



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-09-2025

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**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR JUSTICE C. SARAVANAN**

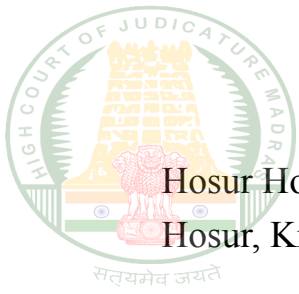
**WA No. 2459 of 2021
and
CMP No. 15791 of 2021**

The Managing Director,
Tamil Nadu Housing Board,
No.33 Anna Salai,
Nandanam, Chennai 600035.

Appellant(s)

Vs

1. G.Padmanabhan
- 2.G.Shanmugam
- 3.The State of Tamil Nadu
Rep. by its Secretary to Government,
Housing and Urban Development
Department,
Secretariat, Chennai 600 009.
- 4.The Special Tahsildar (LA)



Hosur Housing Scheme, Bagalur Road,
Hosur, Krishnagiri District.

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Respondent(s)

PRAYER

Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 15.12.2015 in WP No.11274 of 2014 and allow the above Writ Appeal.

For Appellant(s): Mr.P.Kumaresan,
Additional Advocate General,
Asst by Mr.P.S.Seetharaman,
Standing Counsel
For TNHB

For Respondent(s): Mr.V.Raghavachari,
Senior Counsel
For Mrs.V.Srimathi
For R1 & R2
Mr.Vadivelu Deenadayalan,
Additional Government Pleader
For R3 & R4

JUDGMENT

[Judgment was delivered by S.M.Subramaniam J.]

The present Letters Patent Appeal has been instituted under Clause 15 to assail the writ order dated 15.12.2014 passed in W.P.No.11274 of 2014.

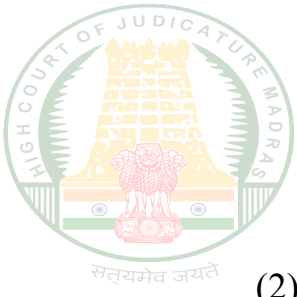


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2. The Tamil Nadu Housing Board is the appellant before this Court. The respondents 1 and 2 have instituted the writ proceedings seeking a declaration to declare the land acquisition proceedings initiated under the Land Acquisition Act, 1894, in respect of the lands measuring an extent of 0.95.0 hectare comprised in Survey No.957, 0.04.0 hectare in Survey No.958/1 and 0.32.0 hectare in Survey No.958/2, totally measuring an extent of 1.29.0. hectares situated at Hosur Village and Taluk, Krishnagiri District by notice under Section 4(1) of the Land Acquisition Act, 1894 in G.O.Ms.No.296, Housing and Urban Development Department, dated 04.03.1991 and Section 6 Declaration in G.O.Ms.No.313, Housing and Urban Development Department, dated 10.06.1992 deemed to have lapsed under Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

3. The grounds mainly raised by the respondents 1 and 2 to invoke Section 24(2) of Act 2013 are that:

(1) The Land Acquisition Officer had not provided any information to



receive compensation pursuant to the land acquisition award passed.

(2) Possession still remains with the respondents 1 and 2 / writ petitioners.

(3) Mere deposit of compensation either in the treasury or before the Civil Court would be insufficient to comply with the requirements under the old Land Acquisition Act.

4. The learned Single Judge considered these grounds and allowed the writ petition. Thus, the Tamil Nadu Housing Board, the Requisitioning body have instituted the present Intra-Court Appeal.

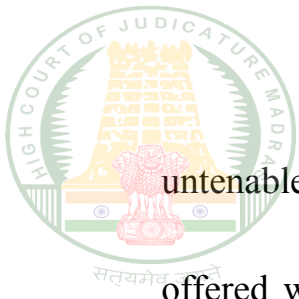
5. Mr.P.Kumaresan, the learned Additional Advocate General appearing on behalf of the appellant would mainly contend that the respondents 1 and 2 participated in the award proceedings and they have raised their objections. The objections were considered by the Land Acquisition Officer and an award was passed. Thereafter, the compensation amount had been deposited in the Treasury accounts. Thus, the procedures as contemplated under the Act were followed.



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6. The learned Additional Advocate General drew the attention of this Court with reference to the award proceedings, wherein the respondents 1 and 2 participated and refused to receive compensation. The award proceedings reveal that G.Padmanaban, G.Shanmugam, Manonmani and R.Janagiammal participated in the award proceedings and filed their written objections and preferred an application seeking exemption from land acquisition proceedings. They also demanded a sum of Rs.30,000/- per cent as compensation. Further, the award proceeds by stating that the respondents 1 and 2 were not interested in receiving the compensation and said that on receipt of the Government order they will receive the compensation. It is further stated that they will prefer an appeal seeking enhancement of compensation under Section 18 of the Act. The award passed by the Land Acquisition Officer reiterates that the respondents 1 and 2 have not accepted the compensation amount and consequently, the amount was deposited.

7. Relying on the finding in the award, the learned Additional Advocate General would contend that the very ground raised by the respondents 1 and 2 is



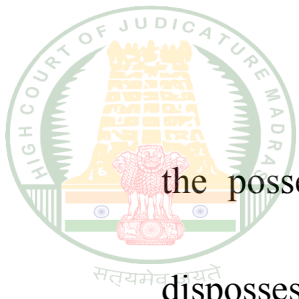
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untenable, since the possession had already been taken and the compensation offered was refused by them. That apart, the respondents 1 and 2 had earlier filed writ petition in W.P.No.8494 of 2012 seeking re-conveyance of the acquired land under Section 48B of the Old Land Acquisition Act. Therefore, it is apparent that the possession had been taken even at that point of time.

8. The learned Additional Advocate General relied on the judgment of the Constitutional Bench of the Hon'ble Supreme Court of India in the case of *Indore Development Authority vs. Manoharlal and Others*¹, wherein it was held that depositing compensation in the State Treasury is sufficient compliance. Any one of the preconditions if complied, then the erstwhile owner is not entitled to seek the relief of lapse under Section 24(2) of the Act, 2013.

9. Mr.V.Ragavachari, the learned Senior Counsel appearing on behalf of the respondents 1 and 2 would oppose by the relying on the counter affidavit filed by the Tamil Nadu Housing Board in W.P.No.11274 of 2014. It states that

¹ (2020) 8 SCC 129



the possession was not taken due to an interim order granting a stay of dispossession. Further, the Land Acquisition Officer had not taken possession of the land. That apart, the compensation has not been offered as required under Section 31(1) of the Land Acquisition Act. Therefore, the relief granted by the Writ Court is in consonance with Section 24(2) of the Act, 2013.

10. The learned Senior Counsel emphasized that the preconditions as contemplated are not complied with. Thus, the Writ Court has rightly granted the relief. The learned Senior Counsel drew the attention of this Court with reference to the orders of the learned Single Judge of this Court in the case of *M.Palanisamy and others vs. State of Tamil Nadu, represented by its Secretary to Government Housing and Urban Development Department*². The learned Single Judge has considered the procedures as contemplated under the Old Land Acquisition Act for passing an award, payment of compensation, as well as the requirements contemplated under Section 24(2) of the Act, 2013.

² (2020) 7 MLJ 734



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11. It is contended that at the time of passing award, the respondents 1 and 2 have challenged the land acquisition proceedings in W.P.Nos.9416, 9417 and 9419 of 1994 and obtained interim orders not to dispossess the land. Therefore, the contention of the appellant that they have taken possession need not be accepted and appears to be incorrect. Thus, the writ appeal deserves to be rejected.

12. The learned Senior Counsel further relied on the judgment of the Division Bench in case of *N.Devanadhan and Others vs. State of Tamil Nadu and Others*³. In the said case also the Division Bench has elaborately considered the procedures to be followed for passing of award and payment of compensation under the provisions of the Old Land Acquisition Act.

13. This Court has considered the rival submissions made between the parties to the *lis* on hand.

³ 2023 MHC 712



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14. It is not the case, where the land acquisition proceedings are under challenge. It is a case where a declaration is sought for to declare the land acquisition proceedings stands lapsed in view of Section 24(2) of the Act, 2013.

A distinction to be drawn between the scope of Section 24(2) of the Act, 2013 and the procedures followed under the Old Land Acquisition Act. The grounds taken in the context of the Old Land Acquisition Act need to be considered in the present case. But the scope of Section 24(2) cannot be expanded for the purpose of re-adjudication of land acquisition proceedings concluded under the Old Land Acquisition Act. Undoubtedly, the land acquisition proceedings need not be construed as completed for the purpose of invoking Section 24(2) of the Act. Though the proceedings are treated as continuing, the limited scope of Section 24(2) cannot be expanded for the purpose of adjudication of the procedures completed under the provisions of the Old Land Acquisition Act.

15. In this Context it would be relevant to rely on the judgment of the Constitution Bench of the Hon'ble Supreme Court in the case of **Indore Development Authority** (cited *supra*). The Constitution Bench in unequivocal



terms reiterated that Section 24(2) carves out an exception to Section 24(1)(b) -

If possession of the acquired land has been taken and compensation has not been paid (including where it was tendered but refused, and thereafter no deposit in court was made or only deposit in State treasury was made), then one possible consequence is that compensation must be paid with interest as per the provisions of the 1894 Act, but there would be no lapse of the proceedings or if possession of the acquired land has been taken and Section 24(2) proviso applies i.e., compensation in respect of a majority of landholdings has not been deposited in the account of the beneficiaries, then, all beneficiaries concerned shall be entitled to compensation in accordance with the 2013 Act, but again there would be no lapse of the proceedings.

16. Therefore, two circumstances are considered by the Apex Court, one for settlement of compensation under the Act, 2013 another regarding lapse of proceedings. Paragraph 366 the Apex Court answered the questions and 366.3, 366.4, 366.5 reads as under:

“366.3. The word “or” used in Section 24(2)



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

***366.4.** The expression “paid” in the main part of Section 24(2) of the 2013 Act does not include a deposit of compensation in court. The consequence of non-deposit is provided in the proviso to Section 24(2) in case it has not been deposited with respect to majority of landholdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the 1894 Act shall be entitled to compensation in accordance with the provisions of the 2013 Act. In case the obligation under Section 31 of the Land Acquisition Act, 1894*



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has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the 2013 Act has to be paid to the “landowners” as on the date of notification for land acquisition under Section 4 of the 1894 Act.

366.5. In case a person has been tendered the compensation as provided under Section 31(1) of the 1894 Act, it is not open to him to claim that acquisition has lapsed under Section 24(2) due to non-payment or non-deposit of compensation in court. The obligation to pay is complete by tendering the amount under Section 31(1). The landowners who had refused to accept compensation or who sought reference for higher compensation, cannot claim that the acquisition proceedings had lapsed under Section 24(2) of the 2013 Act.”

17. Regarding the dispute about payment of compensation in paragraph



208 of the judgment in **Indore Development Authority's** case (cited *supra*), the

Hon'ble Supreme Court made the following observations:

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208. It was submitted that mere tender of amount is not payment. The amount has to be actually paid. In our opinion, when amount has been tendered, the obligation has been fulfilled by the Collector. Landowners cannot be forced to receive it. In case a person has not accepted the amount wants to take the advantage of non-payment, though the amount has remained (sic unpaid) due to his own act. It is not open to him to contend that the amount has not been paid to him, as such, there should be lapse of the proceedings. Even in a case when offer for payment has been made but not deposited, liability to pay amount along with interest subsist and if not deposited for majority of holding, for that adequate provisions have been given in the proviso also to Section 24(2). The scheme of the 2013 Act in Sections 77 and 80 is also the same as that provided in Sections 31 and 34 of the 1894 Act.”



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18. As far as the judgment relied on by the respondents 1 and 2 in *M.Palanisamy's* case (cited *supra*), the facts are distinguishable. The facts in the case decided by the learned Single Judge as narrated in paragraph 8 shows that the “Tamil Nadu Housing Board has issued a Tender Notification on 03.06.2020 inviting tenders for development of the Housing Scheme in the subject properties. The petitioners also came to understand that the patta has been transferred in the name of Tamil Nadu Housing Board by the virtue of the orders passed by the 5th respondent on 15.06.2020. A Public Notice was also issued by the Town and Country Planning Authority, Coimbatore with regard to the change of use of land from agricultural to residential and objections were called for from the general public. According to the petitioners, it is only at this point of time, they came to understand that an Award has been passed behind their back and the petitioners were kept in the dark for so many years and neither compensation was paid to them not the possession was taken from them”.

19. The facts in *M.Palanisamy's* case (cited *supra*) are distinguishable



from the present case, as the landowners were kept in dark and they did not participate in the award proceedings, they were not even aware of the land acquisition proceedings, possession was not taken, no compensation had been paid, and only when a tender notification was issued by the Tamil Nadu Housing Board, they came to know that their lands were acquired. Therefore, those facts are incomparable with the facts of the present case, as the respondents 1 and 2 have actively participated in the award proceedings, raised objections and further submitted written objections stating that they will seek enhancement of compensation and interested in receiving the compensation fixed by the land acquisition officer.

20. The learned Senior Counsel appearing on behalf of the respondents 1 and 2 relied on paragraph 44 in ***M.Palanisamy's*** case (cited *supra*), wherein the learned Single Judge has explained that “The term “Tendering of Amount” involves an offer made for payment of money to the person who is entitled to receive the same. That would mean that the Collector must be armed with the amount of compensation payable to the persons interested and sufficient notice



must be given to them to assemble in a place in order to receive the compensation amount. It is only for this purpose, Section 12[2] of the 1894 Act provides notice to the land owner after the Award enquiry and determination of compensation and if this notice is issued and the land owner, either refuses to receive this amount or does not appear even after the receipt of the notice, the revenue deposit made thereafter, will amount to a proper tendering/paying of the compensation amount”.

21. There are two possible scenarios: (1) the Collector offers the compensation amount, but the landowners refuse to receive it; or (2) the landowners participate in the award proceedings, are aware of the court or treasury deposits, but do not apply for withdrawal of the amount. In the considered view of this Court, it is sufficient if the landowners are aware of the compensation fixed and the deposit of the amount made by the Land Acquisition Officer, either in the Treasury account or in the Civil Court.

22. Once the landowners are aware of the deposit of the compensation, it



is for them to withdraw the same by following the procedures. The Hon'ble

Supreme Court in **Indore Development Authority's** case (cited *supra*), more

specifically in paragraph 208 has clarified that the land owners cannot be forced

to receive the compensation. The Division Bench in **N.Devanathan's** case (cited

supra) relied on by respondents 1 and 2 has further explained this position in

paragraph 9.5 that “The rigor of Section 24(2) is that when in exercise of the

power of eminent domain, lands have been acquired, the same has to be put into

use by taking possession and the owner has to be paid the compensation and if

there is any dispute, the compensation has to be deposited in Court”. Therefore,

the legal position in this regard has been settled.

23. In the present case, the appellants could establish that the respondents 1 and 2, the erstwhile landowners, actively participated in the award proceedings, filed written objections and further expressed their intention to seek enhancement of compensation. Subsequently, the Land Acquisition Officer deposited the compensation amount in the Treasury accounts.



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24. In light of these facts and circumstances, this Court is of the considered view that the learned Single erred in forming an opinion that the respondents 1 and 2 are entitled to the benefit of lapse of land acquisition proceedings under Section 24(2) of the Act. Consequently, the impugned writ order passed in W.P.No.11274 of 2014 dated 15.12.2015, is set aside, and the Writ Appeal stands allowed. The connected Miscellaneous Petition is closed.

There shall be no order as to costs.

(S.M.SUBRAMANIAM J.) (C.SARAVANAN J.)

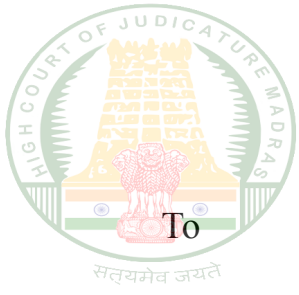
01-09-2025

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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1.The State Of Tamil Nadu

Rep By Its Secretary To Government,
Housing And Urban Development
Department, Secretariat, Chennai 09.

2.The Special Tahsildar (LA)

Hosur Housing Scheme, Bagalur Road,
Hosur, Krishnagiri District.



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