

In the High Court of Judicature at Madras

Dated: 12.01.2015

Coram:

The Honourable Mr. SANJAY KISHAN KAUL, Chief Justice
and
The Honourable Mr. Justice M.M. SUNDRESH

Writ Appeal Nos. 1568 & 1569 of 1994,
1079 to 1084 and 1321 to 1325 of 1995

Tamil Nadu Housing Board
rep. by its Executive Engineer
and Administrative Officer
Special Division - I
Coimbatore Housing Unit
R.S. Puram, Coimbatore - 2. ... Appellant in WA.1568 & 1569 / 94.

vs.

1. G. K. Vijayakumar
2. The State of Tamilnadu
rep. by its Secretary to Government
Housing and Urban Development Dept.
Madras - 9.
3. The Special Tahsidlar
Land Acquisition
Housing Scheme No.1
Coimbatore - 18.
4. V.N.A.S. Chandran
5. S.C. Selvarani
6. Miss. Subashini
7. Mr. Sreedharan
rep. by Power Agent V.N.A.S.Chandran
.. R4 to 7 impleaded as party respondents
as per order dated 28.3.1995
in CMPs.4914 & 4915/95. ... Respondents in WA.1568 & 1569/94.

State of Tamil Nadu
Rep. by its Secretary and
Commissioner, PWD,
Fort St. George, Madras 9 ...1st Appellant in WA.1079/95.

State of Tamil Nadu,
By its Commissioner and Secretary,
Housing and Urban Development Department,
Fort St. George, Chennai 9. ..1st Appellant in WA.1080 &
1084/95.

The Special Tahsildar,
Land Acquisition,
Housing Scheme No.I,
Coimbatore.

..2nd appellant in WA.1079,
1080 and 1084/95.
1st Appellant in WA.1081 to
1083/95.

The Special Tahsildar,
Land Acquisition,
Housing Scheme No.III,
Coimbatore 18.

..2nd Appellant in
WA.1081 to 1083/95.

The Special Deputy Tahsildar, [LA] VIII,
Tamil Nadu Housing Board Schemes,
Nandanam, Madras 35.

..1st Appellant in
WA.1321/95.

The Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Madras 9.

..2nd Appellant in WA.1321 & 1325/95.
1st Appellant in WA.1322, 1323, 1324,
1325/95.

The Special Tahsildar [LA],
Housing Scheme No.II, Collectorate,
Coimbatore.

..2nd appellant in WA.1322, 1323,
1324/95.

The Special Tahsildar, [LA]

Neighbourhood Scheme, Erode. ..2nd Appellant in WA.1325/95.

-Vs-

V.C.Ramasamy Naidu

..1st Respondent in WA.1079/95.

R.Palaniswamy

..1st respondent in WA.1080/95

Nanjappa Gounder

..1st respondent in WA.1081/95.

Ramathal

..1st respondent in WA.1083/95.

1. R.Palaniswamy

2. R.Aruchami
3. Marudakkal

..Respondents 1 to 3 in
WA.1084/95.

Hariram S.Panjabi

..1st Respondent in WA.1321/95.

R.Elangovan rep. by
Power of Attorney Agent
K.Ramaranganathan

..1st respondent in
WA.1322/95.

Partiban by Power of
Attorney Agent,
Mrs. Saradamani

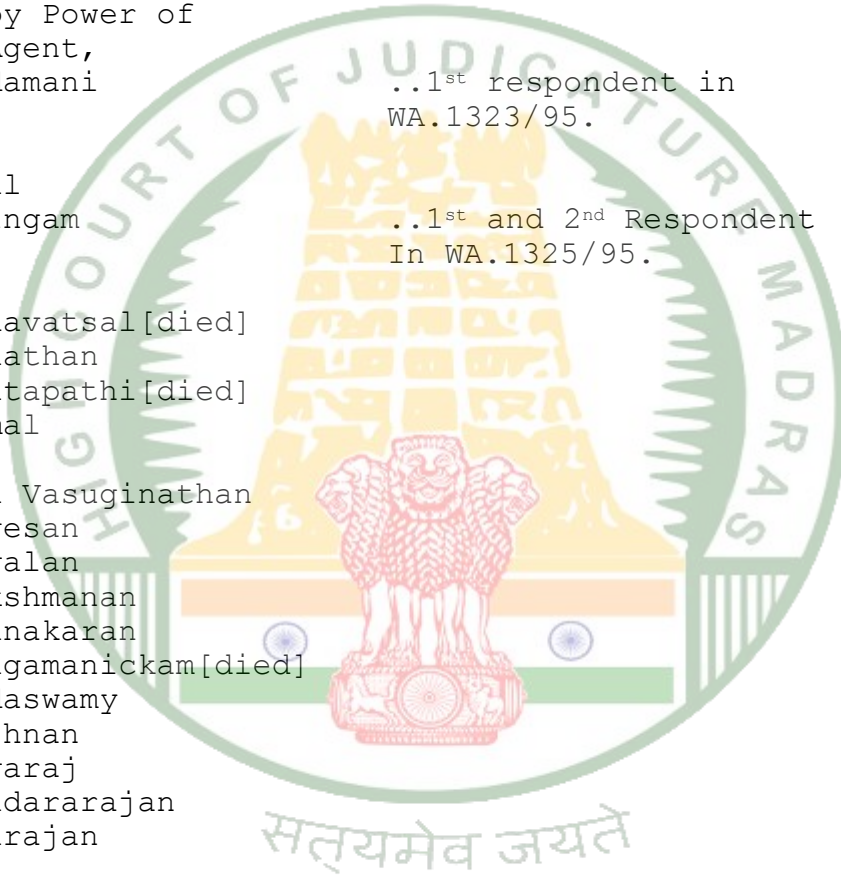
..1st respondent in
WA.1323/95.

Palaniammal
C.Chockalingam

..1st and 2nd Respondent
In WA.1325/95.

1. L.Bakthavatsal[died]
2. L.Jaganathan
3. L.Venkatapathi[died]
4. Muniammal

6. K.Muthu Vasuginathan
7. A.Murugesan
8. M.Maravalan
9. P.R.Lakshmanan
10. A.Karunakaran
11. C.P.Nagamanickam[died]
12. K.Kandaswamy
13. T.Krishnan
14. C.Selvaraj
15. K.Soundararajan
16. G.Natarajan
17. C.Raja
18. N.Muralidharan
19. Sivapakiyam
20. N.Selvaraj
21. Sivagami
22. N.Rameshbabu
23. N.Raghupathiraj
24. N.Karnaprasad
- Rep. by PowerAgent
M.C.Dhaeman
25. Smt. Amirtham
26. K.Balasubramaniam
27. N.R.Soundararajan



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28. A.Rajeswari

..Respondents in WA.1324/95.

[R.6 to 28 impleaded as party respondents
Vide order of court dated
14.3.2007 made in WAMPs.6531 to 6534/03]

29. Vasundra

30. B.Vijay Venkatasamy

31. B.Lakshmi Narayanan

32. V.Vasanthamani

33. V.Rajkumar

34. V.Muralidharan

[R.29 TO 31 Substituted as LR's of deceased R.1
And R.32 to 34 substituted as LR's of deceased
R.3 vide order dated 12.1.15 made in MP.
42 AND 43/10 in WA.1324/95]

The Executive Engineer and
Administrative Officer,
Coimbatore Housing Unit,
Tamil Nadu Housing Board,
Tatabad, Coimbatore 12.

..2nd respondent in WA.1079 to
1083/95 and 4th respondent in
WA.1084/95.

[R.2 impleaded as party respondent
Vide order of court dated 17.11.2008 made in
WAMP.No.145 to 149/08 and R.4 impleaded as
Party respondent vide order dated 17.11.08
Made in WMP.150/08]

The Tamil Nadu Housing Board,
Represented by its Chairman,
Madras 35.

..2nd respondent in WA.1321/95.
..3rd respondent in
WA.1325/95.

Tamil Nadu Housing Board,
By its Administrative Officer,
Coimbatore.

..2nd respondent in
WA.1322, 1323/95
..5th respondent in
WA.1324/95.

Lakshmi Card clothing
Manufacturing Co. Ltd.,
Rep. by its Managing Director,
Kuppusamy Naidupuram,
Palladam Taluk, Coimbatore.

..3rd respondent in
WA.1322, 1323/95.

[R.3 impleaded as party respondent vide Order dated 18/01/97 in CMP.12745/95].

PRAYER: Writ Appeals filed under Clause 15 of the Letters Patent, against the order dated 26/11/91, 07/01/92, 22/10/91 respectively [in WA.1568 & 1569/94, 1079 TO 1084 AND 1321 TO 1325/95] Made in WPs.16510/90, 16511/90, 11759/85, 12799/85, 13743/86, 13741/86, 13742/86, 12600/85, 6607/86, 7423/86, 7424/86, 8171/86, 9002/86 respectively [in WAS.1568 & 1569/94, 1079 to 1084 and 1321 and 1325/95].

passed by the learned Single Judge, in W.P. Nos. Petition filed under Article 226 of the Constitution of India, to issue a Writ of certiorari calling for the records of the first respondent in G.O.Ms.196, 1221 Housing and Urban Development dated 2.3.1988, 19.11.1985 notification under Section 4[1] of the Land Acquisition Act and G.O.Ms.No.287, 98, Housing and Urban Development dated 23/3/89, 22/1/87 declaration under Section 6 of the Land Acquisition act quash the same [in WPs.16510 & 16511/90]

on the file of this Court.

For Appellant : Mr. C. Kasirajan
For Respondents : Mr. T.R. Rajagopalan, Sr. Counsel
for Mr. T.R.Rajaraman for R1
Mr. T.N. Rajagopalan
Spl. Govt. Pleader for R2 & R3
Mr. J. Sivanandaraj for R4 to R7
[in WA.1568 & 1569/94]

Mr.T.R.Rajagopalan, Sr. Counsel for Mr.T.R.Rajaraman for R.1 [in WA. 1079 TO 1083/95] AND FOR R.1 TO 3 [in WA.1084/95] Mr.C.Kasirajan for R.2 [in WA.1079 TO 1083/95] and for R.4 [in WA.1084/95]

Mr.T.R.Rajagopalan, Sr. Counsel for Mr.T.R.Rajaraman for R.1 [in WA.1321 TO 1324/95] and for R.1 & 2 [in WA.1324 & 1325/95]

Mr.C.Kasirajan for R.2[in WA.1321 to 1324/95] and
for R.5[in WA.1324/95] and
for R.3[in WA.1325/95]

Mr.B.Reviraja for R.3 [in WA.1324/95]

Mr.P.Seshadri for R.26 to 28 [in WA.1324/95]

COMMON JUDGMENT

(Delivered by The Hon'ble The Chief Justice)

These appeals are directed against the common order of the learned single Judge dated 08.10.1991, allowing the writ petitions filed by the aggrieved land owners, assailing the Notification under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') in respect of their lands, at the instance of the Tamil Nadu State Housing Board.

2. A perusal of the impugned order shows that while there were various grounds urged in the writ petitions for assailing the impugned Notification, the learned single Judge in paragraph 2 of the impugned order has opined that the petitions could be disposed of on a short point, i.e. that the public purpose specified in the Notification suffers from the vice of vagueness and does not contain material particulars with sufficient clarity so as to enable the petitioners therein to make effective objections in an enquiry under Section 5-A of the said Act.

3. It is not disputed by the learned counsel for the respondents that the ground on which the impugned order has been passed is no more available to the respondents in view of the judgment of the Honourable Supreme Court in State of Tamil Nadu and Others vs. L. Krishnan and Others [(1996) 1 SCC 250] holding that non specification of the use does not invalidate the Notification. Thus, the impugned order predicated on that sole reasoning cannot be sustained and is consequently set aside.

4. The difficulty is that the other grounds urged by the petitioners in the petitions having not been dealt with by the learned single Judge and thus, would require adjudication, for which the matter would have to be remitted back to the learned single Judge, as we have no decision on those issues and there is also the question of right to appeal of the parties against any decision to be rendered by the learned single Judge.

5. The matter has got a little more complication on account of the facts after the impugned order has been passed, the present appeals were filed belatedly after many years though the delay in filing of the appeals was condoned. In the interregnum period, properties are stated to have been dealt with when the acquisition proceedings stood quashed. There are also consequences on account of the quantum of delay in filing the appeals as urged by the learned counsel for the respondents, as according to them, once Section 4(1) Notification is quashed and the order is not stayed in appeal, non issuance of declaration under Section 6 of the Act, would give rise

to rights in favour of the private respondents/claimants.

6. There is also another aspect arising from the enactment of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the amendment carried out vide the Ordinance No.9 of 2014 and the State Government carrying out its own amendments as per L.A. Bill Nos. 30 of 2014 and 31 of 2014, which are stated to have received the assent of the President on 1st January, 2015.

7. We would have been inclined to examine the issue arising from the subsequent developments and the belated filing of the appeals, but, then, apart from this, the original grounds urged in the petitions are also sought to be urged before us, on which, decision ought to be given by the learned single Judge.

8. The result of the aforesaid is that the various grounds raised in original writ petitions would have to be examined apart from the further pleas, which may be available to the respondents before us arising from the situation post the impugned order, both on merits and on account of delay in filing the appeals. Thus, the learned senior counsel for the private respondents states that they will file an affidavit urging additional grounds, for which, we grant leave.

9. Thus, while allowing the writ appeals, we remit the matter back to the learned single Judge with the following directions;

1. Learned counsels for the private respondents are granted three weeks time to urge additional grounds as prayed for.
2. Counter affidavit by the appellant/Government Department will be filed within two weeks thereafter.
3. The respondents are at liberty to raise all the grounds as are available to them arising from the factual and legal situation post passing of the impugned order;
4. The appellants will also administratively examine the plea raised before us by the learned counsel for the private respondents/land owners that on account of subsequent developments and the ground reality of adjacent land, it is impracticable today to utilise the land of the respondents before us and as to whether the appellants really now want to acquire the lands. Such examination will take place within three weeks of the communication of the order.
5. All the writ petitions will be listed for directions/hearing on 04.03.2015 and it is for the learned single Judge to take up the matters for final hearing on that day or any other convenient day at the earliest which the learned Judge finds feasible.
6. In view of the age of the matters and the requirement of expeditious disposal, these matters be placed before R.Mahadevan, J. on the said date.
7. The interim orders operating in favour of the respondents during the pendency of the writ petitions would stand revived and would

continue till the disposal of the writ petitions.

10. These writ appeals are allowed in terms of the aforesaid directions, leaving the parties to bear their own costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

ATR

To

1. The Secretary and Commissioner, PWD,
Fort St. George, Madras 9.
2. The Commissioner and Secretary,
Housing and Urban Development Department,
Fort St. George, Madras 9.
3. The Special Tahsildar,
Land Acquisition,
Housing Scheme No.I,
Coimbatore.
4. The Special Tahsildar,
Land Acquisition,
Housing Scheme No.III,
Coimbatore 18.
5. The Special Deputy Tahsildar, [LA] VIII,
Tamil Nadu Housing Board Schemes,
Nandanam, Madras 35.
6. The Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Madras 9.
7. The Special Tahsildar [LA],
Housing Scheme No.II, Collectorate,
Coimbatore.

8. The Special Tahsildar, [LA]
Neighbourhood Scheme, Erode.

9. The Executive Engineer and Administrative Officer,
Coimbatore Housing Unit,
Tamil Nadu Housing Board,
Tatabad, Coimbatore 12.

10. The Chairman,
Tamil Nadu Housing Board,
Madras 35.

11. The Administrative Officer,
Tamil Nadu Housing Board,
Coimbatore.

+ 1 CC to Mr.C.Kasirajan, Advocate SR NO 1965

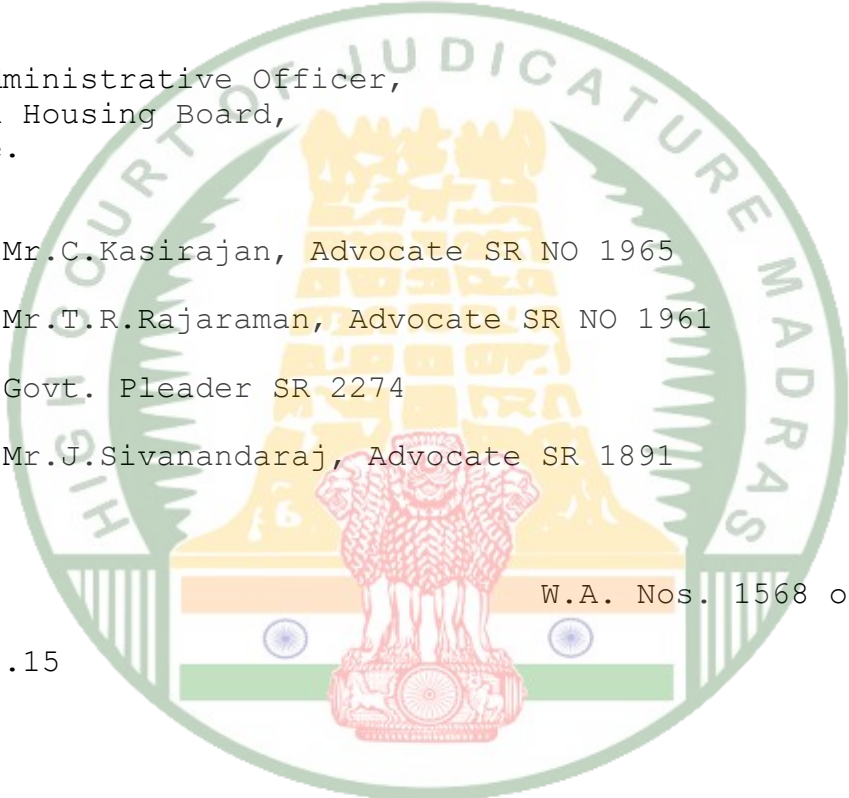
+ 1 CC to Mr.T.R.Rajaraman, Advocate SR NO 1961

+ 2 CC to Govt. Pleader SR 2274

+ 1 CC to Mr.J.Sivanandaraj, Advocate SR 1891

vd[co]
gp, kk/30.1.15

W.A. Nos. 1568 of 1994 et. batch

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital in front of it. The lion capital is set on a base with the Indian national flag's saffron, white, and green horizontal stripes. The words 'HIGH COURT OF JUDICATURE MADRAS' are inscribed in a green circle around the central image. Below the seal, the Sanskrit motto 'सत्यमेव जयते' (Satyameva Jayate) is written in Devanagari script.

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