

(2014) 09 MAD CK 0164

In the Madras High Court

Case No : Writ Petition No. 11795 of 2008 and M.P. No. 1 of 2008

C.V. Krishnaswami

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 18-09-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 1, 2, 20, 24(2), 31
Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 — Section 24(2)

Citation : (2014) 5 LW 406

Hon'ble Judges : C.S. Karnan, J

Bench : Single Bench

Judgement

C.S. Karnan, J.—The petitioner submits that he is the power agent of his daughter Dr. Shanthi Rajendran and her husband G. Rajendran. The petitioner submits that he has purchased to an extent of 1.02 acres of land in S.F. No. 185/1, in Kavandanpalayam Village, Coimbatore North Taluk, Coimbatore District for the purpose of enabling his daughter and son-in-law, to put up a hospital in the said 1.02 acre of land. The petitioner further submits that the lands purchased for his daughter and his son-in-law on 24.11.1995 are adjacent to the land bearing S.F. No. 185/2 purchased by him. The petitioner further submits that the said land has been purchased after due verification with the Revenue Authorities. He was not aware that the lands were in the Land Acquisition Proceedings. A portion of the land bearing S.F. No. 185/2 of Southern side, which he has purchased belongs to him has been deleted from the Land Acquisition Proceedings under the instructions of Additional Collector, who is attached to Coimbatore District. The petitioner additionally added that after purchasing the said land they are in possession and enjoyment from the very date of purchase after fencing the land. There are no hospitals or medical centres in the vicinity. Hence, he applied for the sanction for the construction of the hospital on the lands purchased by him and his daughter and son-in-law. He also obtained sanction from the Government for the construction of the Hospital. The Tahsildar,

Coimbatore, had issued a certificate in Pa.Mu. 1072/98 A6 dated 11.03.1998 to the effect that the land in S.F. No. 185/1 belonging to Shanthi Rajendran and G. Rajendran does not include any poramboke land and no notification under Section 4(1) of the Land Acquisition Act, 1984 has been issued in the said lands.

2. The petitioner further added that he has been paying kist and tax for the lands in S.F. Nos. 185/1 and 185/2 in pursuant to the purchase of land in 1995. The Revenue Department issued patta Nos. 10 and 442 in favour of the previous owners Palanisamy, Natarajan and others. Subsequently, to the purchase of the lands, the Revenue Department issued patta pass book No. 098857 in favour of Mrs. Shanthi Rajendran and No. 147671 in favour of G. Rajendran in respect of the land they purchased. He made representation dated 23.02.2004 to the District Collector, Coimbatore requesting him to consider his request to release the lands in S.F. No. 185/1 for the purpose of constructing the Hospital and a Medical Centre. He undertook to bear the cost incurred by the Department towards Land Acquisition Proceedings. Further, he sent representations dated 27.04.2004, 03.08.2004 and 09.07.2007 to the Special Commissioner and the Commissioner of Land Acquisition explaining the above aspects. It is pertinent to note that on the basis of the recommendations of the Additional Collector, Coimbatore, the land belonging to Palanisamy comprised in S.F. No. 185/2 was deleted from the Land Acquisition Proceedings. His daughter Shanthi Rajendran and son-in-law G. Rajendran purchased the lands based on the encumbrance certificate bearing No. 178, dated 05.01.1996 showing no encumbrance with respect to the Land Acquisition Proceedings taken by the Government issued by the Sub-Registrar, Gandhipuram, Coimbatore, on the basis of assurance given by the erstwhile owners. The said lands were purchased with the noble object to construct the hospital and medical centre to cater to the needs of the people in the locality.

3. The petitioner further added that the land in S.F. No. 185/1 belonging to Shanthi Rajendran and G. Rajendran have not been taken possession of by the Government Central and the area surrounding this have been released by the Government from the Land Acquisition Proceedings. Further, it is brought to the notice that the purpose for which the Government has taken the land in the year 1991, has not been carried out till today. The petitioner further submits that he filed a writ petition in W.P. No. 35393 of 2004 for directing the respondents to withdraw the acquisition of the land. By an order dated 01.02.2005 there was a direction to dispose the application under Section 48B of the Act after giving personal hearing. As there was no further communication, he has filed W.P. No. 30200 of 2007, for directing an enquiry to be conducted as per the earlier order and the said writ petition is pending. The first respondent has passed an order vide G.O.(3B) No.10, dated 06.03.2008, rejecting the Application under Section 48B which is challenged by way of the present writ petition.

4. The fourth respondent herein/District Collector has filed a counter statement and resisted the writ petition. This respondent submits that an extent of 6.10

acres of land owned by 7 notified owners, viz., (1) Thiru. Chinna Konar, (2) Tmt. Ramatha, (3) Tmt. Maruthakkal, (4) Tmt. Maruthakkal, (5) Thiru. Palanisamy, (6) Thiru. Natarajan, (7) Thiru. M. Krishnan, was proposed to be acquired under Land Acquisition Act, 1894, to issue house site patta to poor Adi Dravidars. Subsequently, one of the land owners Palanisamy, appeared before the Additional Collector, Coimbatore and represented for the deletion of his holding from the land proposed to be acquired as his family consisted of three mentally retarded children and that he has to look after them with the above property alone. Accordingly, an extent of 1.52 acres of land was exempted from the Land Acquisition on compassionate ground and the award was passed for the remaining extent of 4.58 acres as per Award No. 9/91-92, dated 21.11.1991 by Coimbatore Adi Dravidar Welfare Special Tahsildar, in his proceedings Ref. No. 1405/1984/A, dated 21.11.1991.

5. The fourth respondent additionally submits that the petitioner has presented a petition under Section 48B of Land Acquisition Act, 1894, to Government to consider the withdrawal of an extent of 1.20 acres of land in S.F. No. 185/1 of Kavundampalayam Village from the Land Acquisition. The petitioner has also filed W.P. No. 35393 of 2004 before this Court for deletion of the land acquired. This Court, in its judgment in W.P. No. 35393 of 2004 and W.P. No. 42635 of 2004, dated 01.02.2005 has observed as detailed below:--

"The petitioner has moved the first respondent on 30.09.2004 by filing an application under Section 48B of Land Acquisition Act for reconveyance. In such circumstances, taking note of the status of the petitioner who is the Senior Citizen and also the contents raised by him, this Court directed the first respondent to dispose of the petition under Section 48B of the Land Acquisition Act after giving a personal hearing to the petitioner. At the time of personal hearing, it will be open to the petitioner to seek for ever deletion of the petitioner's land from the acquisition based on such order passed in respect of the adjacent land holdings. The first respondent shall consider and pass final orders on the petitioner's application dated 30.09.2004 within four months from the date of receipt of the judgment."

In this regard, the fourth respondent submits that the petitioner is not the land owner of the land in Survey No. 185/1 of Kavundampalayam Village as stated. The petitioner's son-in-law (Thiru. Rajendran) had purchased an extent of 0.40 acres of land in S. No. 185/1 of Kavundampalayam Village as per Document No. 5969/1995, dated 28.11.1995 and an extent of 0.62 acres in S. No. 185/1 of Kavundampalayam Village was purchased by his daughter, Tmt. Shanthi Rajendran, as per Doc. No. 5970/1995, dated 28.11.1995. As the above land was already vested with the Government Adi Dravidar Welfare Department as per Award No. 9/1991-1992, dated 21.11.1991, i.e., after the period of four years from the date of award passed, the petitioner has no right to get exemption, under Section 48B of the Land Acquisition Act as the land was already acquired as per Award No. 9/1991-1992, dated 21.11.1991. Hence, the question of senior

citizen does not arise in this case. Further, no exemption was given to any person under Section 48B of the Land Acquisition Act as alleged by the petitioner. Subsequent to 5A enquiry, one Thiru. Palanisamy, appeared before the Additional Collector, Coimbatore and represented for the deletion of his holdings from the lands proposed to be acquired as his family consisted of three mentally retarded children and that he has to look after them with the above property alone. Accordingly, an extent of 1.52 acres of lands from the Land Acquisition was exempted on compassionate ground and the Award passed for the remaining 1.85.5 hectares. The petitioner, Thiru. C.K. Krishnasamy has again filed W.P. No. 30200 of 2007 before this Court stating that he did not get any favourable reply as directed by this Court in W.P. No. 35393 of 2004. According to the direction of this Court in W.P. No. 35393 of 2004, dated 01.02.2005, the petitioner was given a personal hearing before the Secretary to Government on 18.10.2007. All the points referred during the enquiry were scrutinized with relevant records and the Government in G.O. No. 10, Adi Dravidar & Tribal Welfare (L.A.) Department, dated 06.03.2008 have issued an order rejecting the request of the petitioner for the reconveyance of the land in S.F. No. 185/1, Kavundampalayam Village, Coimbatore North Taluk, Coimbatore District.

6. The fourth respondent further submits that the land in S.F. No. 185/1, Kavundampalayam Village, measuring 0.40 acres, was purchased by the petitioner's son-in-law, Rajendran as per Doc. No. 5969/1995, dated 28.11.1995 and an extent of 0.62 acres by his daughter, Tmt. Shanthi Rajendran as per Doc. No. 5970/1995, dated 28.11.1995. The fourth respondent further submits that the Land Acquisition Proceedings were initiated in the year 1988 and Section 4(1) Notification was published in the Tamil Dailies, "Pirpagal" and "Thinathanthi" on 29.10.1988. The enquiry under Section 5(A) of the Land Acquisition Act was conducted on 01.01.1989, 14.02.1989 and 03.05.1989 respectively. Neither the original land owner nor the petitioner have attended the enquiry. Only one Krishnan from Karur, made his representation on 03.05.1989 and requested for exemption from Land Acquisition and his request was not considered. The Notification under Section 6 of the Land Acquisition Act was published in the Tamil Nadu Government Gazette Extraordinary No. 575 at Page No. 1 of Supplement to Part-II Section 1 and 2, dated 22.11.1989 and Tamil Dailies, "Thinathanthi" & "Makkal Rural" on 23.11.1989 and in locality on 24.11.1989 and Award Enquiry was conducted on 12.11.1991 and 19.11.1991 and the Award was passed on 21.11.1991. The award amount of Rs. 3,04,312/- was also deposited in the Sub Court, Coimbatore. One of the land owners, Thiru.Palanisamy, requested for exemption of 1.52 acre of land in S.F. No. 185/1 of Kavundampalayam Village from the Land Acquisition Proceedings and his request was considered and exempted from the Land Acquisition on compassionate ground. The land purchased by the petitioner's daughter and son-in-law was only in the year 1995, and the question of exemption of land to the petitioner does not arise in this case as the award was passed early in the year 1991.

7. The fourth respondent further submits that the land was acquired for laying

house site to the poor Adi Dravidars. The petitioner's daughter and son-in-law had purchased the land only after passing the Award dated 21.11.1991. The land was purchased by the petitioner's son-in-law and daughter only in the year 1995. Hence, the sale of land to the petitioner could be treated as null and void as the land belongs to Adi Dravidar Welfare Department since the title of ownership stood in the name of Adi Dravidar Department and hence, the certificate issued by the Tahsildar, Coimbatore North in D.Dis.1072/1998/A6, dated 11.03.1998 cannot be considered. The Notification under Section 4(1) of the Land Acquisition Act for the acquisition of 6.10 acres of land in Survey No. 185/1 of Kavundampalayam Village was published in the year 1988, and in the Tamil Dailies "Thinathanthi" and "Pirpagal" on 29.10.1988 and locality publication on 15.11.1988. The award was passed on 21.11.1991. Whereas the petitioner's son-in-law and his daughter have purchased the land only in the year 1995. Though he has paid kist and tax, he has no right to claim the ownership of land, as the land was already acquired for laying house sites to poor Adi Dravidars. The fourth respondent further submits that the petitioner's representation dated 23.02.2004, was not received in their office. However, a detailed report on his petition dated 27.04.2004 was sent to Government in connection with his request for release of the land in Survey No. 185/1 of Kavundampalayam Village. A detailed report rejecting the request of the applicant was also sent to Government by the District Collector, Coimbatore as per Collector's Ref. No. 18989/88 N8, dated 29.07.2005 in connection with the petition filed in W.P. No. 35393 of 2004.

8. The fourth respondent further submits that the Land Acquisition Proceedings were initiated to acquire the land in Survey No. 185 of Kavundampalayam Village to provide house sites to poor Adi Dravidars for which award was passed in the year 1991. Petitioner's son-in-law and his daughter had purchased the land only in the year 1995. The fourth respondent further submits that this Court in W.P. No. 35393 of 2004, dated 01.02.2005 has directed the Secretary to Government to pass necessary orders, on the request of Dr.(Lt.Col) C.V. Krishnasamy made on 30.09.2004, within four months by given a personal hearing. Accordingly, the petitioner was enquired on 18.10.2007. During the course of enquiry, the petitioner has stated that he is an Ex-serviceman and Encumbrance Certificate obtained from the Registration Department for the period 01.01.1986 to 31.10.1996 does not disclose any encumbrance in the property and that the Tahsildar, Coimbatore (North) has also issued necessary certificate that there is no Land Acquisition Proceedings in respect of land in S.F. No. 185/1 of Kavundampalayam Village. Further, the petitioner has stated that he has obtained patta and remitted the land revenue upto 2002. He further added that he is not aware of the fact that the proposed land was subject to the Land Acquisition for Adi Dravida Welfare Scheme and that the previous land owners have also cheated him in this aspect even though he was aware of the Land Acquisition Proceedings. The petitioner requested the Government to release his land from Land Acquisition since he worked as a Medical Officer in the Army. The

Government after examining all the connected records and documents have ordered that the request of the petitioner for reconveyance of an extent of 1.02 acres of land in S.F. No. 1851, Kavundampalayam Village, Coimbatore North Taluk, Coimbatore District. Under Section 48B of the Act deserves no consideration and rejected the request of the petitioner.

9. The fourth respondent further submits that the encumbrance certificate for the period from 01.01.1986 to 31.10.1996 was issued by the Registration Department based on the records maintained by them. The Land Acquisition Officer by following such procedures in the Acts and Rules pronounced the Award and subsequently after making necessary entries in the Revenue records, intimation was sent to Registration Department. On the completion of the procedures, the changes in the Revenue Records were made on 05.11.2003 as per Taluk 7/13/03-04, dated 17.10.2003.

10. The fourth respondent further submits that as per the revenue records, the title of the land during the year 1988 stands in the name of private individuals and therefore, the Tahsildar (Regular) in-charge might have issued a certificate that no 4(1) proceedings are pending. In this case, the Land Acquisition Tahsildar has not issued any certificate. Therefore, the contention of the petitioner is not correct. The award in this case was pronounced by the Land Acquisition Officer vide proceedings 9/91-92, dated 21.11.1991. The lands referred to by the petitioner belongs to his daughter Shanthi Rajendran and son-in-law G. Rajendran. They purchased the lands only in the year 1995 i.e., after lapse of four years from the date of award. The names of Tvl. Shanthi and Rajendran was recorded in patta No. 442 as per Taluk Prog. MTR1540/98-99 respectively during the year 1999. The change in classification of land from patta to Adi Dravida Natham was registered in the Village accounts on 05.11.2003. The copy of patta produced by the petitioner's side relates to the earlier period i.e., 18.10.2003. Therefore, the Village Administrative Officer has the reason to collect the land revenue in the year 2002. The fourth respondent further submits that the petitioner has contended that the previous land owner has cheated him and sold this land knowing fully well that Land Acquisition Proceedings were initiated. The petitioner can very well file a case to get back the cost of land from the previous land owner. Both the daughter and son-in-law are doctors. They can acquire some other lands for the construction of a hospital. Therefore, the request of the petitioner is not acceptable. The land in respect of one Thiru.Palanisamy was released from the Acquisition, considering the fact that he has three mentally retarded children and based on his family condition. This situation cannot be compared by the petitioner for release of his land since both his daughter and son-in-law are working as doctors and can purchase lands in the area or elsewhere.

11. The fourth respondent further submits that under Section 48B if the land acquired is not required for the purpose for which it is acquired, only in such condition the reconveyance is possible. The acquired portion of the said land is

required for the issuance of patta to the house less poor people of Adi Dravida community. Therefore, there is no discrimination in this Act as contended by the petitioner. The land are acquired for the issuance of patta to the house less poor people. Therefore, the award was passed and the compensation amount deposited in the Court as early in the year 1991-92. The Government is keen on providing house sites to the house-less poor people. As per the provisions of the Act, the Award amount was deposited in the Court. It is upto the interested person to claim the compensation through Court. The action taken by the Land Acquisition Officer and the stand taken by the Government are in accordance with law. The fourth respondent further submits that the Government after considering all the aspects of the petition have issued the order. Therefore, the request of the petitioner is not acceptable. The request of the petitioner at this stage is not reasonable. The land is required for the issuance of patta to the house-less poor Adi Dravida people. Since the lands acquired by the Department is based on requirement and need of the house-less poor the request of the petitioner deserves no consideration. Hence, this respondent entreats the Court to dismiss the above writ petition.

12. The petitioner has filed a reply additional affidavit to that of the fourth respondent stating that several of the facts and the correspondence by the fourth respondent recommending dropping of the proceedings for acquisition in the communication addressed to the Chief Secretary to Government, have been suppressed from this Court. The petitioner further submits that the writ petition was filed challenging the order of the first respondent rejecting his plea for exemption of the land under Section 48-B of the Tamil Nadu Land Acquisition Act, 1894. It is the case of the first respondent that the acquisition was under the Adhi Dravidar Welfare Scheme. It is pertinent and relevant at this juncture that the Hon'ble Supreme Court in the case between State of Tamil Nadu and Others Vs. Ananthi Ammal and Others, has observed as follows:--

"28. This is an appeal by the owner of the land whose land was sought to be acquired under the provisions of the Land Acquisition Act for the purpose of a Harijan Welfare Scheme after the coming into force of the said Act, that is, the Tamil Nadu Acquisition of Lands for Harijan Welfare Scheme Act, 1978. The appellant filed a writ petition in the Madras High Court for a direction to the State to forbear from continuing with the proceedings under the Land Acquisition Act having regard to the provisions of Section 20 of the said Act which required that for such purpose land could be acquired only in accordance with the provision of the said Act....."

Therefore, the acquisition proceedings itself is bad. In any event, the fourth respondent himself vide correspondence dated 11.11.2010 filed as accompanying this additional affidavit in the compilation of papers, has recommended for dropping of the acquisition proceedings, as the same was not viable and possession was not taken and the cost involved was very huge. The Commissioner, Land Administration Department had also written to the Secretary

to Government recommending dropping of proceedings, as the power to drop acquisition proceedings vested only with the Government.

13. The petitioner further submits that originally, in the notification issued under Section 4(1) of the Land Acquisition Act, 1894, an extent of 6.10 acres of land was sought to be acquired. Thereafter, on a representation 1.52 acres of land in Survey No. 185/2 was exempted. A hospital that is sought to be built is over S. Nos. 185/1 and 185/2. They have interest in respect of both the lands. The land that was exempted as admitted by the fourth respondent in his counter affidavit is in the middle of the land that is sought to be acquired. Lands adjoining the road is in Survey No. 185/3, where there is a lay out and therefore, there is no effective purpose in acquiring the lands under S. No. 185/1. In any event, there is no fairness in passing of the order impugned in the writ petition and he is an affected party. The order impugned herein has been passed without following the principles of natural justice and equity and he has been discriminated. Based on the certificate issued by the Village Administrative Officer that no proceedings for Land Acquisition was pending, he had purchased the property and the respondents cannot now contend contra and deprive him of the rights to the land.

14. The petitioner further submits that he is not traversing into any of the allegations made by the fourth respondent in his affidavit, as he is advised that the challenge is to the order of the first respondent and the first respondent has opted not to file the counter. The fourth respondent being a subordinate authority, is not empowered to file a counter affidavit and his affidavit cannot be treated as a counter affidavit. He can't substantiate the act of the first respondent Government. The petitioner has filed the additional affidavit only to place the aforementioned facts and the factum of the correspondence between the parties and recommendation, which is pending with the Government. The petitioner also understands from the correspondence filed as document along with the compilation that in the light of the pendency of the writ petition, the respondents have not considered the dropping of the proceedings. The first respondent ought to have exercised discretion in favour and exempted the lands in the facts and circumstances of the case. Hence, the petitioner entreats the Court to allow the writ petition.

15. The highly competent counsel Mr. S.R. Rajagopal appearing for the petitioner submits that the first respondent/Secretary to Government ought to have seen that the petitioner's daughter is a bona-fide purchaser as seen from the fact that there was no reference to acquisition in the E.C. for the period between 01.01.1986 to 31.10.1996. Therefore, the erstwhile vendor sold the properties in favour of them under Registered sale deed bearing Nos. 5969 and 5970/1995, dated 28.11.1995. It clearly proves that the erstwhile owner possessed marketable title deeds, as such, the alienation is valid under law. Further, the Tahsildar, who is attached to the Coimbatore (North) Taluk had issued a certificate, dated 11.03.1998 stating that the land comprised in survey field No. 185/1 belongs to Shanthi Rajendran and G. Rajendran. Therefore, the

notification under Section 4(1) of the Land Acquisition Act is not fit to be proceeded with any further and as such, the subsequent proceeding for acquiring the said lands following the 4(1) of the notification cannot be considered as valid or as a fair acquisition. Further, the landowner had been paying kist and tax for the lands in S.F. Nos. 185/1 and 185/2 in pursuant to the purchase of land on 24.11.1995. The Revenue Authorities have issued patta Nos. 10 and 442 in favour of the previous owners. Subsequently, the patta proceedings have been transferred in the name of Mrs. Shanthi Rajendran and G. Rajendran in patta pass book Nos. 098857 and 147671 respectively. The petitioner made representation dated 23.02.2004 to the District Collector, Coimbatore, to release the land from Acquisition Proceedings, for the purpose of constructing a hospital and a Medical Centre for his daughter, who is a practicing doctor. Similar representation has also been levelled before the Special Commissioner and the Commissioner Land Acquisition. Further, one Palanisamy made representation to the Additional Collector, Coimbatore, to delete his land comprising in S.F. No. 185/2 and the same was recommended by the Additional Collector, Coimbatore and subsequently, the land of Palanisamy had been excluded from the Acquisition Proceedings. Further, the petitioner's daughter and son-in law are in possession of the property. The respondents so far have not executed the purpose for which, it was acquired and the acquired lands have not been allotted to the poor Adi Dravidar house-less people. In support of his contentions, he has cited a judgment reported in Pune Municipal Corporation and Another Vs. Harakchand Misirimal Solanki and Others,

"(A) Property Laws - Land Acquisition -Lapse of proceedings - The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, Section 24(2) - Land Acquisition Act, 1894, Section 31- Lands of respondents acquired by appellant/Corporation under 1894 Act - Acquisition Proceedings challenged - High Court quashed acquisition proceedings and directed restoration of possession -Appellant/Corporation alleged that compensation amount was deposited in Government treasury and thus acquisition proceedings not lapsed landowners alleged that by virtue of Section 24(2) of 2013 Act, acquisition proceedings lapsed - Whether land acquisition proceedings lapsed with coming into force of Section 24(2) of 2013 Act - Held, 1894 Act being expropriatory legislation has to be strictly followed - Compensation awarded neither paid to landowners nor deposited in Court - Deposit of compensation amount in Government treasury not equivalent to compensation paid to landowners - Award made by the Land Acquisition Officer more than five years prior to commencement of 2013 Act - Under Section 24(2) of 2013 Act, land acquisition proceedings initiated under 1894 Act, by legal fiction, are deemed to have lapsed where award made five years or more prior to commencement of 2013 Act and possession not taken or compensation not paid - Land Acquisition Proceedings are to be deemed to have lapsed under Section 24(2) of 2013 Act - Appeal dismissed.

(B) Interpretation of statutes -"Compensation has not been paid" in Section

24(2) of the The Right to Fair Compensation Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 - Legislature did not intend to equate word : "paid" to "offered" or "tendered" - By use of word "paid", Parliament intend receipt of compensated by landowners/persons interested - Not appropriate to give literal construction to expression "paid" used in Section 24(2) - For purposes of Section 24(2), compensation to be regarded as "paid" if compensation offered to person interested and such compensation deposited in Court - compensation "paid" within meaning of Section 24(2) when Collector or Land Acquisition Officer discharged obligation and deposited amount of compensation in Court.

Held: The Act 1894 being an expropriatory legislation has to be strictly followed. The award pertaining to the subject land has been made by the Special Land Acquisition Officer more than five years prior to commencement of the Act 2013. It is also admitted position that compensation so awarded has neither been paid to the landowners/persons interested nor deposited in the Court. The deposit of compensation amount in the Government treasury is of no avail and cannot be held to be equivalent to compensation paid to the landowners/persons interested. This Court have, therefore, no hesitation in holding that the subject land acquisition proceedings shall be deemed to have lapsed under Section 24(2) of the Act 2013 Act."

Hence, the highly competent counsel entreats the Court to allow the above writ petition.

16. The highly competent Special Government Pleader Mr. T.N. Rajagopalan submits that the first respondent had issued a G.O. for acquiring the petitioner's land and others. As per the G.O., the fifth respondent, vzi., the Special Tahsildar, (LA), Adi Dravidar and Tribal Welfare Department, Coimbatore District, had issued Acquisition Proceedings. Subsequently, enquiry was conducted under Section 5(A) of the Act. Thereafter, a declaration was given under Section 6 of the Act. The fifth respondent had deposited compensation amount into the credit of Sub Court, Coimbatore and the possession had also been taken by the fifth respondent. The acquired land is now classified as Adi Dravida Natham in the revenue records. As such, the connected documents had been mutated in the name of the fifth respondent. As such, the petitioner's land had been acquired after adopting necessary legal formalities as per the Act. On an earlier occasion, the petitioner had filed a writ petition before this Court for a direction to the first respondent to dispose their application. Accordingly, the first respondent disposed the said representation and rejected their claim for the reconveyance of the land. The highly competent counsel further submits that the Land Acquisition Proceedings had been initiated in the year 1988 and the same was concluded in the year 1991. Thereafter, the petitioner and others have purchased the said land under the registered sale deed from the erstwhile owners in the year 1995, which is not valid under law, since the erstwhile owners did not possess valid title deeds over the said property for sale. Therefore, the petitioner has no locus

standi to claim any civil rights or title over the said acquired lands. He further submits that the petitioner's land had been acquired for the poor house-less Adi Dravida people, which is most essential. Hence, the above writ petition is not maintainable.

17. From the above discussions, this Court is of the view that:--

"(i) The Land Acquisition Proceedings had been initiated under the Land Acquisition Act, 1894 for the purpose of providing free house sites to the poor house-less Adi Dravida People. If any land was acquired for the welfare of Adi Dravida people, the respondents herein ought to have acquired the said land under the Tamil Nadu Acquisition of Land for Harijan Welfare Schema Act, 1978. Therefore, the respondents Land Acquisition Proceedings is not valid under law and the same was upheld by the Hon'ble Supreme Court of India in a similar case, viz., State of Tamil Nadu and Others Vs. Ananthi Ammal and Others, . The said judgment is squarely applicable in the instant case.

(ii) Initially, the respondents had issued G.O. Ms. No. 159, dated 26.09.1988 for acquiring an extent of 6.10 acres from the private individuals. Subsequently, one of the land owners, viz., Mr. Palanisamy made a representation to the Additional Collector, Coimbatore, for deletion of his holding from the land proposed to be acquired as his family consisted of 3 mentally retarded children. The same was considered by the respondents to an extent of 1.52 acres of lands which was exempted from the Land Acquisition Proceedings on compassionate grounds and as such, it reflects that the main purpose for which the acquisition proceedings was initiated i.e., to obtain house sites for the house-less has been defeated.

(iii) The petitioner made a representation to the respondents to delete their names from the Acquisition Proceedings, since they wanted the land for construction of a Hospital for the benefit of local public and this should be considered as an essential requirement.

(iv) As per the patta proceedings issued by the Tahsildar, (North Taluk), Coimbatore, the patta in patta pass book No. 098857 is in the name of Mrs. Sahnthi Rajendran and patta pass book No. 147671 is in the name of G. Rajendran and as such, it is evident that they are in physical possession. Besides, it is seen that the compensation amount is still lying unused in the credit of Sub Court, Coimbatore. Therefore, the petitioner is entitled to relief under the New Act viz., The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (Act 30/2013) under Section 24(2) of the said Act.

(v) The petitioner is in possession of a limited area comprising of 1.02 acres for the purpose of establishing a hospital. The land had been acquired by the respondents against their wish and strong objection in order to satisfy a group of other private individuals, so as to provide free house sites for the homeless Adi Dravidars. The claim on both sides smacks of discrimination. Hence, a remedial solution can be arranged by the respondents to provide free house sites to the

house-less Adi Dravidars which are situated at sites of better environment."

18. On considering the factual position of the case and arguments advanced by the highly competent counsels on either side and on perusing the typed-set of papers and the view mentioned above as (i) to (v), this Court is perforce constrained to allow the above writ petition. Consequently, the Government Order G.O.(Pa) No. 10, dated 06.03.2008 issued by the first respondent is quashed. Consequently, this Court directs the first respondent to re-convey the land in S.F. No. 185/1, Goundampalayam Village, Coimbatore District, measuring about 1.02 acres to the petitioner. In the result, the above writ petition is allowed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.