

(2015) 01 MAD CK 0342

In the Madras High Court

Case No : Writ Petition Nos. 8483 of 2008 and 7453 of 2014 and M.P. No. 1 of 2008

R. Subramani and Others

APPELLANT

Vs

State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 13-01-2015

Acts Referred:

Constitution of India, 1950 — Article 300(A)
Land Acquisition Act, 1894 — Section 11, 3, 31(2), 4(1), 5(A)
Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 — Section 24(2), 4(1)

Citation : (2015) 01 MAD CK 0342

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

Bench : Single Bench

Advocate : S.K. Rakhunathan, for the Appellant; M.S. Ramesh, Additional Government Pleader, Advocates for the Respondent

Final Decision : Allowed

Judgement

C.S. Karnan, J—The short facts of the case are as follows:

"The first petitioner submits that the second petitioner is his father and the third and fourth petitioners are brother and sister respectively. He said that his father is the owner of the land comprising Survey No. 862 measuring to an extent of 0.84.0 hectares and the lands comprising in Survey No. 873/1 measuring to an extent of 0.29.0 hectares situated at Hosur Revenue Village, Dharmapuri District."

2. He submits that the above said lands were sought to be acquired by the Government for the purpose of House sites under Neighbourhood Scheme developed by the Tamil Nadu Housing Board second respondent herein. In this connection, notification under Section 4(1) of the Land Acquisition Act was published in the Gazette on 10.04.1991 and in the newspaper on 24.06.1991. The substance of the said notification was published in the locality on 05.08.1991. The enquiry under Section 3-A of the said Act was held on

24.09.1991. After the completion of the said enquiry as contemplated under Section 5-A the declaration under Section 6 of the said Act was published on 03.08.1992 in the newspapers. Further, the award enquiry was held on 22.07.1994 and award was passed on 03.08.1994. He submits that eventhough the Government have initiated land acquisition proceedings in respect of the above said lands, subsequently the same was dropped and the entire extent of the land acquired for the said Neighbourhood Scheme could not be utilised and proceeded. Further, it is to be stated that in view of the same, the above lands are kept vacant by the Government without utilization. He submits that Section 48-B of the Land Acquisition (Tamil Nadu Amendment) Act 1966 (Act XVI of 1997) reads as follows:

"Transfer of land to original owner in certain cases where the Government are satisfied that the land vested with the Government under the Act is not required for the purpose for which it was acquired or for any other public, then the Government may transfer the land to the original owner who willing to repay the amount paid to him under this Act for the acquisition of such land inclusive of the amount referred to in Sub-section (1-A) and (2) of Section (23) if any paid under this Act."

3. He submits that the above said lands were acquired by the Government for Neighbourhood Scheme purpose 15 years ago. But subsequently, the said scheme was dropped and consequently the entire land acquired by the Government were kept vacant till date. It clearly indicates that the property is not required by the Government for the specific purpose for which it was acquired. Therefore, the above said property is liable to be reconveyed to the petitioners by the respondents as per Section 48-B of the Land Acquisition Act (Tamil Nadu Amendment) Act 1966 (XVI of 1997). He submits that in view of the above said circumstance, they have made a representation dated 12.09.2006 to the first respondent under Section 48-B of the Land Acquisition Act requesting him to reconvey the lands comprised in S. No. 862 measuring to an extent of 0.84.0 hectares and S. No. 873/1, measuring to an extent of 0.29.0 hectares situated in Hosur Revenue Village, Dharmapuri District and the respondents failed to pass any orders on the said representation dated 12.09.2006 and hence they filed a W.P. No. 806 of 2007 which came to be disposed of on 08.01.2007 directing the first respondent to pass appropriate orders on the representation dated 12.09.2006 within a period of six weeks from the receipt of the copy of the order.

4. He submits that in pursuant to the order passed in the above writ petition, the first respondent passed an order in Lr. No. 27048/LA2(2)/06-4 dated 13.07.2007, signed on 24.08.2007 received on 06.09.2007 rejecting the request of the petitioners on the ground that the subject land is very much required for formation of Housing Scheme in Hosur at future date. He submits that the impugned order dated 06.09.2007 passed by the first respondent is arbitrary and against the law in as much as the same is passed in a mechanical way without

applying the mind. On the one hand, the land acquired for the specific purpose is absolutely not needed by the Government; but on the other hand, the Government is refusing to handover the land to the owners. Hence, it is not fair on the part of the Government in not reconveying the land to the petitioners. Hence, the petitioners are constrained to file the present writ petition challenging the order passed by the first respondent dated 06.09.2007.

5. The petitioners further submit that while the earlier writ petition No. 8483 of 2008 is pending on the Court file, the New Act 30 of 2013 came into effect, hence the other writ petition No. 7453 of 2014 has been filed for relief under Section 24(2) of the Act. The first petitioner submits that to an extent of 0.84.0 hectares in Survey No. 862 and to an extent of 0.29.0 hectares in Survey No. 873/1 in Hosur Village belonging to all the petitioners herein. He further states that his grandfather Thimmarayappa who expired and they have inherited the said lands to an extent of as Sole legal heirs of Thimmarayappa. The first respondent issued a notification in G.O. Ms. No. 433, Housing and Urban Development Department dated 22.03.1991 under Section 4(1) of the Land Acquisition Act. The lands were sought to be acquired for the second respondent, who is the requisitioning body. An enquiry under Section 5-A of the Land Acquisition Act was held on 24.09.1991 and a declaration under Section 6 of the Act was made on 31.07.1992. An award enquiry was conducted and an award was passed on 29.07.1994. As per the award a compensation amount of Rs. 3,07,454/- was fixed for an extent of 0.84.0 hectares in Survey No. 862 and an amount of Rs. 1,06,145/- was fixed for an extent of 0.29.0 hectares in Survey No. 873/1.

6. He states that they filed W.P. No. 16883 of 1994 and W.P. No. 13573 of 1994 before this Court for the issue of a writ of certiorari to quash the notification under Section 4(1) and the declaration under Section 6 of the said Act. He states that this Court was pleased to dismiss the aforesaid writ petitions by its orders dated 25.02.2000 and 17.07.2001 respectively holding that no ground exist to quash the Land Acquisition proceedings. He states that even though fifteen years had passed, the respondents did not take any steps whatsoever to take either possession of the lands acquired or to develop the lands acquired. He states that due to lack of any developmental activity, he made enquiries and came to know that the respondents have no interest whatsoever to proceed with the developmental activity due to lack of interest from the general public. He states that he presented a petition before the respondents under Section 48-B of the said Act on 12.09.2006, he states that even though the respondents received his petition dated 12.09.2006, the respondents did not take any steps to dispose of the said petition. It therefore became necessary for him to file W.P. No. 806 of 2007 before this Court for the issue of a writ of mandamus directing the respondents to re-convey the lands in question. He states that this Court by its order dated 08.01.2007 however directed the respondents to consider and dispose of his representation dated 12.09.2006 within a period of six weeks from the date of receipt of the order. He states that the respondents considered his

representation dated 12.09.2006 and the first respondent passed an order on 13.07.2007 in and by which it was stated that the lands are required for the use of the second respondent and that his request for re-conveyance is not feasible and therefore, his request is being rejected. He states that being aggrieved by the stand of the respondents, he filed W.P. No. 8483 of 2008 on the file of this Court for the issue of a writ of certiorarified mandamus to call for the records of the first respondent in Lr. No. 27048/LA2(2)/06-4 dated 13.07.2007 and to quash the same and to direct the respondents to re-convey the lands in question. He states that the said writ petition is admitted and pending in this Court. He states that pending disposal of the said writ petition, he also filed M.P. No. 1 of 2008 for the issue of an order of injunction restraining the respondents from altering or allotting the subject lands in favour of third parties and this Court by its order dated 24.09.2008 was pleased to grant an interim order in respect of dispossession until further orders. He states that the said petition is also pending and the interim order is still in force.

7. He states that whenever he initiated proceedings before this Court, the respondents were taking a stand that an award has been passed on 29.07.1994 and that pursuant to the award, the award amount has been deposited in Court under the provisions of Section 31(2) of the Land Acquisition Act. He states that as he was seriously pursuing the writ petitions filed by him and he was under the bona fide belief that the respondents must have deposited the award amount into Court. He states that he came to know during the last week of June, 2008 from one of the land holders whose lands were also acquired under the same notification that the respondents have not deposited the compensation amount into Court even after a lapse of fifteen years. Thereupon, he filed a petition on 03.07.2008 before the Special Tahsildar (L.A.), Housing Scheme, Hosur under the provisions of the Right to Information Act seeking details of the deposit of the compensation amount said to have been made by the respondents in all their statements made before this Court as well as in the order dated 13.07.2007 by the first respondent. He states that the Special Tahsildar (L.A.), Housing Scheme, Hosur sent his reply dated 04.08.2008 in and by which the Special Tahsildar stated that the compensation amount of Rs. 3,07,454/- and Rs. 1,06,145/- as awarded in Award No. 16/94 dated 03.08.1994 have not been deposited in Court due to administrative reasons and that possession of the lands have been taken on 08.12.1994. He states that the respondents have not taken possession of the lands and the same is evident from the order passed by this Court in M.P. No. 1 of 2008 in W.P. No. 8483 of 2008. Further, the first respondent's communication dated 13.07.2007 which is the subject matter of W.P. No. 8483 of 2008 and the communication dated 04.08.2008 of the Special Tahsildar would reveal that possession of the lands could not have been taken by the respondents and the lands continue to be with them till date.

8. He states that in the instant case, the acquisition proceedings commenced on 22.03.1991 by the issue of a notification under Section 4(1) of the Land Acquisition Act and an award came to be passed on 29.07.1994. He states that

the acquisition of the lands are made for the uses of the second respondent and till date, the second respondent has not taken any steps whatsoever to develop the lands or use it for the purpose for which the same is acquired. As already stated, possession of the lands are also with them. He states that by the fact that the respondents have failed to deposit the compensation amount for the acquired lands till date, as is evident from the communication dated 04.08.2008 from the Special Tahsildar (L.A.), Housing Scheme, Hosur, it is clear that the respondents have used the provisions of the Land Acquisition Act exercising the power of eminent domain for some oblique purpose. He states that it is also clear that the respondents have no intention of paying compensation for acquiring their lands. He states that the respondents have used the provisions of Land Acquisition Act with some ulterior malicious motive so as to deprive them of their property without payment of compensation.

9. He states that since the respondents did not deposit the compensation amount, he filed W.P. No. 10293 of 2009 on the file of this Court praying for a declaration declaring that the acquisition of their lands in S. No. 862 of an extent of 0.84.0 hectares and in S. No. 873/1 of an extent of 0.20.0 hectares in Hosur Village as null and void, as being violative of the provisions of the Land Acquisition Act read with Article 300(A) of the Constitution of India. He states that the said writ petition came for final hearing before this Court on 26.07.2011 and this Court disposed of the writ petition directing the respondents to deposit the compensation amount in term of Award No. 16/1994 dated 03.08.1994 and No. 29/1994 dated 21.12.1994 within a period of four weeks from the date of receipt of copy of the order and also further directed the respondents to pay cost of Rupees One Lakh to them. He states that even though the said order came to be passed on 26.07.2011, till date, the respondents have not deposited the compensation amount. He states that since the respondents did not deposit the compensation amount he filed Review Petition No. 45 of 2012 before this Court for reviewing the order passed by this Court on 26.07.2011 in W.P. No. 10293 of 2009. He states that the said Review Petition is pending.

10. He states that while matters stood thus, the Government of India passed Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and the said Act came into force on 01.01.2014. He states that under the said Act, the Land Acquisition Act of 1894 has been repealed. He further states that under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 which came into effect on 01.01.2014, a specific provision is incorporated wherein if the award passed under Section 11 of the Land Acquisition Act, 1894 is made more than five years prior to the commencement of the later Act and in the event of no compensation being paid to the owners nor the compensation amount has not been deposited in Court, the proceedings under the Land Acquisition Act, 1894 lapses. He states that in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the land acquisition

proceedings initiated against them, has lapsed since in the instant case, the award was passed on 29.07.1994 and till date, the compensation amount has not been deposited in spite of directions issued by this Court. He states that again he made an application before the authorities under the Right to Information Act seeking particulars regarding the compensation amount. He states that he has since received a detailed reply dated 22.08.2013 by the Special Tahsildar, Housing Scheme, Hosur wherein the Special Tahsildar has stated that a sum of Rs. 3,07,454/-, awarded as compensation for 0.84.0 hectares comprised in S. No. 862 and a sum of Rs. 1,06,145/- awarded in respect of 0.29.0 hectares in S. No. 873/1 in Hosur have not been deposited in Court as per the award and that the sums are lying with work deposit in the Sub Treasury, Hosur. He states that this Court has held in Writ Appeal No. 389/2011 dated 06.11.2012 that the amount is lying with Treasury is not a defence for non compliance and that the respondents did not take any steps to withdraw the amount from the Treasury and deposit before the Courts. He states that this Court therefore held that the very acquisition proceedings are liable to be quashed in view of the non-compliance of the order passed by the Court. He states that in the instant case, as already stated, till date, the respondents have not complied with the order of this Court passed in W.P. No. 10293 of 2009 or made any attempts to deposit the compensation amount into Court. He therefore states that in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the land acquisition proceedings initiated under the Land Acquisition Act, 1894 has lapsed. He states that since the award under Section 11 of the Land Acquisition Act, 1894 is made more than five years prior to the commencement of the 2013 Act and that since no compensation amount has been deposited, automatically in terms of Section 24(2) of Act 30 of 2013 the land acquisition proceedings initiated under the Land Acquisition Act, 1894 have lapsed. He states that the very same subject has been dealt with by the Hon'ble Supreme Court of India in Civil Appeal No. 877 of 2014, 877 of 2002, 886 and 894 of 2014 and the Hon'ble Supreme Court have categorically held that in view of Section 24(2) of Act 30 of 2013 Act, the proceedings stand lapsed and no further action could be taken under the Old Act. He is therefore constrained to file this writ petition for a declaration that the land acquisition proceedings in G.O. Ms. No. 437/Housing and Urban Development, dated 22.03.1994 should be declared as lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

11. The petitioners have filed an additional affidavit in W.P. No. 8483 of 2008. The first petitioner said that the above writ petition came to be filed because of the fact that since possession was not taken by the respondent and since the compensation amount was not paid, they made a representation under Section 48(B) of the Land Acquisition Act and in view of the fact that the respondents rejected the representation made by them, they filed the above writ petition on various grounds, he craves the views of this Court to treat the averments

contained in the affidavit filed in support of the above writ petition as part and parcel of this additional affidavit.

12. He states that in the instant case, the Award came to be passed on 29.07.1994 and he came to know that the Award amount has not been deposited till date even after a lapse of 15 years. He states that he filed a Petition on 03.07.2008 before the Special Tahsildar (L.A.), Housing Scheme, Hosur under the provisions of Right to Information Act seeking details of the deposit of the compensation amount said to have been made by the Respondents and the Special Tahsildar (L.A.) in his reply dated 04.08.2008 stated that the compensation amount of Rs. 3,07,484/- and Rs. 1,06,145/- as Award in the Award No. 16/1994 dated 03.08.1994 have not even been deposited in the Court due to administrative reasons and that the possession of the lands have been taken on 08.12.1994. He states that the statements made by the Special Tahsildar that possession was taken on 08.12.1994 cannot be true especially when this Court in M.P. No. 1 of 2008 in the above Writ Petition have granted Stay of dispossession until further orders. He states that therefore the possession alleged to have been taken by the respondents cannot be true and they continued to be in possession of property till date.

13. He states that in the instant case, the Acquisition Proceedings commenced on 22.03.1991 by the issue of a Notification under Section 4(1) of the Land Acquisition Act and an Award came to be passed on 29.07.1994. He states that the Acquisition of the lands are made for the uses of the Second Respondent and till date, the second respondent has not taken any steps whatsoever to develop the lands or use it for the purpose for which the same is acquired. As already stated, possession of the lands are also with them. He states that by the fact that the respondents have failed to deposit the compensation amount for the acquired lands till date, as is evident from the communication dated 04.08.2008 from the Special Tahsildar (L.A.), Housing Scheme, Hosur, it is clear that the respondents have used the provisions of the Land Acquisition Act exercising the Power of eminent domain for some oblique purpose. He states that it is also clear that the respondents have no intention of paying compensation for acquiring their lands. He states that the respondents have used the provisions of Land Acquisition Act with some ulterior malicious motive so as deprive us of their property without payment of compensation.

14. He states that since the Respondents did not deposit the compensation amount, he filed W.P. No. 10293 of 2009 on the file of this Court praying for a declaration, declaring that the Acquisition of their lands in S. No. 862 of an extent of 0.84.0 hectares and in S. No. 873/1 of an extent of 0.20 hectares in Hosur Village as null and void, as being violative of the provisions of the Land Acquisition Act read with Article 300(A) of the Constitution of India. He states that the said Writ Petition came for final hearing before this Court on 26.07.2011 and this Court disposed of the Writ Petition directing the respondents to deposit the compensation amount in term of Award No. 16 of 1994 dated 03.08.1994

and No. 29/1994 dated 21.12.1994 within a period of four weeks from the date of receipt of copy of the order and also further directed the Respondents to pay costs of Rupees One Lakh to them. He states that even though the said order came to be passed on 26.07.2011, till date, the Respondents have not deposited the compensation amount. He states that since the respondents did not deposit the compensation amount, he filed Review Petition No. 45 of 2012 before this Court for reviewing the order passed by this Court on 26.07.2013 in W.P. No. 10293 of 2009. He states that the said Review Petition is pending.

15. He states that while matters stood thus, the Government of India passed Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and the said Act came into force on 01.01.2014. He states that under the said Act, the Land Acquisition Act of 1894 has been repealed. He further states that under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 which came into effect on 01.01.2014, a specific provisions is incorporated wherein if the Award passed under Section 11 of the Land Acquisition Act, 1894 is made more than five years prior to the commencement of the later Act and in the event of no compensation has been paid to the owners nor the compensation amount has not been deposited in Court, the Proceedings under the Land Acquisition Act, 1894 lapses. He states that in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the Land Acquisition Proceedings initiated against them, has lapsed since in the instant case, the Award was passed on 29.07.1994 and till date, the compensation amount has not been deposited in spite of directions issued by this Court. He states that again he made an application before the authorities under the Right to Information Act seeking particulars regarding the compensation amount. He states that he has since received a detailed reply dated 22.08.2013 by the Special Tahsildar (L.A.), Housing Scheme, Hosur wherein the Special Tahsildar has stated that a sum of Rs. 3,07,454/- awarded as compensation for 0.84.0 hectares comprised in S. No. 862 and a sum of Rs. 1,06,145/-awarded in respect of 0.29.0 hectares in S. No. 873/1 in Hosur have not been deposited in Court as per the Award and that the sums are lying with work deposit in the Sub-Treasury, Hosur. He states that this Court has held in Writ Appeal No. 389 of 2011 dated 06.11.2012 that the amount is lying with Treasury is not a defence for non-compliance and that the respondents did not take any steps to withdraw the amount from the Treasury and deposit before the Courts. He states that this Court therefore held that the very Acquisition Proceedings are liable to be quashed in view of the non-compliance of the order passed by the Court. He states that in the instant case, as already stated, till date, the respondents have not complied with the order of this Court passed in W.P. No. 10293 of 2009 or made any attempts to deposit the compensation amount into Court. He therefore states that in terms of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the

land acquisition proceedings initiated under the Land Acquisition Act, 1894 has lapsed. He states that since the award under Section 11 of the Land Acquisition Act, 1894 has lapsed. He states that since the Award under Section 11 of the Land Acquisition Act, 1894 is made more than five years prior to the commencement of the 2013 Act and that since no compensation amount has been deposited, automatically in terms of Section 24(2) of Act 30 of 2013, the Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894 have lapsed. He states that the very same subject has been dealt with by the Hon'ble Supreme Court of India in Civil Appeal Nos. 877/2014, 877/2002, 886/2014 and 894/2014 and the Hon'ble Supreme Court have categorically held that in view of Section 24(2) of Act 30 of 2013, the proceedings stand lapsed and no further action could be taken under the old Act. He therefore filed a writ petition in W.P. No. 7453 of 2014 for a declaration that the Land Acquisition Proceedings in G.O. Ms. No. 437/Housing and Urban Development, dated 22.03.1994 should be declared as lapsed in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. He states that the said writ petition is admitted and notice have been ordered to the respondents.

16. He states that the above facts will clearly reveal that the entire land Acquisition Proceedings initiated under the Land Acquisition Act, 1894 have lapsed and that therefore, the respondents cannot be allowed to continue the proceedings under the Old Act and are bound to re-convey the lands in question to them as the entire Land Acquisition Proceedings have lapsed. He states that the above facts being a subsequent event, have a bearing on the subject matter in the above writ petition, therefore, he is filing this Additional Affidavit for bringing to the notice of the Court that there is absolutely no impediment whatsoever for declaring the land acquisition proceedings having lapsed and directing reconveyance of the land to them.

17. The second respondent/Tamil Nadu Housing Board has filed a counter statement and refuted the above writ petition, she says that Hosur Housing Unit of Tamil Nadu Housing Board proposed to acquire the lands for the implementation of the Housing Scheme in and around the Hosur Town in a phased manner. The Neighbourhood Scheme Phase XVI in Hosur Village is one of such schemes and it was proposed to acquire the land to an extent of 212.94 acres in Hosur Village. The Government approved the Section 4(1) notification vide G.O. Ms. No. 433 Housing and Urban Development Department dated 22.03.1991 to an extent of 9.90.0 hectares. As per the Land Acquisition Act under Section 55(1) Rule 3, the notices were served to the land owners and Section 5(A) enquiry was conducted on 24.09.1991. The draft declaration under Section 6 of the Land Acquisition Act was approved by the Government vide G.O. Ms. No. 491, Housing and Urban Development Department dated 31.07.1992. After serving the notices under Section 9(1) and 3 of Land Acquisition Act, the award enquiry was conducted by the Land Acquisition Officer on 22.07.1994 and the land was handed over to the Tamil Nadu Housing Board.

18. Further, she submits that after taking over the land, the layout has been prepared and got approved from the Director of Town and Country Planning vide approval No. 71/1998. In the approved layout the land which is the subject matter of the present writ petition is, earmarked as Residential plots, Roads and Open space. During the execution of development works, the land owners objected to carryout the development works and they filed a writ petition against the acquisition in S.F. No. 862. Hence, the development works were temporarily not taken up. After disposal of the above case in favour of Government, again the land in S.F. No. 862 was handed over to Tamil Nadu Housing Board on 10.08.2000. The land in question in S.F. No. 862 and 873/1 were located in the middle of the Tamil Nadu Housing Board. Hence, the lands are necessarily required for the formation of compact Housing scheme. The present writ petition is not maintainable either in Law or on facts. With regard to the averments made in Paras-1 to 4, it requires no remarks. With regard to the averments made in Para-5, it is submitted that the averment of the petitioner is not correct. The Government of Tamil Nadu have not dropped the land acquired for the formation of scheme and kept vacant. With regard to the averments made in Para-6, it is submitted that the averment of the petitioner is not correct. The land in question was included in the layout and got approval from the Director of Town and Country Planning vide Approval No. 71/1998 and the land is necessarily required for the formation of compact Housing scheme. Hence, the request of the petitioners may not be considered under Section 48(B) of Land Acquisition Act.

19. With regard to the averments made in Para-7, it is submitted that the averment of the petitioner is not correct. Originally the land was acquired in the year 1994 and handed over to Tamil Nadu Housing Board on 22.07.1994 by the Land Acquisition Officer. The land owner filed writ petition vide W.P. No. 13575 of 1994 and objection was raised at the time of execution of development works hence the development works were temporarily stopped. Subsequently, the above writ petition was disposed in favour of Government, the land in question was once again handed over to Tamil Nadu Housing Board on 10.08.2000 and the land was utilised. Hence, the question of reconveyance of land under Section 48(B) of Land Acquisition Act does not arise. With regard to the averments made in Para-8, it is submitted that the averment of the Petitioner is not correct. The Government in their letter No. 27048/L.A.II(2)/2006-4, dated 13.07.2007 had addressed to the petitioners regarding rejection of reconveyance requested by them. With regard to the averments made in Para-10, it is submitted that after taking over of the lands, the layout was prepared and scheme was taken up. Due to some legal litigation, temporarily the development work was stopped. Now, the Tamil Nadu Housing Board requires essentially the lands for the scheme.

20. With regard to Ground-(a), it is submitted that the Government have passed the order after careful consideration and not arbitrarily. With regard to Ground-(b), it is submitted that the Tamil Nadu Housing Board is one of the Government organizations. The scheme will be taken up after observing the formalities and it will take some more time. However, the land in question is necessarily required

for the formation of Housing Scheme. With regard to Grounds-(c&d), it is submitted that the Tamil Nadu Housing Board is one of the Government organizations. The scheme will be taken up after observing the formalities and it will take some more time. However, the land in question is necessarily required for the formation of Housing Scheme. With regard to Ground-(e), it is submitted that the land in question is necessarily required for the formation of housing scheme and it will be utilized soon. Hence, the request of the petitioner is not correct and to recover the land may not be considered.

21. With regard to the averments made in Para-11, it is submitted that the plea of the petitioner is not correct. The Government of Tamil Nadu Housing Board, have not dropped the land acquired, for the formation of scheme in the present case. With regard to the averments made in Para-12, it is submitted that the petitioners have stated their father has filed W.P. No. 16883 of 1994 before this Court challenging the Section 4(1) of the Tamil Nadu Land Acquisition Act, in which this Court was pleased to allow the said writ petition. Originally the land was acquired in the year 1994 and handed over to Tamil Nadu Housing Board on 22.07.1994 by the Land Acquisition Officer. The land owner filed W.P. No. 13575/1994 and objection was raised at the time of execution of development works and were temporarily stopped. Subsequently, the above writ petition was disposed in favour of Government and the land in question was once again handed over to Tamil Nadu Housing Board on 10.08.2000. The Housing Board is one of the Government organizations. The scheme will be taken up after observing the usual formalities and it will be implemented. However, the land in question is necessarily required for the formation of Housing Scheme. With regard to the averments made in Para-14, it is submitted that the land in question was handed over by the Land Acquisition Officer on 10.08.2000 and purely belongs to Tamil Nadu Housing Board. The Tamil Nadu Housing Board is the rightful and lawful owner and has taken a decision to develop the land and allot as per the norms and conditions of Tamil Nadu Housing Board. Hence, the present writ petition is not maintainable either in Law or on facts and is liable to be dismissed.

22. The highly competent counsel Mr. S.K. Raghunathan appearing for the petitioners submits that the petitioners are absolute owners of the property comprised in Survey Nos. 862 and 873/1 to an extent of 0.84.0 and 0.29.0 hectares respectively situated at Hosur Revenue Village. The second respondent namely Tamil Nadu Housing Board had requested the first respondent for acquiring the petitioners' lands and adjacent lands, hence the first respondent had issued a Government Order for acquiring the lands for Neighbourhood Housing Schemes, therefore, the Land Acquisition Officer had issued notification under Section 4(1) of the New Act in the year 1991. Subsequently an enquiry was conducted under Section 5(A) of the Old Act. After an enquiry declaration was published under Section 6 dated 03.08.1992, thereafter an award was passed on 03.08.1994, further the subject matter of the lands were dropped from the acquisition proceedings since the said lands would not be utilised for the

neighbourhood schemes. As of now the subject lands are still vacant. Hence, the petitioner made representation on 12.09.2006 to the first respondent herein under Section 48-B of the Land Acquisition Act and requested him to reconvey the said lands in favour of the petitioners herein. The first respondent did not take any decision on the said representation hence the petitioners had filed a writ petition No. 806 of 2007 before this Court. This Court directed the first respondent to dispose the said representation within a period of six weeks, accordingly the first respondent disposed the first representation and rejected the petitioners representation without assigning any valid reasons but the first respondent informed the petitioners stating that the subject lands are required for formation of Housing Scheme in Hosur at a future date. The said order passed by the first respondent dated 13.07.2007 is an arbitrary one, therefore, the writ petition No. 8384 of 2008 has been filed to quash the impugned order of the first respondent.

23. The very competent counsel further submits that while the said writ petition is pending when the New Act 30 of 2013 has been inserted. Hence, the connected writ petition No. 7493 of 2014 has been filed and seeking remedy under Section 24(2) of the New Act, since the compensation amount had not been paid to the land owners and the subject lands were not occupied by the respondent and still in a vacant stage. The learned counsel further submits that the initial utilization for acquiring the land had been published in the year 1991 but after the completion of the said acquisition proceedings in the year 1994, the said neighbourhood scheme had not been implemented since after a lapse of around 23 years. The petitioners are still cultivating the said lands and they are depending upon it for their livelihood. Further compensation had not been paid to the land owners. Hence, the highly competent counsel entreats the Court to allow the writ petition and directs the respondents to reconvey the said lands in favour of the petitioners.

24. The very competent counsel further submits that the respondents had furnished details under the Right to Information Act stating that the compensation amount has been deposited into the Court, the same was communicated to the petitioners on 04.08.2008. As such, there is a lack of service and lapse committed by the respondents for acquiring the said lands. Further, the second respondent had not taken any steps for developing the said lands. Actually, the petitioners are still in possession and occupation and under their custody. Therefore, the entire acquisition proceedings have become vitiated and not fit for execution any further. Further, the petitioners filed a review application in W.P. No. 10293 of 2009 stating that the compensation amount had not been deposited so far. This Court directed the first respondent to deposit the award amount within a period of four weeks, the said order has been passed on 01.04.2013, is clearly reveals that on or before 01.04.2013 the compensation amount had not been deposited and it is evidently proved therefore the respondents have committed a serious lapse for acquiring the subject lands under the old Act. Therefore, the acquisition proceedings is not sustainable under

law, besides the petitioners are entitled to secure remedy under Section 24(2) of the New Act.

25. The highly competent Additional Government Pleader Mr. M.S. Ramesh appearing for the first respondent submits that the first respondent had issued a Government Order for acquiring the petitioners lands for the Neighbourhood Scheme, on the request of the second respondent herein. Hence, the Land Acquisition Officer had initiated land acquisition proceedings under the Old Act and acquired the said lands. After acquiring the said lands the same was handed over to the Tamil Nadu Housing Board. Now, the Tamil Nadu Housing Board is in occupation and implementing the Housing Scheme. Under these circumstances, the above writ petition is not maintainable.

26. The very competent counsel Mr. M. Ananda Murthy appearing for the second respondent submits that the Land Acquisition Officer had initiated land acquisition proceedings in the year 1991 under the Old Act and acquired the lands to an extent of 212.94 acres in Hosur Village for the implementation of the Neighbourhood Housing Scheme, for which the petitioners lands were also acquired. The award was passed in the year 1994 and the acquired lands were handed over to the second respondent herein by the Land Acquisition Officer. Further, the petitioners lands are located in the middle of the scheme as such the said lands are absolutely necessary for the Neighbourhood Scheme. The petitioners have already challenged the land acquisition proceedings before this Court, the same was disposed of, therefore, the above writ petitions are not maintainable either under Section 48(B) of the Old Act or under Section 24(2) of the New Act, since the Director of Town and Country Planning Department had granted approval for forming the Neighbourhood Scheme in the year 1998. Therefore, the above writ petitions may be dismissed. Now, the Tamil Nadu Housing Board occupied the said property and maintaining the same, now the Neighbourhood Scheme is being implemented.

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

"(1) The first respondent had issued G.O. Ms. No. 433 dated 22.03.1991 for acquiring the petitioners lands for forming Hosur Neighbourhood Housing Scheme. The land acquisition proceedings were completed in the year 1994 by the Land Acquisition Officer, who in turn handed over the subject matter of the lands to the Tamil Nadu Housing Board on 08.12.1994. As of now the Neighbourhood Scheme had not been completed after a lapse of around 20 years, as such the said Scheme is placed in oblivion (past and forgotten).

(2) As per counter statement filed by the second respondent stating that the Director of Town and Country Planning Department had given approval in the year 1998 for implementing the Neighbourhood Scheme. The said planning permission had not been executed even after a lapse of 16 years, now as on date whether the approval plan is in existence or still in hibernation.

(3) The respondents have not furnished documentary proof regarding payment of

compensation to the petitioners for the subject lands. Further, this Court has directed the respondents on 01.04.2013 to deposit the award amount pertaining to the said property within a period of two weeks, this order has been passed in review application No. 45 of 2013 in W.P. No. 10293 of 2009, the same has not been complied with. It confirms that the compensation amount had not been deposited before the concerned Court or not paid to the petitioners. As such, the petitioners are entitled to secure a remedy under Section 24(2) of the New Act 30 of 2013.

(4) As per the statement given by the Special Tahsildar, Land Acquisition stating that the acquired property had been handed over to the Tamil Nadu Housing Board. The Tamil Nadu Housing Board had not put up any fencing, compound wall, name board or placing of security personnel in order to prove that the physical possession of the acquired lands are under the care and custody of the Tamil Nadu Housing Board as earmarked.

(5) Even at this stage the Neighbourhood Scheme can be formulated at any other alternative site belonging to the Government. The neighbourhood scheme is not mandatory that it requires a private portion of land which is already in use for cultivation purpose, hence this occupation of time bound nature should not be disturbed since it has been followed over the centuries."

28. Considering the facts and circumstances of the case, arguments advanced by the learned counsels on all sides and on perusing the typed set of papers and this Court's view i.e. 1 to 5 as mentioned above, the above writ petition No. 7453 of 2014 is allowed. Consequently, the acquisition proceedings pertaining to land in Survey No. 862 to an extent of 0.84.0 hectares and in survey No. 873/1 to an extent of 0.29.0 hectares in Hosur Village being the subject matter of G.O. Ms. No. 433/Housing and Urban Development Department dated 22.03.1991 under Section 4(1) of the Land Acquisition Act 1894 has lapsed in view of Section 24(2) of the Act of 2013. The writ petition No. 8483 of 2008 is also allowed. Consequently, this Court directs the respondents herein to reconvey the said land in favour of the petitioners herein within a period of three months from the date of receipt of this order.

29. In the result, both the writ petitions are allowed. Consequently, connected miscellaneous petition is closed. No costs.