



W.P.(MD)No.736 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2025

CORAM:

THE HON'BLE MR. JUSTICE S.SOUNTHAR

W.P.(MD).No.736 of 2017
and
W.M.P(MD)No.595 of 2017

B.Gurusamy Naicker

... Petitioner

Vs.

1. The Secretary to the Government,
The Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St., George,
Chennai - 600 009.
2. The Managing Director,
Tamil Nadu Housing Board (TNHB),
Nanthanam,
Anna Salai,
Chennai-35.
3. The Executive Engineer /Administrative Officer,
Uchapatti - Thoppur Satellite Town Division,
Tamil Nadu Housing Board (TNHB),
Ellis Nagar,
Madurai - 625 010.
4. The District Collector,
Madurai District Collectorate,
Madurai - 625 020.



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5. The Revenue Divisional Officer,
O/o. Revenue Divisional Office,
Usilampatti Revenue Division,
Usilampatti,
Madurai - DT PIN-635 532.

6. The Special Tahsildar (Land Acquisition),
South Neighbourhood Scheme,
Old Ramnad Collectorate Complex,
Madurai- 20.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, declaring the entire land acquisition proceedings initiated under the Land Acquisition Act, 1894 in respect of land in Survey Nos. 96/1 to an extent of 1.49.5, 96/3 to an extent of 4.23.5, 97/1 to an extent of 0.91.5 & 97/2 to an extent of 0.20.5 Hectares and totally 6.85.0 Hectares and 2 well in this ½ share of land owned by the petitioner Award No.17/94 dated 28.07.1994 with LAC No. 627/86 in Uchapatti Village, Thirumangalam Taluk, Madurai District, which was passed by the 6th respondent/special Tahsildar (Land Acquisition), South Neighbourhood Scheme, Madurai 20 as lapsed in view of Sec. 11-A(1) of Land Acquisition Act, 1894 and also in view of the Sec: 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and consequently directing the respondents to release this survey number from the patta number 458 and not to interfere with the the petitioner physical possession over the said property as still the petitioner is in possession and cultivation.



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For Petitioner : Mr.R.Saravanan
For R1 to R3 : Mr.Veerakathiravan
Additional Advocate General
Assisted by
Mr.R.Sivakumar
For R4 to R6 : Mr.A.Baskaran
Additional Government Pleader

ORDER

The Writ Petition is filed seeking a declaration that the entire land acquisition proceedings initiated under the Land Acquisition Act, 1894, in respect of land in in Survey Nos. 96/1 to an extent of 1.49.5, 96/3 to an extent of 4.23.5, 97/1 to an extent of 0.91.5 & 97/2 to an extent of 0.20.5 Hectares and totally 6.85.0 Hectares and 2 well in this ½ share of land owned by the petitioner Award No.17/94 dated 28.07.1994 with LAC No. 627/86 in Uchapatti Village, Thirumangalam Taluk, Madurai District, which was passed by the 6th respondent/special Tahsildar (Land Acquisition), South Neighbourhood Scheme, Madurai 20 as lapsed in view of Sec. 11-A(1) of Land Acquisition Act, 1894 and also in view of the Sec: 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and consequently directing the respondents to release this survey number from



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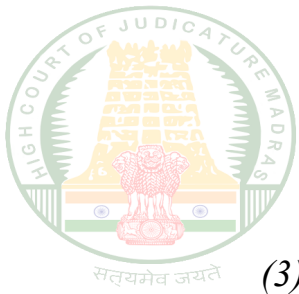
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the patta number 458 and not to interfere with the the petitioner physical possession over the said property as still the petitioner is in possession and cultivation.

2. Heard the arguments of Mr.R.Saravanan, learned counsel for the petitioner, Mr.Veerakathiravan, learned Additional Advocate General assisted by Mr.R.Sivakumar, learned counsel for respondents 1 to 3 and Mr.A.Baskaran, learned Additional Government Pleader appearing for the respondents 4 to 6.

3. As per the law settled by the Constitution Bench of the Hon-ble Apex Court in **Indore Development Authority vs. Manoharlal and others** reported in **2020 8 SCC 129**, the deemed lapse of land acquisition proceedings under Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 takes place, where the possession has not been taken from the land owners and the compensation amount has not been paid. The relevant observation of the Hon-ble Apex Court reads as follows:

“363....
(1) & (2)

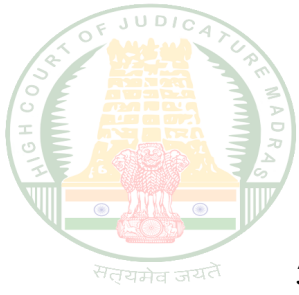


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(3) The word -or- used in Section 24(2) between possession and compensation has to be read as -nor- or as -and-. The deemed lapse of land acquisition proceedings under Section 24(2) of the Act of 2013 takes place where due to inaction of authorities 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.? ”

Therefore, it is clear that when the twin conditions as laid down in ***Indore Development Authority-s case*** are not satisfied the declaration as prayed for cannot be granted.

4. It is seen from the typed set of papers filed by the petitioner in the calculation memo in L.A.O.P.No.123 of 1995 on the file of the 1st Additional Subordinate Judge, Madurai, the petitioner admitted that he received a compensation viz., Rs.86,763/- and the balance amount to be paid is Rs.5,50,743/-. Therefore, it is clear that the petitioner received a portion of the compensation amount awarded. Therefore, one of the essential condition regarding the non payment of compensation is not satisfied.



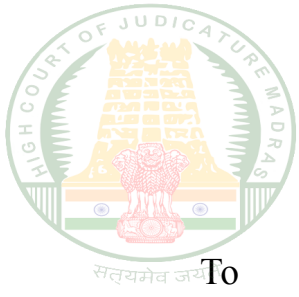
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5. Therefore, the writ petition deserves to be dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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NCC :yes/No
Index :yes/No
Internet:yes/No
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