in the instant case, the land owners were very much aware about the treasury deposit. He would also draw strength from the following paragraphs of the Judgement in the case of **Indore Development Authority** cited supra (para nos. 244, 225 and 266). That apart, in para. no.266 of the judgement, the Constitution Bench had discussed the word "paid" as contained in Section 24(2) of the Act.

Therefore, he would submit that the deposit does not mean depositing in the treasury but it also includes an instrument drawn by the Housing Board and given to the Land Acquisition Officer who in turn made out a cheque in favour of the Sub-Judge, Salem. He would further submit



that the land owners's advocate had issued a legal notice objecting to the award enquiry and questioning the legitimacy in passing of the award in the light of the interim order of the High Court. Therefore, the land owners were very much aware of the award but chose to remain silent.

45. Heard the learned counsel on either side and perused the records.

vi. Discussion:

46. The Government of Tamil Nadu had in the year 1981 decided to acquire lands for the construction of houses under the Neighbourhood Scheme of the Tamil Nadu Housing Board. The lands in S.No.81/2A, 2C and 2G, which are the subject matter of these writ petitions, were also sought to be acquired. The records would indicate that with reference to the aforesaid lands possession has not been taken in the manner known to law by the respondents as a result of which the



acquisition proceedings under the 1894 Act has not been concluded.

Meanwhile, the 2013 Act had come into force there by giving the parties a fresh cause of action to question the acquisition proceedings.

The earlier acquisition proceedings no doubt had been unsuccessfully challenged by petitioners 1 to 3 herein and given below is a brief resume of these proceedings.

(i) W.P.Nos. 12845 and 12845 of 1984 filed by K.M. Arumugam and Palaniappa Poosari challenging the Section 4(1) notification and Section 6 declaration. These writ petitions were allowed against which the State had gone on appeal in W.A.Nos. 1233 and 1234 of 1995. These appeals were allowed by order dated 04.10.1996. The petitioners had enjoyed a stay of dispossession throughout.

(ii) After the award was passed the same has been challenged by Arumugam and a few other owners in W.P.No. 19853 of 1990. This writ was dismissed by order dated 12.12.1998 directing the petitioners



therein to approach the District Collector seeking exemption of their lands from acquisition and the District Collector was directed to consider the same and pass orders in accordance with law.

iii. W.A.Nos.535 and 541 of 1999 filed challenging the above order dismissed on 16.10.2000. The challenge to the acquisition proceedings which commenced from the year 1984 attained finality only in the year 2000. The petitioners were protected by order of stay against dispossession. Since the possession of the lands continues with them, the parties seek to rely upon the provisions of Section 24(2) of the 2013 Act to contend that the earlier acquisition proceedings have lapsed.

47. The entire controversy therefore in the above writ petitions relates to two factors: -

(a) Whether the possession has been taken over by the authorities pursuant to the acquisition proceedings; and



(b) whether compensation has been received by the parties.

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An ancillary issue would also arise as to whether the writ petitions filed by the original owners and the subsequent purchaser is maintainable.

(i). Possession.

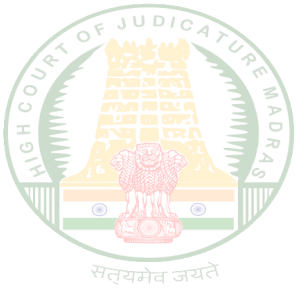
48. With reference to the question of possession, the authorities would rely upon two documents which are the possession certificates dated 06.10.1999 and another dated 12.12.2023. A perusal of the 06.10.1999 certificate as well as the 12.12.2023 certificate would indicate that it relates to an award proceeding bearing Nos.5/94-95 and 4/94-95. The award proceeding in the instant writ petitions is award No.4/88-89. That apart, even as late as in the year of 2018, the patta has been issued in favour of the 4th petitioner. The patta that has been filed by the petitioners, which has been enclosed in the typed set of papers filed by the 3rd respondent, would describe the property as a Ryotwari



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Punjai land and the patta has been issued in favour of the 3rd respondent on 14.11.2023 would describe it as "Government Dry".

There is no proceedings shown to this court as to how the patta that had been granted to the 4th petitioner in the year 2018 has been transferred in favour of the 3rd respondent in the year 2023. In the possession certificates dated 16.10.1999, and 12.12.2023 also the property has been described as Government dry. Therefore, the Revenue Records do not reflect the true state and it appears to have been changed when the proceedings are pending before this Court. In the judgement in the case of *Indore Development Authority* cited supra the constitution bench has discussed the mode of taking possession under the 1894 Act. The learned Judges had discussed the difference between the 1894 Act and the 2013 Act with reference to the word possession. In the 1894 Act, the expression is "taking possession" whereas in the 2013 Act the expression is "taking physical possession". In paragraph no.247, the bench had discussed the difference in language as follows:-



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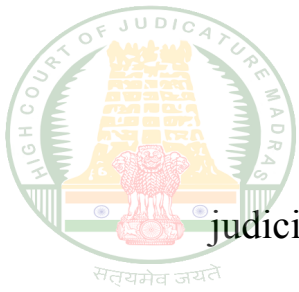
"The question which arises whether there is any difference between taking possession under the 1894 Act and the expression "physical possession" used in Section 24 (2). As a matter of fact, what was contemplated under the 1894 Act, by taking the possession meant only physical possession of the land. Taking over the possession under the 2013 Act always amounted to taking over physical possession of the land. When the State Government acquires land and draws up a memorandum of taking possession, that amounts to taking the physical possession of the land. On the large chunk of property or otherwise which is acquired, the Government is not supposed to put some other person or the police force in possession to retain it and start cultivating it till the land is used by it for the purpose for which it has been acquired. The Government is not supposed to start residing or to



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physically occupy it once possession has been taken by drawing the inquest proceedings for obtaining possession thereof. Thereafter, if any further retaining of land or any re-entry is made on the land or someone starts cultivation on the open land or starts residing in the outhouse, etc. is deemed to be the trespasser on land which is in possession of the State. The possession of trespasser always inures for the benefit of the real owner that is the State Government in the case."

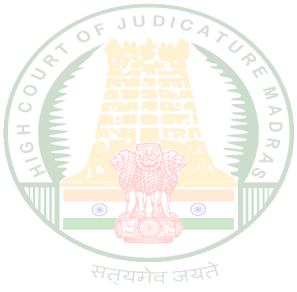
49. The bench had discussed that under Section 16 of the 1894 Act vesting of title in the Government in the acquired land takes place immediately upon taking possession and under the provisions of Sections 16 and 17 of the 1894 Act, the acquired land becomes the property of the State without any condition or limitation either as to title or possession. The learned Bench had discussed the mode of taking possession under the 1894 Act by placing reliance on various



judicial pronouncements in para 274 and held as follows:

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*"It was submitted on behalf of landowners that under Section 24 the expression used is not possession but physical possession. In our opinion, under the 1894 Act when possession is taken after award is passed under Section 16 or under Section 17 before the passing of the award, **land absolutely vests in the State on drawing of panchnama of taking possession, which is the mode of taking possession.** Thereafter, any re-entry in possession or retaining the possession is wholly illegal and trespasser's possession inures for the benefit of the owner and even in the case of open land, possession is deemed to be that of the owner. When the land is vacant and is lying open, it is presumed to be that of the owner by this Court as held in *Kashi Bai v. Sudha Rani Ghose* 281. Mere re-entry on government land once it is acquired and vests absolutely in the State (under the 1894 Act) does*



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not confer any right to it and Section 24(2) does not have

the effect of divesting the land once it vests in the State."

(Highlights have been made by this Court.)

50. Thus the bench has held that for constituting the procedure of "taking of possession", there must be a drawing of a Panchnama or a memorandum by the Land Acquisition Officer in the presence of witnesses. This would be sufficient proof of having taken physical possession of the land. However, in the instant case, there is no such Panchnama or a memorandum. What has been filed is only the two documents styled as possession certificate which is simply a certificate given by the Tahsildar to the requisitioning body to show that possession has been handed over. These certificates are inter-se between Government bodies. That apart, even these possession certificates are flawed in as much as the possession certificate dated 06.10.1999 does not refer to the lands in survey no.81/2C and it is only in the possession certificate dated 12.12.2023 (a document made when



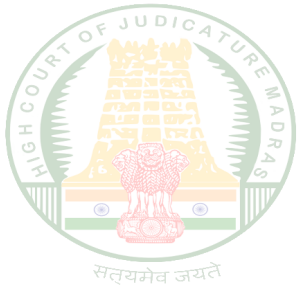
these writ petitions are pending) that there is reference to possession in respect of S.No.81.2C being handed over to the requisitioning body.

The following tabulated statement would clearly set out this anomaly:-

<i>S.No.</i>	<i>Date</i>	<i>Survey Nos.</i>	<i>Extent</i>	<i>Owner</i>
i.	06.10.1999	S.No.81/2A	2.41 acres	Palaniappa Poosari.
ii.	06.10.1999	S.No.81/2C	0.37 acres	K.M.Arumugam
iii.	12.12.2023	S.No.81/2G	0.65 acres	K.M.Arumugam

Therefore, from 2000 when the award had attained finality till 2023, the lands in survey no.81/2C has not even being handed over to the requisitioning body. This is further clear from a mere perusal of the patta that has been mutated in the name of the 3rd respondent only in the year 2023.

51. The original files have been produced for the scrutiny of the court and even the original documents do not contain any such memorandum or panchnama which evidences possession having been taken over from the original owners after the Award or after the various writ petitions and writ appeals filed earlier had attained finality.



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52. The original files which had been produced for my scrutiny of the court would indicate that notices for handing over of the possession has been issued with reference to some of the survey numbers like 68/3, 68/6, 76/2, 77/2, 77/3, 82/6, etc, but there is no such notice issued under Form 10 and in response of all these notices, the land owners have stated that they would not hand over possession since they had approached the court. There is nothing to show that possession has been taken from the land owners particularly with reference to the lands which are the subject matter of the present writ petitions. Therefore, the first criteria, namely, possession not having been taken has to be definitely answered in favour of the writ petitioners.

(ii) **Compensation:-**

53. The next issue that has to be considered is whether compensation has been paid to the petitioners. Here again, there is nothing to show that petitioners have been intimated about the

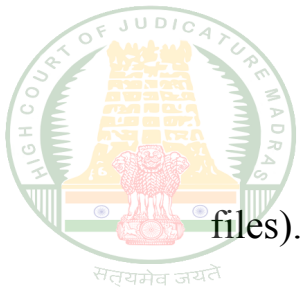


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quantum of compensation pursuant to the award inquiry which is evident from the following facts:-

(i) The original records would indicate that in the proceedings bearing Na.Ka.No.36 of 87 dated 07.03.1988, the Special Tahsildar (LA) had addressed a letter to the District Revenue Officer, Salem stating that the cost statement with reference to survey nos. 81/2A, 2B, 2C, 2D, till 2H has been deleted from the cost statement since they were covered by a stay and the letter would further read that the necessary award has to be passed with reference to the above lands on 05.01.1989 and the cost statement is prepared with reference to the details of the structures already furnished in the office letter dated 12.09.1986 (Available at page 477 of the original files).

(ii) There also appears to be a letter dated 07.10.1988 addressed by the Executive Engineer/ 3rd respondent to the District Revenue Officer calling upon him to give his approval to the letter dated 07.03.1988 in Na.Ka.No.36 of 87 (Available at page 535 of the original



files).

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(iii) There is a reminder letter on 18.11.1988 addressed by the District Collector to the Special Tahsildar expressing the disapproval of the fact that the cost statement has not been forwarded to him. The District Collector had also reminded the Special Tahsildar that since an order had to be passed by 05.01.1989 with reference to the lands comprised in Survey No.81/2A and others, the cost statement should reach him at least by 25.11.1988.

(iv) Thereafter, Form 7 was issued under Sections 9, 3 and 10 calling upon the land owners to attend an enquiry on 20.12.1988. It is also seen that during the award enquiry dated 24.12.1988 the Special Tahsildar (LA) has clearly stated that the passing of the award in respect of the lands in question is subject to the disposal of WP.No.12845 of 1983 which writ petition has been disposed of on 02.08.1994 and the appeal thereon had been disposed of on 04.12.1996.



WEB COPY (v). Further, in the original files, there is a letter dated 04.03.1993

addressed by the Special Tahsildar to the Branch Manager, State Bank of India, wherein it has been stated that the bankers cheque dated 17.02.1989 for a sum of Rs.3,94,492.65/- has to be revalidated and the same was revalidated on 25.09.1992. The letter would further read that since there was a stay order, the compensation award was not disbursed and the stay order was still pending. The letter further reads that the compensation amount would be disbursed after the disposal of the writ petition. Therefore, a request is made to cancel the bankers cheque and credit the amount to the government account. The same also appears to have been credited on the same date to the civil deposit. From the above facts it is clear that till the disposal of the writ petition, the compensation have been disbursed and the award itself states that it is subject to the results of the WP.No.12845 of 1983.

54. Even at the outset, the petitioners/land owners were not called



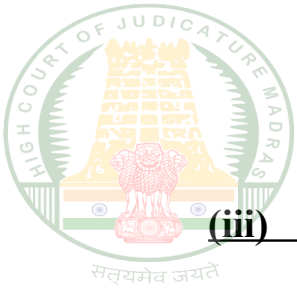
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upon to receive the compensation amount and after the disposal of the writ petition, there is nothing to show that the land owners have been intimated about the deposit of the amount in the civil deposit since the deposit has been made even prior to the disposal of the writ petition. Section 31(2) of the 1894 Act contemplates that where the land owners refused to receive the compensation or if there is no person competent to alienate the land or a dispute regarding the title is present, then the Collector should deposit the amount of compensation into the Court to which a reference under section 18 would be submitted. In the instant case such a reference and deposit has not been made. Section 24(2) would be attracted where compensation has not been paid. In the judgement in **Indore Development Authority** cited supra, the Bench has held that once the payment of compensation has been offered/tendered under Section 31(1) the acquiring authority cannot be penalised for non payment as the amounts could be remained unpaid due to refusal to accept the same. In the instant case as stated in the forgoing paragraphs it is seen that there is nothing to show that the



amount of compensation was even tendered. On the contrary, the letter dated 04.03.1993 addressed by the Special Tahsildar to the Branch Manager, State Bank of India, would indicate that on account of the stay order the compensation cannot be disbursed till the said stay was in force and the letter further reads that it would be disbursed after the disposal of the Writ Petitions. Therefore, it is for the respondents to prove that after the Writ Petitions had been disposed of they have tendered the payment to the plaintiffs. Therefore, the second ground that compensation has not been paid also has to be answered in favour of the writ petitioners.

55. In the judgement of the Constitution Bench in ***Indore Development Authority*** (cited supra), it has been clearly stated that where it is proved that the possession has not been taken and the compensation has not been paid, then there is a deemed lapse of proceedings.



(iii) Writ Petition filed by the petitioners jointly whether

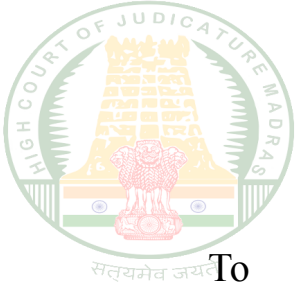
maintainable.

56. Since there is a deemed lapse on the proceedings, the filing of the writ petitioners by the original land owners and the subsequent purchasers cannot be found fault with. That apart since possession had not been taken and the compensation has not been paid the original acquisition proceedings cannot be said to have been concluded. Therefore, as owners of the land who continue in possession it is well within their rights to file the writ petitiones.

57. In fine, the writ petitions are allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

29.04.2025

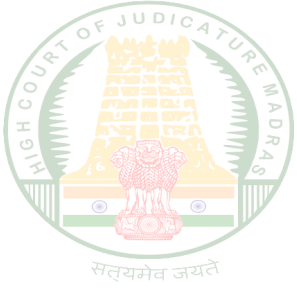
Index: Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
shr



W.P.Nos. 34558, 34569 of 2023, 12221, 12223 & 12219 of 2024

To
WEB COPY

- 1.The Secretary To Government
Housing And Urban Development Department, Fort St.George,
Chennai-600 009.
- 2.The Managing Director
Tamil Nadu Housing Board, CMDA Complex, E And C Market Road,
Koyambedu, Chennai 600 107.
- 3.The Executive Engineer And Administrative Officer
Administrative Officer, Tamil Nadu Housing Board, Salem Housing
Unit, Ayyanthirumaligai Main Road, Salem-636 008.
- 4.The Zonal Deputy
Tahsildar
Salem District and Taluka,Tamil Nadu



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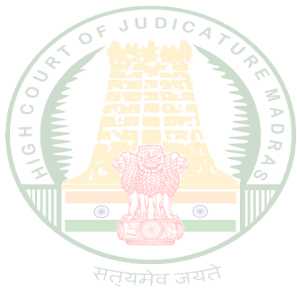
W.P.Nos. 34558, 34569 of 2023, 12221, 12223 & 12219 of 2024

P.T.ASHA, J.,

shr

W.P.Nos.34558, 34569 of 2023, 12221, 12223 & 12219 of 2024
and
W.M.P.Nos.34477, 34484 of 2023, 13313, 13318, 13320, 13321,
13322 & 13323 of 2024

29.04.2025



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W.P.Nos. 34558, 34569 of 2023, 12221, 12223 & 12219 of 2024

W.P.No.34558, 34569 of 2023,
W.P.Nos.12221, 12223, 12219 of 2024, and
W.M.P.Nos.34477, 34484 of 2023 and
W.M.P.Nos.13321, 13322, 13323, 13313, 13318 and 13320 of 2024

P.T.ASHA J.

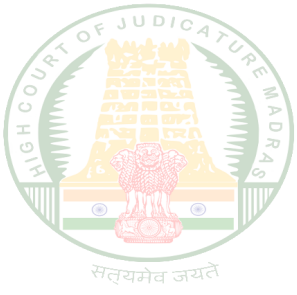
This case is listed today under the caption 'for being mentioned' at the instance of the learned Counsel for the petitioner.

2. The learned Counsel for the petitioner would submit that in the Order copy dated 29.04.2025, inadvertently some errors have crept in and therefore prays for necessary corrections in the above said order.

3. Based on the submission of the learned Counsel for the petitioner, the below changes are to be effected in the order copy dated 29.04.2025.

(i) In Page 4 as well as in Page 8 of the Order copy, the cause title and prayer portion in respect of W.P.No.12219 of 2024 has been printed twice. Hence, the cause title and prayer portion repeated in Page 8 in respect of W.P.No.12219 of 2024 shall be removed.

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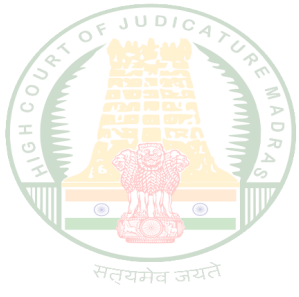
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(ii) In Page 10, the prayer portion of W.P.No.12223 of 2024 shall be replaced as follows:

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the 4th respondent comprised in Patta proceedings No.2023/0153/08/020919TR dated 10.11.2023 passed by the 4th respondent in respect of Survey No.81/2C admeasuring 15 ares (0.37 acres) dated 10.11.2023 and quash the same and consequently issue a mandamus forbearing the respondents, their officers, employees, subordinates or any person claiming or acting under them from in any manner interfering with the petitioners peaceful possession and enjoyment of his land admeasuring 15 Ares (0.37 acres) comprised in S.F.No.81/2C situated in Ayyamperumalpatti Village, District Salem.

(iii) In Page 12, Paragraph 3 of the Order shall be replaced as follows:

" W.P.No.12219 of 2024 has been filed to call for records of the 4th Respondent comprised in Patta



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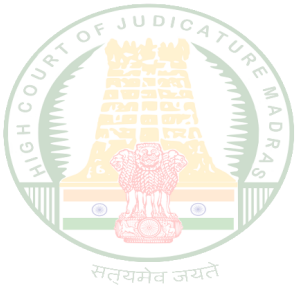


W.P.Nos. 34558, 34569 of 2023, 12221, 12223 & 12219 of 2024

proceedings No,2023/0153/08/020919TR dated 10.11.2023 passed by the 4th Respondent in respect of Survey No.81/2G admeasuring 26 ares (0.65 acres) dated 10.11.2023 and quash the same and consequently issue a mandamus forbearing the respondents, their officers, employees, subordinates or any person claiming or acting under them from in any manner interfering with the petitioner's peaceful possession and enjoyment of his land admeasuring 26 Ares (0.65 acres) comprised in S.F.No.81/2G situated in Ayyamperumalpatti Village, District Salem."

(iv) In Page 14, Paragraph 5 shall be replaced as follows.

" W.P.No.12223 of 2024 has been filed to call for records of the 4th Respondent comprised in Patta proceedings No.2023/0153/08/020919TR dated 10.11.2023 passed by the 4th Respondent in respect of Survey No.81/2C admeasuring 15 ares (0.37 acres) dated 10.11.2023 and quash the same and consequently issue a mandamus forbearing the respondents, their officers, employees, subordinates or any person claiming or acting under them from in any manner interfering with the petitioner's peaceful possession and enjoyment of his land admeasuring 15 Ares (0.37 acres)



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W.P.Nos. 34558, 34569 of 2023, 12221, 12223 & 12219 of 2024

comprised in S.F.No.81/2C situated in Ayyamperumalpatti Village, District Salem."

(v) In Page 15 of the order copy, 4th line from the top, it has been mentioned as "***Survey No.81/2A measuring 2.48 acres.***"

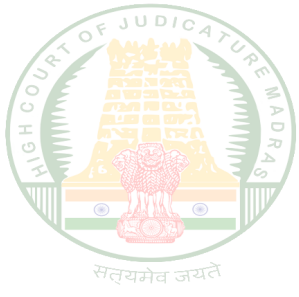
The same to be replaced as "***Survey No.81/2A measuring 2.42 acres.***"

(vi) In Page 16 of the order copy, in the tabular column, under the title '***Extent***' in (i) row, it is mentioned as ***2.48 acres.*** The same is to be replaced as ***2.42 acres.***

4. Registry is directed to carry out the necessary corrections and issue fresh copy of the order to the parties.

29.08.2025

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W.P.Nos. 34558, 34569 of 2023, 12221, 12223 & 12219 of 2024

P.T.ASHA J.

shl

W.P.No.34558, 34569 of 2023,
W.P.Nos.12221, 12223, 12219 of 2024, and
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W.M.P.Nos.13321, 13322, 13323,
13313, 13318 and 13320 of 2024

29.08.2025