

(2014) 09 MAD CK 0201

In the Madras High Court

Case No : W.P. (MD) No. 15757 of 2012 and M.P. (MD). Nos. 1 and 2 of 2012

S. Kumariah Nadar

APPELLANT

Vs

The District Collector

RESPONDENT

Date of Decision : 16-09-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 4, 4(1), 6
Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 — Section 24, 24(2)

Citation : (2014) 09 MAD CK 0201

Hon'ble Judges : S. Nagamuthu, J

Bench : Single Bench

Judgement

S. Nagamuthu, J.—The second respondent herein issued a notification under Section 4(1) of the Land Acquisition Act, 1894, to acquire 0.55.5 hectares of land comprised in Survey No. 453/1B and 0.64.0 hectares of land comprised in Survey No. 453/2B at Panagudi Part I Village, in Radhapuram Taluk, Tirunelveli District. The entire extent of land comprised in Survey Nos. 453/1B belong to the petitioner herein. So far as the land comprised in Survey No. 453/2B is concerned, it was jointly owned by the petitioner and his brother by name Mr. Hariram Nadar, who is now no more.

2. After following the procedure contemplated under the Act, a declaration under Section 6 of the Land Acquisition Act, 1894, was made in the Tamil Nadu Government Gazette on 02.09.1992. Thereafter, the enquiry for fixing the amount of compensation was initiated. In culmination of the same, an award was passed under award No. 10/1992-93, dated 15.03.1993, but so far neither possession has been taken by the respondents nor compensation amount has been paid to the petitioner and his brother. In such circumstances, the petitioner has come up with this writ petition seeking to quash the above land acquisition proceedings and to restore the lands to the petitioner.

3. I have heard the learned counsel for the petitioner and the learned

Government Advocate appearing for the respondents. I have also perused the records carefully.

4. Admittedly, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, has come into force with effect from 01.01.2014. Sub Section 2 of Section 24 of the said Act reads as follows;

"24. Land acquisition process under Act No. I of 1984 shall be deemed to have lapsed in certain cases:

(1)....

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said section 11 has been made five years or more prior to the commencement of this Act, but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all the beneficiaries specified in the notification for acquisition under Section 4 of the Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act."

5. This provision came to be considered by the Hon''ble Supreme Court of India in Pune Municipal Corporation and Another Vs. Harakchand Misirimal Solanki and Others, , wherein the Hon''ble Supreme Court has held that if either possession has not been taken or compensation has not been paid, the land acquisition proceedings under the Land Acquisition Act of 1894, shall stand lapsed and the land shall be resumed in favour of the original owner of the land.

6. In the case on hand, in paragraph No. 3 of the counter filed by the District Adi-Dravidar Tribal Welfare Officer, Tirunelveli, it has been stated that the compensation amount of Rs. 21,577/- was deposited in the Subordinate Court, Tirunelveli on 31.03.1993 itself. Out of the said amount, a sum of Rs. 15,749/- is payable to the petitioner and Rs. 5,828/- is payable to Mr. Hariram Nadar. It has also been stated in the counter that since the petitioner and Mr. Hariram Nadar refused to receive the compensation amount, the same was deposited in the Subordinate Court, Tirunelveli, on 31.03.1993. But, the learned counsel for the petitioner submitted that the amount was not so deposited to the credit of the Subordinate Court, Tirunelveli.

7. In order to ascertain the said fact, this Court, by order dated 13.08.2014, directed the learned Principal Subordinate Judge, Tirunelveli, to report forthwith as to whether the award amount has been deposited into the credit of the said

Court. The learned Principal Subordinate Judge, Tirunelveli, in his letter in D. No. 1399/2014, dated 26.08.2014, submitted that the amount was not so deposited. Therefore, by order dated 27.08.2014, this Court directed the second respondent to be present before this Court, along with original records. Accordingly, the second respondent was present on 02.09.2014. The second respondent reiterated that the amount was deposited to the credit of the Subordinate Court. To substantiate the said contention, the second respondent produced a Register known as MTC-70 Register. Since the learned Principal Subordinate Judge, Tirunelveli, in his letter in D. No. 1399/2014, dated 26.08.2014, had informed this Court that no award amount was deposited on 31.03.1993, this Court issued a direction to the learned Principal District Judge, Tirunelveli, to verify the record and submit a report and in respect of the above issue. The Special Tahsildar, Nanguneri, was also directed to appear before the learned Principal District Judge, Tirunelveli, along with records for the purpose of verification.

8. After the said verification, the learned Principal District Judge, Tirunelveli, in his Letter in D. No. 12536/2014, dated 14.09.2014, has reported that a demand draft for Rs. 21,577/- was presented to the learned Principal Subordinate Judge, but the same was returned to the Special Tahsildar, Adi-Dravidar Welfare, Nanguneri, through registered parcel in D. No. 1394/93 on 21.07.1993 for certain defects. He has further reported that a perusal of the record produced by the Special Tahsildar, Adi-Dravidar Welfare, Nanguneri, revealed that the said amount was, thereafter, credited to the Civil Deposit Revenue No. 8443 and deposit non bearing interest No. 8443 00 101 AA 0005. Thus, according to the report of the learned Principal District Judge, Tirunelveli, the amount is lying with sub-treasury and the same has not been deposited to the credit of the learned Principal Subordinate Judge, Tirunelveli.

9. As a matter of fact, according to the report, the Special Tahsildar, Adi-Dravidar Welfare, Nanguneri, has submitted a letter to him in Na. Ka. No. A/441/2012, dated 11.09.2014, stating that the award amount of Rs. 21,577/- was drawn in favour of the Subordinate Judge, Tirunelveli on 31.03.1993 and the said amount was credited under the head of account of the Office of the Special Tahsildar, Adi-Dravidar Welfare, Nanguneri, with treasury. The Principal District Judge has finally concluded that the said amount has been credited into revenue deposit and now the amount is in revenue deposit and not in Civil Court deposit. The Special Tahsildar in-charge, Ms. S. Amutha, who is present in Court, would also state that the amount is now lying with the treasury and not in the Civil Court deposit.

10. From the above report of the learned Principal District Judge, Tirunelveli and the admission made by the Special Tahsildar before this Court, it is crystal clear that as required under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the compensation amount has not been paid and therefore, as per the judgment of the Hon''ble Supreme Court, the land acquisition proceedings shall stand lapsed.

11. Similarly, the physical possession of the lands have also not been taken by the respondents so far. In the counter affidavit filed by the District Adi-Dravidar and Tribal Welfare Officer, it is stated that "the land owners refused to hand over the lands to the Land Acquisition Officer and created unnecessary problems. The above lands were encroached by some persons with the help of the land owners and hence, the possessions have not been given to the assignees till date?.

12. When a specific query was made to the Special Tahsildar, Adi Dravidar Welfare, Nanguneri, who is present in Court, as to whether the possession was taken at all at any point of time, she has stated that the possession was not at all taken, because the owners did not permit the department to take possession of the property. The said statement is recorded.

13. In view of the above, it is crystal clear that the possession also has not been taken so far. Thus, as per Sub section 2 of Section 24 of the Act, the land acquisition proceedings shall stand lapsed.

14. In view of the above legal position, as I have already concluded, the entire land acquisition proceedings shall stand lapsed. Hence, the title for these lands shall stand resumed in favour of the petitioner and Mr. Hariram Nadar respectively. At the same time, if the land is still required for public purpose, the Government is at liberty to initiate proceedings afresh for land acquisition in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

15. In the result, the writ petition is allowed in the following terms;

(i) It is declared that the land acquisition proceedings dated 02.09.1992 in respect of the lands in Survey No. 453/1B, measuring an extent of 0.55.5 hectares and in Survey No. 453/2B, measuring an extent of 0.64.0 hectare, Panagudi Part I Village, Radhapuram Taluk, Tirunelveli District, shall stand lapsed.

(ii) It is declared that the title for those lands shall stand resumed in favour of the petitioner and his brother, Mr. Hariram Nadar, respectively.

(iii) It is clarified that if the Government deems it necessary, the Government may initiate fresh proceedings for acquisition of these lands under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

16. Consequently, connected miscellaneous petitions are closed. No costs.