
(2016) 02 MAD CK 0158

In the Madras High Court

Case No : W.A. Nos. 1101, 1428 to 1440, 1533, 1545, 1582 of 2014, 163 to 166, 168, 174, 175, 329, 574, 575 and 184 of 2015

The Tamil Nadu Housing Board and Others

APPELLANT

Vs

iGate Global Solutions Limited and Others

RESPONDENT

Date of Decision : 26-02-2016

Acts Referred:

Land Acquisition Act, 1894 — Section 11, Section 16, Section 17(3-A), Section 18, Section 31, Section 31, Section 31(2), Section 32, Section 32, Section 33, Section 33, Section 34, Section 4
Right to Fair Compensation and Transparency in Land

Citation : (2016) 1 CWC 742 : (2016) 2 MLJ 385

Hon'ble Judges : Satish K. Agnihotri and M. Venugopal, JJ.

Bench : Division Bench

Advocate : A.L. Somayaji, Advocate General assisted by V. Anandhamurthy, for the Appellant; R. Muthukumarasamy, Sr. Counsel for D. Selvaraju, for the Respondent

Final Decision : Dismissed

Judgement

Satish K. Agnihotri, J.—1. Having regard to the commonality of the issue involved in these appeals, all appeals are taken up together and disposed of by this common order.

2. For appreciating the issue on hand, it is better to have a look into the facts in each and every case, at the cost of this judgment being verbose. Accordingly, the particulars germane for the disposal of these appeals are set down as under.

3. W.A. No. 1101 of 2014 filed by the Tamil Nadu Housing Board is directed against the order dated 2nd July, 2014 made in W.P. No. 25791 of 2010, which was filed by the first respondent herein, seeking to quash the letter dated 9th March 2009 and to direct the respondents therein to reconvey the property measuring 4.33 acres in S. Nos. 612/5, 612/7, 612/8, 612/9, 612/10, at Sholinganallur village. The first respondent is the subsequent purchaser of the

said land, which was acquired by the State under award No. 1/97 on 23 April 1997. As projected by the State and Housing Board, the possession of the land was taken over on 16 August 2004. It is further stated that the compensation was paid by way of revenue deposit. The writ petition was allowed by the learned Single Judge, holding that the acquisition proceedings initiated by the respondents therein has been lapsed on the operation of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short "the Act, 2013"). Thereagainst, the writ appeal is preferred by the Housing Board.

4. W.A. No. 1428 of 2014 filed by the Tamil Nadu Housing Board is directed against the order dated 10th April, 2013 made in W.P. No. 18995 of 2011, which was filed by the first respondent herein, seeking to quash G.O.2(D) No. 109, Housing and Urban Development Department dated 21st July, 2011 and to direct the respondents therein to execute necessary documents of reconveyance in respect of the lands in S. No. 322/2A in Nolambur Village to an extent of 3.15 acres, which was acquired by the State under award No. 8/86 dated 30 July 1986. As projected by the State and Housing Board, the possession of the land was taken over on 28 October 1986 and handed over to the Housing Board on the same day. The writ petition was allowed by setting aside the said G.O., whereunder the request of the writ petitioner was rejected.

5. W.A. No. 1429 of 2014 has been preferred by the Tamil Nadu Housing Board against the order passed in W.P. No. 7510 of 2014, dated 7th May, 2014. The said writ petition was filed by the private respondents herein seeking to declare the entire land acquisition proceedings initiated under the Land Acquisition Act, 1894 (hereinafter referred to as "the Old Act, 1894") in respect of lands in S. Nos. 508, 509/1, 510/1A, 1B, 511/1A1 and 511/1B, admeasuring an extent of 1.03.0 hectares, 0.32.5 hectares, 0.03.0 hectares, 0.15.5 hectares, 0.08.0 hectares and 0.86.5 hectares respectively in Vellakinar Village, which was acquired by the State under award No. 1/98 dated 03 April 1998, as lapsed in view of the Act, 2013. As projected by the State and Housing Board, the possession of the land was taken over on 20 April 1998. It is further brought to the notice of this Court by the State as well as the Housing Board that possession was handed over to the Housing Board on 30 April 1998. In support of this contention, the Housing Board has produced a copy of the possession certificate, whereunder, the land in question was transferred from the Government to the Housing Board. As regards compensation, a copy of the payment certificate has been produced. It is referred to therein that the land owners have received the compensation amount fixed by the Referring Officer under protest and they are claiming more compensation. The learned Single Judge, hearing the submissions, allowed the writ petition, holding that the acquisition proceedings initiated by the State has lapsed. Thereagainst, this writ appeal.

6. In W.A. No. 1430 of 2014, the private respondents are the owners of the land

admeasuring 5.78 acres at S. Nos. 472/1A and 473/2, Vellakinar Village, which was acquired by the State under award No. 1/2000 dated 25 October 2000. The said writ appeal has been filed against the order of the learned Single Judge dated 7th May, 2014 made in W.P. No. 7528 of 2014, which was filed by the private respondents herein seeking to declare the said acquisition proceedings as lapsed in view of the Act, 2013. As projected by the State and Housing Board, the possession of the land was taken over on 20 November 2000 and handed over to the Housing Board on the same day. In support of this contention, the Housing Board has produced a copy of the Transfer certificate, whereunder, the land in question was transferred from the Government to the Housing Board. As regards payment of compensation to the land owners, a copy of the payment certificate has been produced. The learned Single Judge allowed the writ petition. Hence this writ appeal by the Housing Board.

7. W.A. No. 1431 of 2014 filed by the Tamil Nadu Housing Board is directed against the order of the learned Single Judge dated 7th May, 2014 made in W.P. No. 8706 of 2014, which was filed by the private respondent, who is the owner of the land, seeking to declare the land acquisition proceedings initiated in respect of the land admeasuring 2.75 acres at S. Nos. 529/1A, Vellakinar Village, which was acquired by the State under award No. 3/2001 dated 29 June 2001, as lapsed. As projected by the State and Housing Board, the possession of the land was taken over on 08 October 2001 and handed over to the Housing Board on the same day. In support of this contention, the Housing Board has produced a copy of the Transfer certificate, whereunder, the land in question was transferred from the Government to the Housing Board. As regards payment of compensation to the land owner, a copy of the payment voucher has been produced. The learned Single Judge by the said impugned order allowed the writ petition. Thereagainst, this writ appeal is preferred.

8. W.A. No. 1432 of 2014 filed by the Tamil Nadu Housing Board, arises from the order dated 7th May, 2014 passed by the learned Single Judge in W.P. No. 8707 of 2014. The said writ petition has been preferred by the private respondent herein seeking to declare the entire land acquisition proceedings initiated in respect of the lands situated in S. Nos. 479, 509/2, 510/2, 511/1A2 and 511/2 in Vellakinar Village to an extent of 1.23 acres, 2.36 acres, 1.42 acres, 0.26 acres and 1.42 acres respectively, which was acquired by the State under award No. 1/1998 dated 03 April 1998, as lapsed. As projected by the State and Housing Board, the possession of the land was taken over on 20 April 1998. It is further brought to the notice of this Court by the State as well as the Housing Board that possession was handed over to the Housing Board on 30 April 1998. In support of this contention, the Housing Board has produced a copy of the Possession certificate, whereunder, the land in question was transferred from the Government to the Housing Board. It is referred to therein that the land owner has received the compensation amount fixed by the Referring Officer under protest and he is claiming more compensation. The learned Single Judge allowed the writ petition and declared the said land acquisition proceedings as lapsed.

9. W.A. No. 1433 of 2014 filed by the Housing Board is directed against the order of the learned Single Judge, dated 7th May, 2014 made in W.P. No. 8708 of 2014. The said writ petition has been filed by the private respondent herein seeking to declare the land acquisition proceedings in respect of the land admeasuring 4.34 acres at S. Nos. 507/1,512/2A and 512/2B, Vellakinar Village, which was acquired by the State under award No. 2/1998 dated 01 July 1998, as lapsed in view of the Act, 2013. As projected by the State and Housing Board, the possession of the land was taken over on 06 August 1998 and handed over to the Housing Board on the same day. In support of this contention, the Housing Board has produced a copy of the Possession certificate, whereunder, the land in question was transferred from the Government to the Housing Board. It is further stated that the compensation was paid by way of revenue deposit. The learned Single Judge allowed the writ petition. Thereagainst, this writ appeal.

10. W.A. No. 1434 of 2014 is preferred by the Housing Board against the order of the learned Single Judge dated 7th May, 2014 made in W.P. No. 8774 of 2014, which was filed by the private respondents herein seeking to declare the land acquisition proceedings in respect of the land admeasuring 6.25 acres at S. Nos. 527/1C, 529/1B and 530/1, Vellakinar Village, which was acquired by the State under award No. 3/2001 dated 29 June 2001, as lapsed. As projected by the State and Housing Board, the possession of the land was taken over on 08th October 2001 and handed over to the Housing Board on the same day. In support of this contention, the Housing Board has produced a copy of the transfer certificate, whereunder, the land in question was transferred from the Government to the Housing Board. As regards payment of compensation to the land owner, a copy of the payment voucher has been produced. The learned Single Judge, hearing the submissions, allowed the writ petition.

11. W.A. No. 1435 of 2014 filed by the Housing Board arises from the order of the learned Single Judge dated 7th May 2014 made in W.P. No. 8775 of 2014. The writ petition was preferred by the private respondents herein seeking to declare the land acquisition proceedings initiated in respect of the land admeasuring 4.74 acres at S. Nos. 529/1B and 530/2, Vellakinar Village, which was acquired by the State under award No. 3/2001 dated 29 June 2001 as lapsed in view of the Act, 2013. As projected by the State and Housing Board, the possession of the land was taken over on 08 October 2001 and handed over to the Housing Board on the same day. In support of this contention, the Housing Board has produced a copy of the transfer certificate, whereunder, the land in question was transferred from the Government to the Housing Board. As regards payment of compensation to the land owner, a copy of the payment voucher has been produced. The learned Single Judge allowed the writ petition and declared the same as lapsed. Thereagainst, this writ appeal.

12. W.A. No. 1436 of 2014 filed by the Tamil Nadu Housing Board is directed against the order dated 7th May, 2014 made in W.P. No. 8776 of 2014, which was filed by the private respondents seeking to declare the entire land

acquisition proceedings in respect of the lands admeasuring 7.30 acres at S. Nos. 527/1A and 528/1, Vellakinar Village, which was acquired by the State under award No. 3/2001 dated 29 June 2001, as lapsed in view of the Act, 2013. As projected by the State and Housing Board, the possession of the land was taken over on 16 December 2005 and handed over to the Housing Board on the same day. In support of this contention, the Housing Board has produced a copy of the possession certificate, whereunder, the land in question was transferred from the Government to the Housing Board. As regards compensation, it stated that the same was deposited in the Civil Court. The learned Single Judge allowed the writ petition. Hence, this writ appeal is preferred by the Housing Board.

13. W.A. No. 1437 of 2014 is preferred by the Housing Board against the order of the learned Single Judge dated 7th May, 2014 in W.P. No. 8777 of 2014. The said writ petition is preferred by the private respondents herein seeking to declare the land acquisition proceedings initiated under the Old Act, 1894 in respect of the lands admeasuring 2.55 acres at S. No. 477/1B, Vellakinar Village, which was acquired by the State under award No. 1/2000 dated 25 October 2000, as lapsed in view of the Act, 2013. As projected by the State and Housing Board, the possession of the land was taken over on 24 May 2001 and handed over to the Housing Board on the same day. In support of this contention, the Housing Board has produced a copy of the transfer certificate, whereunder, the land in question was transferred from the Government to the Housing Board. As regards compensation, it is further stated that the same was deposited in the Civil Court. The said writ petition was allowed by the learned Single Judge.

14. W.A. No. 1438 of 2014 filed by the Housing Board is directed against the order of the learned Single Judge dated 7th May, 2014 made in W.P. No. 9005 of 2014 which was filed by the private respondents herein seeking to declare the land acquisition proceedings qua the land to an extent of 4.08 acres in S.F. No. 472/1B and 2.00 acres in S.F. No. 477/1A at Vellakinar Village, which was acquired by the State under award No. 1/2000 dated 25 October 2000, as lapsed in view of the Act, 2013. As projected by the State and Housing Board, the possession of the land was taken over on 24 May 2001 and handed over to the Housing Board on the same day. In support of this contention, the Housing Board has produced a copy of the transfer certificate, whereunder, the land in question was transferred from the Government to the Housing Board. As regards compensation, it is further stated that the same was deposited in the Civil Court. The learned Single Judge allowed the writ petition. Thereagainst, the Housing Board has preferred this appeal.

15. W.A. No. 1439 of 2014 filed by the Housing Board is directed against the order of the learned Single Judge dated 7th May, 2014 made in W.P. No. 9006 of 2014, which was filed by the private respondents herein seeking to declare the land acquisition proceedings in respect of the lands admeasuring 3.06 acres at S. No. 486, Vellakinar Village, which was acquired by the State under award No. 3/1998 dated 01 July 1998, as lapsed in view of the Act, 2013. As projected by

the State and Housing Board, the possession of the land was taken over on 06 August 1998 and handed over to the Housing Board on the same day. In support of this contention, the Housing Board has produced a copy of the possession certificate, whereunder, the land in question was transferred from the Government to the Housing Board. As regards payment of compensation to the land owners, a copy of the payment voucher has been produced. The writ petition was allowed by the learned Single Judge. Thereagainst, this writ appeal.

16. W.A. No. 1440 of 2014 preferred by the Tamil Nadu Housing Board arises from the order dated 7th May, 2014 made in W.P. No. 9007 of 2014, which was filed by the private respondents herein, seeking to declare the entire land acquisition proceedings initiated under the Old Act, 1894 in respect of the land admeasuring 6.41 acres at S. Nos. 478 and 479, Vellakinar Village, which was acquired by the State under award No. 1/1998 dated 03 April 1998, as lapsed in view of the Act, 2013. As projected by the State and Housing Board, the possession of the land was taken over on 20 April 1998. It is further brought to the notice of this Court by the State as well as the Housing Board that possession was handed over to the Housing Board on 30 April 1998. In support of this contention, the Housing Board has produced a copy of the possession certificate, whereunder, the land in question was transferred from the Government to the Housing Board. As regards compensation, a copy of the payment certificate has been produced. It is referred to therein that the land owners have received the compensation amount fixed by the Referring Officer under protest and they are claiming more compensation. The learned single Judge allowed the writ petition. Hence this writ appeal by the Housing Board.

17. W.A. No. 1533 of 2014 is preferred by the Tamil Nadu Government, Department of Housing and Urban Development Department against the order of the learned Single Judge dated 7th May, 2014 made in W.P. No. 8708 of 2014, which was preferred by the private respondent, seeking to declare the entire land acquisition proceedings initiated under the Old Act, 1894 in respect of the lands admeasuring 4.34 acres at S. Nos. 507/1, 512/2A and 512/2B, Vellakinar Village, which was acquired by the State under award No. 2/1998 dated 01 July 1998, as lapsed in view of Section 24(2) of the Act, 2013. As projected by the State and Housing Board, the possession of the land was taken over on 06 August 1998. In respect of compensation, it is stated by the Housing Board that it was paid to the private respondent. The learned Single Judge allowed the writ petition. Thereagainst, the State has preferred this appeal.

18. W.A. No. 1545 of 2014 preferred by the State is directed against the order of the learned Single Judge, dated 7th May, 2014 made in W.P. No. 8777 of 2014, which was preferred by the private respondents seeking to declare the entire land acquisition proceedings in respect of the land admeasuring 1.03.5 hectares at S. Nos. 477/1B in Vellakinar Village, which was acquired by the State under award No. 1/2000 dated 25 October 2000, as lapsed in view of Section 24(2) of the Act, 2013. As projected by the State and Housing Board, the possession of

the land was taken over on 24 May 2001. In respect of compensation, it is stated by the Housing Board that the same was deposited in the Civil Court. The learned Single Judge allowed the writ petition, against which the State has filed this writ appeal.

19. W.A. No. 1582 of 2014 preferred by the State is directed against the order of the learned Single Judge dated 7th May, 2014 made in W.P. No. 7528 of 2014, which was filed by the private respondents herein, seeking to declare the entire land acquisition proceedings initiated under the Old Act, 1894 in respect of the lands admeasuring 0.81.0 hectares in S.F. No. 472/1A and 1.53.0 hectares in S.F. No. 473/2 situated in Vellakinar Village, which was acquired by the State under award No. 1/2000 dated 25 October 2000, as lapsed. As projected by the State and Housing Board, the possession of the land was taken over on 20 November 2000. In respect of compensation, it is stated by the Housing Board that it was paid to the private respondents. The said writ petition was allowed by the learned Single Judge. Thereagainst, this writ appeal.

20. W.A. No. 163 of 2015 filed by the Tamil Nadu Housing Board is directed against the order of the learned Single Judge dated 7th May, 2014 made in W.P. No. 7509 of 2014, which was filed by the private respondents, seeking to declare the entire land acquisition proceedings initiated under the Old Act, 1894 in respect of the lands admeasuring 0.97.0 hectares situated in S.F. No. 527/1D in Vellakinar Village, which was acquired by the State under award No. 3/2001, dated 29 June 2001, as lapsed in view of Section 24(2) of the Act, 2013. As projected by the State and Housing Board, the possession of the land was taken over on 16 December 2005 and handed over to the Housing Board on the same day. In support of this contention, the Housing Board has produced a copy of the possession certificate, whereunder, the land in question was transferred from the Government to the Housing Board. The learned Single Judge, considering the submissions made, allowed the writ petition and declared the said land acquisition proceedings as lapsed.

21. W.A. No. 164 of 2015 is filed by the Tamil Nadu Housing Board against the order dated 7th May, 2014 passed by the learned Single Judge in W.P. No. 7546 of 2014. The private respondent in the writ appeal has preferred the above writ petition, seeking to declare the entire land acquisition proceedings initiated under the Old Act, 1894 in respect of the lands to an extent of 1.30.0 hectares, 0.02.5 hectares and 0.12.0 hectares in S. Nos. 136/1A, 136/1B and 136/1C respectively in Saravanampatti Village, which were acquired by the State under award No. 1/1994 dated 18 March 1994, as lapsed. As projected by the State and Housing Board, the possession of the land has not been taken over. The learned Single Judge, hearing the submissions made, allowed the writ petition. Thereagainst, this writ appeal is preferred.

22. W.A. No. 165 of 2015 is preferred by the Housing Board against the order of the learned Single Judge dated 7th May, 2014 made in W.P. No. 7529 of 2014, which was filed by the private respondents, seeking to declare the land

acquisition proceedings in respect of the lands to an extent of 19.04 acres at S. Nos. 46/2, 47/1, 48, 49, 50, 51, 52, 53, 73/1, 2, 3, 74/1, 2, 3, 76/1, 2, 3, 78, 79 and 89 in Sowripalayam Village, which was acquired by the State under award No. 1/1991 dated 22 March 1991, as lapsed. As projected by the State and Housing Board, the possession of the land was taken over on 20 November 1991 and handed over to the Housing Board on the same day. In support of this contention, the Housing Board has produced a copy of the possession of change certificate, whereunder, the land in question was transferred from the Government to the Housing Board. In respect of compensation, it is stated by the Housing Board that the same was deposited in the Civil Court. The learned Single Judge, hearing the submissions made, allowed the writ petition. Hence, this writ appeal.

23. W.A. No. 166 of 2015 is preferred by the Housing Board against the order of the learned Single Judge dated 23rd June, 2014 made in W.P. No. 14620 of 2014, which was filed by the private respondents herein seeking to declare the entire land acquisition proceedings initiated under the Old Act, 1894 in respect of the lands to an extent of 0.29.5 hectares in S.F. No. 533/1 and to an extent of 0.34.0 hectares in S.F. No. 533/3, situated in Vellakinar Village, which was acquired by the State under award No. 5/1994 dated 23 June 1994, as lapsed in view of Section 24(2) of the Act, 2013. As projected by the State and Housing Board, the possession of the land was taken over on 22 November 1994 and handed over to the Housing Board on the same day. In support of this contention, the Housing Board has produced a copy of the possession certificate, whereunder, the land in question was transferred from the Government to the Housing Board. As regards payment of compensation to the land owners, a copy of the payment voucher has been produced by the Housing Board. The learned Single Judge allowed the writ petition. Thereagainst, this writ appeal is preferred by the Housing Board.

24. W.A. No. 168 of 2015 is also preferred by the Housing Board against the order of the learned Single Judge dated 23rd June, 2014 made in W.P. No. 14626 of 2014, which was filed by the private respondents, seeking to declare the land acquisition proceedings in respect of lands admeasuring 4.35 acres at S. No. 435, Telugupalayam Village, which was acquired by the State under award No. 4/1986 dated 23 September 1986, as lapsed. As projected by the State and Housing Board, the possession of the land was taken over on 21 November 1988 and handed over to the Housing Board on the same day. In support of this contention, the Housing Board has produced a copy of the possession certificate, whereunder, the land in question was transferred from the Government to the Housing Board. In respect of compensation, it is stated by the Housing Board that the same was deposited in the Civil Court. The learned Single Judge allowed the writ petition and declared the said land acquisition proceedings as lapsed. Hence this writ appeal.

25. W.A. No. 174 of 2015 filed by the Tamil Nadu Housing Board arises from the order of the learned Single Judge dated 23rd June, 2014 made in W.P. No. 14661

of 2014, which was filed by the private respondent, seeking to declare the land acquisition proceedings in respect of the land admeasuring 0.63.5 hectares at S. No. 532/1, Vellakinar Village, which was acquired by the State under award No. 5/1994 dated 23 June 1994, as lapsed in view of Section 24(2) of the Act, 2013. As projected by the State and Housing Board, the possession of the land was taken over on 22 November 1994 and handed over to the Housing Board on the same day. In support of this contention, the Housing Board has produced a copy of the possession certificate, whereunder, the land in question was transferred from the Government to the Housing Board. As regards payment of compensation to the land owner, a copy of the payment voucher has been produced by the Housing Board. Considering the submissions made, the learned Single Judge allowed the writ petition. Thereagainst, this writ appeal is preferred by the Housing Board.

26. W.A. No. 175 of 2015 filed by the Tamil Nadu Housing Board is directed against the order dated 23rd June, 2014 made in W.P. No. 14638 of 2014, which was filed by the writ petitioner therein, seeking to declare the land acquisition proceedings initiated under the Old Act, 1894 in respect of the lands admeasuring to an extent of 0.56.5 hectares in S.F. No. 532/2 and 0.37.0 hectares in S.F. No. 533/2 situated in Vellakinar Village, which was acquired by the State under award No. 5/1994 dated 23 June 1994, as lapsed in view of Section 24(2) of the Act, 2013. As projected by the State and Housing Board, the possession of the land was taken over on 01 October 1996 and handed over to the Housing Board on the same day. In support of this contention, the Housing Board has produced a copy of the possession certificate, whereunder, the land in question was transferred from the Government to the Housing Board. As regards payment of compensation to the land owner, a copy of the payment voucher has been produced by the Housing Board. The learned Single Judge allowed the writ petition. Thereagainst, this writ appeal.

27. W.A. No. 329 of 2015 is preferred by the Housing Board against the order of the learned Single Judge dated 20th October, 2014 made in W.P. No. 23698 of 2014 which was filed by the private respondents herein, seeking to declare the land acquisition proceedings initiated under the Old Act, 1894 in respect of the lands admeasuring 2.61 acres at S. No. 605, Mogappair Village, which was acquired by the State under award No. 3/1984 dated 03 February 1984, as lapsed in view of Section 24(2) of the Act, 2013. The learned Single Judge, considering the submissions made by both sides, allowed the writ petition and declared the land acquisition proceedings as lapsed.

28. W.A. No. 574 of 2015 preferred by the Tamil Nadu Housing Board is directed against the order of the learned Single Judge dated 9th December, 2014 made in W.P. No. 27670 of 2014, which was filed by the private respondent herein seeking to declare the land acquisition proceedings initiated in respect of the lands to an extent of 0.5 1/2 cents at S. No. 294/1A1B, Sholingnanallur Village, which was acquired by the State under award No. 2/1993 dated 18 June 1993,

as lapsed in view of Section 24(2) of the Act, 2013. As projected by the State and Housing Board, the possession of the land was taken over on 18 April 1994. In respect of compensation, it is stated by the Housing Board that the same was deposited in the Civil Court. The learned Single Judge allowed the writ petition. Thereagainst, this writ appeal.

29. W.A. No. 575 of 2015 is preferred by the Tamil Nadu Housing Board against the order of the learned Single Judge dated 9th December, 2014 made in W.P. No. 27671 of 2014, which was filed by the private respondent, seeking to declare the land acquisition proceedings initiated in respect of lands to an extent of acre 0.10 1/2 cents and acre 0.1 1/2 cents respectively at S. Nos. 294/1A1A and 294/1B1, Sholingnallur Village, which was acquired by the State under award No. 2/1993 dated 18 June 1993, as lapsed in view of the Section 24(2) of the Act, 2013. As projected by the State and Housing Board, the possession of the land was taken over on 11 May 2006 and 18 April 1994 respectively. In respect of compensation, it is stated by the Housing Board that the same was made by way of deposit in the Civil Court and direct payment respectively. The learned Single Judge allowed the writ petition and declared the land acquisition proceedings as lapsed. Hence this writ appeal.

30. W.A. No. 184 of 2015 is preferred by the Tamil Nadu Housing Board against the order of the learned Single Judge dated 6th November, 2014 made in W.P. No. 27934 of 2014, which was filed by the private respondents, seeking to declare the land acquisition proceedings initiated under the Old Act, 1894 in respect of the lands to an extent of 0.44 acre at S. No. 604, Mogappair Village, which was acquired by the State under award No. 3/1983 dated 31 March 1983 as lapsed in view of Section 24(2) of the Act, 2014. As projected by the State and Housing Board, the possession of the land was taken over on 22 June 1983. In respect of compensation, it is stated by the Housing Board that the same was paid to the private respondents directly and enhanced payment was also deposited in Court. The learned Single Judge allowed the writ petition. Hence this writ appeal is preferred by the Housing Board.

31. The facts, as projected by the appellants - Tamil Nadu Housing Board, are culled out as under :

* CCD - Civil Court deposit

** LAOP - Land Acquisition Original Petition"

32. Mr. S. Gomathynayagam, learned Additional Advocate General, assisted by Mr. V. Anandhamurthy, learned counsel appearing for the appellants in W.A. No. 1428 of 2014, would contend that after the possession of the land, on payment of compensation, is taken over, no reconveyance is possible even if the Housing Board has not implemented the housing scheme on the lands in question. It is further contended that the word "OR" between the "physical possession of the land has not been taken" and "the compensation has not been paid", employed in sub section (2) of Section 24 of the Act, 2013 be read as conjunctive.

33. It is urged that the land owners have to establish that the compensation for the acquisition was not paid and also physical possession of the land was not taken over five years or more prior to the date when the Act 2013 came into effect. Clarifying, the learned Additional Advocate General would contend that both conditions, as aforesaid, are required to be satisfied under the provisions of Section 24(4) of the Act, 2013, declaring the land acquisition proceedings as lapsed. In the case on hand, compensation has been paid, even possession has been taken as is evident from the transfer certificates executed by the State Government in favour of the Housing Board.

34. The learned Additional Advocate General would further contend that assuming that for want of relevant documents, indicating taking over possession of land by the acquisition officer cannot be concluded, the compensation has been admittedly paid. Thus, the land owners or their successors are not entitled to benefits of the provisions of Section 24 of the Act, 2013.

35. Thiru A.L. Somayaji, learned Advocate General, assisted by Thiru V. Anandhamurthy, the learned counsel appearing for the Housing Board in W.A. Nos. 1101, 1429 to 1440 of 2014, 163 to 166, 168, 174, 175, 329, 574, 575 and 184 of 2015 would contend that the compensation was deposited with the Civil Court in W.A. Nos. 574, 575, 163, 165, 167, 168, 169, 170, 171, 172 and 173 of 2015, 1436, 1437, 1438 and 1545 of 2014 and in certain appeals, payment was directly made to the land owners. In respect of the possession, it is contended that there is no document available, indicating taking over of possession from the land owners. However, transfer certificates, whereunder the lands, after having taken over possession, were handed over to the Housing Board, are on record. Without taking over possession of the lands, in question, the subsequent event of handing over of possession was not possible.

36. Thiru P.H. Arvinth Pandian, Additional Advocate General, assisted by Mrs. A. Srijayanthi, learned Special Government Pleader, appearing for the State Government, supporting the case of the Housing Board, would contend that the compensation was paid on the civil court and in some cases, it was made over to the land owners, which was accepted under protest. After acquisition of the lands in question, possession was taken over and thereafter, the same was transferred to the Housing Board as is evident from the transfer certificates filed herein. He relied on judgment of the Supreme Court in *Tamil Nadu Housing Board v. A. Viswam (dead) by Lrs.* [, (1996) 8 SCC 259].

37. Responding to the contentions of the appellants, Shri R. Thiagarajan, learned Senior Counsel, assisted by Mr. R.N. Amarnath, learned counsel appearing for the private respondents/writ petitioners, in W.A. Nos. 1429, 1432, 1433, 1437, 1438, 1439 and 1440 of 2014, 163, 164, 168, 574 and 575 of 2015, would contend that the private respondents/writ petitioners are entitled to benefit under the provisions of Section 24(2) of the Act, 2013, as after passing of the Award, admittedly five years before the operation of the Act, 2013, i.e., 1st January, 2014, physical possession was not taken over by the Land Acquisition Officer. The

subsequent transfer between the State Government and the Housing Board does not establish taking over possession of the land from the land owners.

38. It is further urged that taking over of possession of land has to be established by preparing panchanama in presence of the respective witnesses after giving proper notice to the land owners. In support of this contention, the learned Senior Counsel refers and relies on the following judicial pronouncements:

"(a) Banda Development Authority v. Motilal Agarwal and others , (2011) 5 SCC 394

(b) Prahlad Singh and others v. Union of India and others , (2011) 5 SCC 386

(d) Ragbhir Singh Sherawat v. State of Haryana and others , (2012) 1 SCC 792

(d) Patasi Devi v. State of Haryana and others , (2012) 9 SCC 503

(e)Magnum Promoters Pvt. Ltd. v. Union of India and others , (2015) 3 SCC 327"

39. The next submission of the learned Senior Counsel for the private respondents is that neither the Housing Board nor the State Government has produced any document to establish that before purported transfer of possession of the land to the Housing Board, the possession of the land in question was taken over in accordance with the provisions of law enshrined under Section 16 of the Old Act, 1894. The learned Senior Counsel also would submit that the compensation was not paid as required under the Old Act, 1894.

40. Alternatively, it is urged that even if the compensation has been deposited in the civil court or paid to the owners, as pleaded by the learned counsel for the appellants, there is no dispute in regard to the non taking over of possession of the lands so acquired. Thus, the private respondents/writ petitioners are entitled to continuance of possession as the acquisition proceedings stood lapsed on account of the operation of the provisions of Section 24 of the Act, 2013.

41. The learned Senior Counsel, in support of his contentions, relies on the following judgments :

"(a) Pune Municipal Corporation and another v. Harakchand Misirimal Solanki and others , (2014) 3 SCC 183

(b) The Working Friends Cooperative House Building Society v. The State of Punjab and others 2015 (10) Scale 668

(c) Rajiv Chowdhrie Huf v. Union of India and others , (2015) 3 SCC 541

(d) A. Nagarajan and others v. Secretary to Government, Housing Department, Chennai and others , 2014 (6) MLJ 29 (DB)"

42. Thiru R. Muthukumarasamy, learned Senior Counsel appearing for private respondents/writ petitioners in W.A. Nos. 1101, 1428, 1430, 1431, 1434, 1435

and 1436 of 2014 and Mr. AR.L. Sundaresan, learned Senior Counsels appearing for private respondents/writ petitioners in W.A. Nos. 165, 166, 174, 175, 184 and 329 of 2015 advanced arguments in the same line, adopting the aforesaid submissions made by the learned Senior Counsel Thiru R. Thiagarajan.

43. We have heard the learned Advocate General, Additional Advocates General appearing for the Housing Board and the State and the learned Senior Counsels appearing for the private respondents. We have also perused the pleadings and documents appended thereto.

44. To appreciate the ambit and scope of Section 24 of the Act, 2013, it is apt to refer to the same. The relevant provision reads as under :

"24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.--

(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894),-

(a) where no award under Section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) where an award under said Section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(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 beneficiaries specified in the notification for acquisition under Section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act."

45. In order to attract the provisions of Section 24(2) of the Act, 2013, there are three pre-conditions. Firstly, the Award has to be made five years or more prior to the commencement of this Act. Secondly, physical possession of the land has not been taken or thirdly, the compensation has not been paid. It is well settled proposition of law that if the provisions are clear and unambiguous, the principles of reading down would not apply and as such, the word "OR" be read as

disjunctive, not as conjunctive. This issue is specifically raised in the other appeal, being W.A. No. 1100 of 2014 (judgment pronounced today, i.e. on 26th February, 2016), which is dealt with at length, wherein it has been held that in any eventuality, i.e., either possession of the land has not been taken over or compensation has not been paid, if the Award has been passed five years or more prior to the Act, 2013 came into effect, i.e., on 1st January, 2014, the land acquisition proceedings stands lapsed. Both conditions of not making payment of compensation and not taking over possession is not necessary.

46. Firstly, we will take up the issue of payment of compensation. On the details produced by the appellants Housing Board and State, vouchers have been produced indicating that compensation amount fixed by referring officer has been paid under protest in respect of W.A. Nos. 1429, 1432 and 1440 of 2014. In respect of W.A. Nos. 1430, 1431, 1434, 1435, 1439, 1533 and 1582 of 2014, 166, 174, 175 and 184 of 2015, compensation has been made directly. In W.A. Nos. 1436, 1437, 1438 and 1545 of 2014, 163, 165, 168, 574 and 575 of 2015, the compensation has been deposited with the civil court, which is permissible under the provisions of law. In W.A. No. 1101 and 1433 of 2014, the compensation was not paid directly to the land owners or deposited with the civil court, but deposited by way of revenue deposit, which does not come within the ambit of payment of compensation for the lands so acquired.

47. At this juncture, we will refer to certain judicial pronouncements. In Pune Municipal Corpn. (supra), the Supreme Court examined the mode of payment of compensation in the light of the provisions of Section 24(2) of the Act, 2013 and it reads as under :

"17. While enacting Section 24(2), Parliament definitely had in its view Section 31 of the 1894 Act. From that one thing is clear that it did not intend to equate the word "paid" to "offered" or "tendered". But at the same time, we do not think that by use of the word "paid", Parliament intended receipt of compensation by the landowners/persons interested. In our view, it is not appropriate to give a literal construction to the expression "paid" used in this sub-section [sub-section (2) of Section 24]. If a literal construction were to be given, then it would amount to ignoring the procedure, mode and manner of deposit provided in Section 31(2) of the 1894 Act in the event of happening of any of the contingencies contemplated therein which may prevent the Collector from making actual payment of compensation. We are of the view, therefore, that for the purposes of Section 24(2), the compensation shall be regarded as "paid" if the compensation has been offered to the person interested and such compensation has been deposited in the court where reference under Section 18 can be made on happening of any of the contingencies contemplated under Section 31(2) of the 1894 Act. In other words, the compensation may be said to have been "paid" within the meaning of Section 24(2) when the Collector (or for that matter Land Acquisition Officer) has discharged his obligation and deposited the amount of compensation in court and made that amount available to the

interested person to be dealt with as provided in Sections 32 and 33.

18. The 1894 Act being an expropriatory legislation has to be strictly followed. The procedure, mode and manner for payment of compensation are prescribed in Part V (Sections 31-34) of the 1894 Act. The Collector, with regard to the payment of compensation, can only act in the manner so provided. It is settled proposition of law (classic statement 2 of Lord Roche in *Nazir Ahmad*) that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden.

19. Now, this is admitted position that award was made on 31-1-2008. Notices were issued to the landowners to receive the compensation and since they did not receive the compensation, the amount (Rs. 27 crores) was deposited in the Government treasury. Can it be said that deposit of the amount of compensation in the Government treasury is equivalent to the amount of compensation paid to the landowners/persons interested? We do not think so. In a comparatively recent decision, this Court in *Agnelo Santimano Fernandes* 3, relying upon the earlier decision in *Prem Nath Kapur* 4, has held that the deposit of the amount of the compensation in the State's revenue account is of no avail and the liability of the State to pay interest subsists till the amount has not been deposited in court."

48. In *The Working Friends Cooperative House Building Society Ltd.* (supra), the Supreme Court observed that "This is for the reason that one of the requirements mentioned in Section 24(2) of the Act is that the compensation should have either been paid to the land owner or should have been deposited in the Reference Court."

49. The ratio laid down in *Pune Municipal Corpn.* (supra), was referred to with approval in *Rajiv Chowdhrie Huf* (supra).

50. In the conspectus of the aforestated factual matrix and the law on the issue, we hold that the compensation has been paid in all the appeals, except in W.A. Nos. 1101 and 1433 of 2014, wherein deposit was made with the revenue authorities. This cannot be held as payment of compensation under the statutory provisions of Section 31 of the Old Act, 1894.

51. In respect of W.A. Nos. 164 and 329 of 2015, no material has been produced to establish that the compensation was made in accordance with law pursuant to the land acquisition proceedings initiated under the provisions of the Old Act, 1894, wherein an Award has been passed on 18th March, 1994 and 3rd February, 1984 respectively, i.e., more than five years prior to the commencement of the Act, 2013.

52. The second aspect is taking over of possession of the land in question as contemplated under Section 24(2) of the Act, 2013. On the happenings of one eventuality, i.e., either non payment of compensation or not taking over of possession of the land, the provision of Section 24(2) of the Act, 2013 would be attracted and the entire land acquisition process initiated under the Old Act,

1894 shall stand lapsed. In all cases, as the factual details have been set out herein-above, the appellants have produced transfer certificates, whereunder under the transfer certificate, the lands so acquired were transferred from the State government to the Housing Board. In most of the cases, the stand taken by the Housing Board and the State is that the land, on having been taken over from the land owners, was transferred to the Housing Board on the same day, i.e., in W.A. Nos. 1428, 1430, 1431, 1433, 1434, 1435, 1436, 1437, 1438 and 1439 of 2014, 163, 165, 166, 168, 174 and 175 of 2015.

53. What is the necessary requisite to establish taking over of possession came up for consideration in several cases before the Supreme Court.

54. In *Tamil Nadu Housing Board v. A. Viswam*, (1996) 8 SCC 259, cited by Mr. P.H. Arvindh Pandian, learned Additional Advocate General, it was observed that since delivery of possession of the acquired land by the Land Acquisition Officer to the Housing Board was admitted, presumption can be raised that the land acquisition officer has discharged his official duty after taking possession of the said land and delivered the same to the housing Board. Thus, the Supreme Court has observed as under :

"7. x x x x x x x x x It is true that in *Balwant Narayan Bhagde case 1 Untwalia, J.* had held thus: (SCR p. 263 : SCC p. 710, para 25)

"... the question is what is the mode of taking possession? The Act is silent on the point. Unless possession is taken by the written agreement of the party concerned the mode of taking possession obviously would be for the authority to go upon the land and to do some act which would indicate that the authority has taken possession of the land. It may be in the form of a declaration by beat of drum or otherwise or by hanging a written declaration on the spot that the authority has taken possession of the land."

9. It is settled law by series of judgments of this Court that one of the accepted modes of taking possession of the acquired land is recording of a memorandum or Panchnama by the LAO in the presence of witnesses signed by him/them and that would constitute taking possession of the land as it would be impossible to take physical possession of the acquired land. It is common knowledge that in some cases the owner/interested person may not cooperate in taking possession of the land."

55. The issue came up for consideration subsequently in several cases. We propose to refer to certain cases cited by the learned counsel appearing for the parties.

56. In *Raghubir Singh Sehrawat* (supra), the Supreme Court held as under :

"27. In *Banda Development Authority v. Moti Lal Agarwal*, the Court referred to the judgments in *Balwant Narayan Bhagde v. M.D. Bhagwa*, *Balmokand Khatri Educational and Industrial Trust v. State of Punjab*, *P.K. Kalburqi v. State of Karnataka*, *NTPC Ltd. v. Mahesh Dutta Sita Ram Bhandar Society v. Govt.* (NCT

of Delhi) and culled out the following propositions: (Banda Development Authority case, SCC p. 411, para 37)

"(i) No hard-and-fast rule can be laid down as to what act would constitute taking of possession of the acquired land.

(ii) If the acquired land is vacant, the act of the State authority concerned to go to the spot and prepare a panchnama will ordinarily be treated as sufficient to constitute taking of possession.

(iii) If crop is standing on the acquired land or building/structure exists, mere going on the spot by the authority concerned will, by itself, be not sufficient for taking possession. Ordinarily, in such cases, the authority concerned will have to give notice to the occupier of the building/structure or the person who has cultivated the land and take possession in the presence of independent witnesses and get their signatures on the panchnama. Of course, refusal of the owner of the land or building/structure may not lead to an inference that the possession of the acquired land has not been taken.

(iv) If the acquisition is of a large tract of land, it may not be possible for the acquiring/designated authority to take physical possession of each and every parcel of the land and it will be sufficient that symbolic possession is taken by preparing appropriate document in the presence of independent witnesses and getting their signatures on such document.

(v) If beneficiary of the acquisition is an agency/instrumentality of the State and 80% of the total compensation is deposited in terms of Section 17(3-A) and substantial portion of the acquired land has been utilised in furtherance of the particular public purpose, then the court may reasonably presume that possession of the acquired land has been taken."

28. If the appellant's case is examined in the light of the propositions culled out in Banda Development Authority v. 10 Moti Lal Agarwal we have no hesitation to hold that possession of the acquired land had not been taken from the appellant on 28-11-2008 i.e. the day on which the award was declared by the Land Acquisition Collector because crops were standing on several parcels of land including the appellant's land and possession thereof could not have been taken without giving notice to the landowners. That apart, it was humanly impossible to give notice to a large number of persons on the same day and take actual possession of the land comprised in various survey numbers (total measuring 214 acres 5 kanals and 2 marlas).

29. In view of the above discussion, we hold that the record prepared by the Revenue Authorities showing delivery of possession of the acquired land to HSIIDC has no legal sanctity and the High Court committed serious error by dismissing the writ petition on the specious ground that possession of the acquired land had been taken and the same vested in the State Government in terms of Section 16."

57. Again in Patasi Devi (supra), the case in Raghbir Singh Sehrawat (supra) was referred to with approval and it reads as under :

"11. A somewhat similar question was considered by this Court in Raghbir Singh Sehrawat v. State of Haryana. In that case also, the High Court had non-suited the writ petitioner on the ground that possession of the acquired land had been taken by the officers concerned and the same will be deemed to have vested in the State Government free from all encumbrances. This Court took cognizance of the entries recorded in khasra girdawari revealed existence of crops on the acquired land and observed: (SCC p. 799, paras 23-24)

"23. The respondents have not produced any other evidence to show that actual possession of the land, on which crop was standing, had been taken after giving notice to the appellant or that he was present at the site when possession of the acquired land was delivered to the Senior Manager of HSIIDC. Indeed, it is not even the case of the respondents that any independent witness was present at the time of taking possession of the acquired land.

24. The Land Acquisition Collector and his subordinates may claim credit of having acted swiftly inasmuch as immediately after the pronouncement of the award, possession of the acquired land of Village Jatheri is said to have been taken from the landowners and handed over to the officer of HSIIDC but keeping in view the fact that crop was standing on the land, the exercise undertaken by the respondents showing delivery of possession cannot but be treated as farce and inconsequential. We have no doubt that if the High Court had summoned the relevant records and scrutinised the same, it would not have summarily dismissed the writ petition on the premise that possession of the acquired land had been taken and the same vested in the State Government."

58. In Prahlad Singh (supra), the Supreme Court had held as under :

"22. Respondents 3 to 6 have not placed any document before this Court to show that actual possession of the acquired land was taken on the particular date. Therefore, the High Court was not right in recording a finding that the acquired land will be deemed to have vested in the State Government."

59. In Magnum Promoters Private Ltd. v. Union of India , (2015) 3 SCC 327, the Supreme Court, referring to Prahlad Singh and Raghbir Singh Sehrawat cases (supra), held as under :

"27. Thus, in view of the above decisions, this Court has clearly laid down the legal principle as to how taken over physical possession of the acquired land means the actual taking of possession of it from the landowners/interested persons."

60. The ratio deducible from the aforesaid judicial pronouncements is that for taking over of possession of the land under Section 16 of the Old Act, 1894, the revenue authorities must establish by producing some evidence, i.e., either preparation of panchanama in the presence of the witnesses or some other

documents. The transfer certificates subsequently prepared by the revenue authorities for delivering possession of the land in question to the Housing Board in absence of a witness or land owner, will not be sufficient to establish that possession of the lands was taken over by the land owners. In the case on hand, it is strongly pleaded by the learned counsel appearing for the private respondents that the land owners or their successors are continuing in possession till date. Thus, it is held that the possession of the lands in question were not taken over after passing of the Award.

61. On plain reading of the provisions of Section 24(2) of the Act, 2013, which is non-obstante clause, it is evident that in all cases, where an Award under Section 11 of the Old Act, 1894 has been made five years or more prior to the commencement of the Act, 2013, there is no period prescribed for taking over physical possession of the land or payment of compensation. Indisputably, in all the cases, the Award under Section 11 of the Old Act, 1894 was passed much more than five years before the commencement of the Act, 2013. As aforesaid, compensation was paid, excepting in W.A. Nos. 164 and 329 of 2015. The appellants have failed to produce any material to establish that possession of land in question was taken over from the land owners or their successors in accordance with the provisions of law, as aforesaid. Purported transfer of the land under transfer certificate from the State Government to the Housing Board in absence of a witness or the land owner is of no significance. Thus, it cannot be held that possession of the land has been taken over after passing of the Award.

62. In W.A. No. 329 of 2015, as per the pleadings of the Housing Board, compensation amount of Rs. 300.15 was kept under the work deposit on 9th April, 1983, which could not be made over to the land owner. Except the bald statement that the physical possession of the land in question was taken over by the land acquisition officer on 13th December, 1984, no material has been produced to establish the factum of taking over of possession. Likewise, in W.A. No. 164 of 2015, no material has been produced to establish the factum of taking over possession of the land. Thus these appeals stand on the same footing. In the cases on hand, even transfer certificate delivering the land from the State Government to the Housing Board has not been produced.

63. The case of the appellants-Housing Board and the State Government is that once the Award is passed, the property vests in the Government and no further action is necessary. This contention is misplaced and deserves to be rejected. Section 11 of the Old Act, 1894 contemplates passing of the Award followed by taking over of possession under Section 16 of the Old Act, 1894. Only after possession is taken over, the land shall vest in the Government as it is established that the possession of the land was never taken over and as such, it never vested in the State Government. Thus, in the facts of the case, though compensation has been made in all the cases, except in W.A. Nos. 164 and 329 of 2015, possession of the lands in question, were not taken over. Therefore, the provisions of Section 24(2) of the Act, 2013 would be attracted and the land

acquisition proceedings stand lapsed.

64. In view of the foregoings, all the writ appeals stand dismissed. No costs. Consequently, connected miscellaneous petitions stand closed.