

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31-03-2015

(Judgment was reserved on 09-03-2015)

CORAM:

THE HONOURABLE MR.JUSTICE V.DHANAPALAN
AND
THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

W.A.Nos.1305 and 1153 to 1155 of 2014
and
M.P.No.1 of 2014 in each Writ Appeal

Mr.C.Balachandran (deceased)

1. Mrs.T.Chandra

2. Mrs.C.Jayakodi

3. Mr.C.Thirunavukkarasu

4. Mrs.Mahalakshmi ... Appellants in W.A.No.1305 of 2014

B.Hayar Unnisa Bibi ... Appellant in W.A.No.1153 to 2014

Mohammed Sarvar Hussian (died)

1. Tmt.Mumtaz

2. Mrs.Shanur

3. Mr.Mohammed Hussian Sherif

4. Mrs.Hifjafi

5. Mr.S.M.H.Shariff

6. Mr.Munwar Hussian

7. Mr.Shafal Hussian

8. Mrs.Tahira Begum

(Cause Title accepted, vide

Order of Court, dated 13.08.2013

in M.P.No.1 of 2013 in

W.A.S.R.No.28541 of 2013)

.. Appellants in W.A.No.1154 of 2014

Farhathjan

.. Appellant in W.A.No.1155 of 2014

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue Department,
Fort St.George, Chennai-9.

2. The Land Acquisition Officer,
Sub Collector,
Chidambaram.

.. Respondents in all the Writ Appeals

Writ Appeal No.1305 of 2014 filed under Clause 15 of the Letters Patent against the order dated 21.12.2012 made in W.P.No.8340 of 2005 on the file of this Court. Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus calling for records comprised in G.O.Ms.No.137, Revenue Department, dated 23.01.1982, No.II(2)/REV/317(c)82, pertaining to Section 4(1) Notification and Declaration as made in G.O.Ms.No.137, Revenue Department, dated 23.01.1982, No.II(2)/REV/317(d)/82, as published in Part II Section 2 of the Tamil Nadu Government Gazette Extraordinary, dated 28.01.1982 and to quash the same and to consequently forbear the respondents from interfering with the peaceful possession and enjoyment of the writ petitioners in respect of the subject lands.

Writ Appeal No.1153 of 2014 filed under Clause 15 of the Letters Patent against the order dated 21.12.2012 made in W.P.No.13853 of 2003 on the file of this Court. Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus calling for records comprised in G.O.Ms.No.137, Revenue Department, dated 23.01.1982, No.II(2)/REV/317(c)82, pertaining to Section 4(1) Notification and Declaration as made in G.O.Ms.No.137, Revenue Department, dated 23.01.1982, No.II(2)/REV/317(d)/82, as published in Part II Section 2 of the Tamil Nadu Government Gazette Extraordinary, dated 28.01.1982 and to quash the same and to consequently forbear the respondents from interfering with the peaceful possession and enjoyment of the writ petitioners in respect of the subject lands.

Writ Appeal No.1154 of 2014 filed under Clause 15 of the Letters Patent against the order dated 21.12.2012 made in W.P.No.13854 of 2003 on the file of this Court. Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus calling for records comprised in G.O.Ms.No.137, Revenue Department, dated 23.01.1982, No.II(2)/REV/317(c)82, pertaining to Section 4(1) Notification and Declaration as made in G.O.Ms.No.137, Revenue Department, dated 23.01.1982, No.II(2)/REV/317(d)/82, as published in Part II Section 2 of the Tamil Nadu Government Gazette Extraordinary, dated 28.01.1982 and to quash the same and to consequently forbear the respondents from interfering with the peaceful possession and enjoyment of the writ petitioners in respect of the subject lands.

Writ Appeal No.1155 of 2014 filed under Clause 15 of the Letters Patent against the order dated 21.12.2012 made in W.P.No.16610 of 2003 on the file of this Court. Petition is filed under Article 226 of

the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus calling for records comprised in G.O.Ms.No.137, Revenue Department, dated 23.01.1982, No.II(2)/REV/317(c)82, pertaining to Section 4(1) Notification and Declaration as made in G.O.Ms.No.137, Revenue Department, dated 23.01.1982, No.II(2)/REV/317(d)/82, as published in Part II Section 2 of the Tamil Nadu Government Gazette Extraordinary, dated 28.01.1982 and to quash the same and to consequently forbear the respondents from interfering with the peaceful possession and enjoyment of the writ petitioners in respect of the subject lands.

For appellants in W.A.No.1305 of 2014 : Mr.G.Saravanan
For appellants in W.A.Nos.1153 to 1155 of 2014: Mr.V.Ayyadurai
For respondents in all W.As : Mr.R.Rajeswaran,
Spl.G.P.

JUDGMENT

G.CHOCKALINGAM, J

Heard Mr.G.Saravanan, learned counsel for the appellants in W.A.No.1305 of 2014, Mr.V.Ayyadurai, learned counsel for the appellants in W.A.Nos.1153 to 1155 of 2014 and Mr.R.Rajeswaran, learned Special Government Pleader appearing for the respondents in all the Writ Appeals.

2. The appellants, as petitioners before the Writ Court, prayed for issuance of Writs of Certiorarified Mandamus to call for the records comprised in G.O.Ms.No.137, Revenue Department, dated 23.01.1982, No.II(2)/REV/317(c)82, pertaining to Section 4(1) Notification and Declaration as made in G.O.Ms.No.137, Revenue Department, dated 23.01.1982, No.II(2)/REV/317(d)/82, as published in Part II Section 2 of the Tamil Nadu Government Gazette Extraordinary, dated 28.01.1982 and to quash the same and to consequently forbear the respondents from interfering with the peaceful possession and enjoyment of the writ petitioners in respect of the subject lands. The learned single Judge dismissed the Writ Petitions, against which, the writ petitioners are on appeals before this Court.

3. The case of the appellants/petitioners before the Writ Court is as follows:

(a) The subject matter lands belong to the writ petitioners, either by way of ownership or by inheritance as legal heirs and they had put up houses in a portion of their respective lands and residing therein and have been in exclusive possession and continuous enjoyment ever since then and that being the fact, the respondents initiated land acquisition proceedings by invoking the urgency clause under Section 17 of the Land Acquisition Act, 1894 (for short, 'the Act'), stating that the lands are required for construction of a Taluk Office complex with residential quarters for the officers of Kattumannarkoil Taluk.

(b) Earlier, W.P.Nos.4264 to 4266, 4606 and 4609 of 1983 came to be filed questioning the correctness of the reasoning for invoking the urgency clause under Section 17 of the Act and this Court, by order dated 02.08.1991, dismissed those Writ Petitions, holding that invocation of the urgency clause was proper. Thereafter, it is stated that no steps were taken to locate the said Taluk Office as specified in the acquisition proceedings and in the meanwhile, the appellants/writ petitioners have been in possession and enjoyment of the properties continuously. The acquisition proceedings were initiated in 1982 and even after the dismissal of the said Writ Petitions in 1991, the respondents, though proceeded to acquire the lands of the writ petitioners invoking the urgency clause, had not made use of the lands for the specified purpose and therefore, the purpose of urgency no longer survives. Hence, the appellants/writ petitioners made representations to the respondents, requesting them to exclude their lands from the acquisition proceedings, but the respondents replied stating that they had already taken possession of the lands in question on 11.06.1992 and therefore, the writ petitioners were directed to receive the compensation from the Revenue Divisional Officer, who is neither the Land Acquisition Officer, nor has got any jurisdiction to deal with the acquisition proceedings.

(c) Further, the Taluk Office had been located in some other area, which shows that the purpose of invoking the urgency clause for construction of Taluk Office, does not exist and that the purpose of construction of Taluk Office also has been fulfilled. In view of the same, when the writ petitioners have been in continuous possession and enjoyment of the properties in question, the respondents shall not use the lands for any other purpose by disturbing their continuous possession.

(d) When a similar challenge was made by one Rt.Rev.P.Arockiasamy, Bishop of Tanjavur Bishop House, representing the Immaculate Conception Church, Udayargudi, Kattumannarkoil, South Arcot District, in W.P.No.17975 of 1992 to quash the acquisition proceedings, this Court, by order dated 09.02.2000, allowed the said Writ Petition, holding that since no notice on the person interested as required under Sections 9(1) and 9(2) of the Act was issued, the land acquisition proceedings including the passing of the Award, were held vitiated and accordingly, the acquisition proceedings were quashed by this Court. Therefore, when this Court already took the above view in respect of the very same Section 4(1) Notification and Section 6 Declaration, dated 23.01.1982, resulting in vitiation of the land acquisition proceedings, the present Writ Petitions filed by the appellants/writ petitioners may be allowed for the reason that the Writ Appeal filed by the Government in W.A.No.980 of 2002, as against the order dated 09.02.2000 passed in W.P.No.17975 of 1992, was dismissed, confirming the order of the learned single Judge.

(e) It is further pleaded that the entire land acquisition proceedings are liable to be quashed, the same being arbitrary, mala-fide and colourable exercise of power for the reason that no Taluk Office was constructed for more than 20 years for want of funds. When the urgency clause had been invoked by issuing the impugned Notification under Section 4(1) of the Act, by dispensing with the enquiry under Section 5-A of the Act, it is appropriate for the respondents to have constructed the Taluk Office, which has not been done, which shows that the urgency clause has been wrongly invoked, resulting in lapsing of acquisition proceedings even statutorily.

(f) The writ petitioners further state that there was no service of notice under Sections 9(2) and 9(3) of the Act on them and that the acquisition proceedings lapsed in terms of Section 11-A of the Act. When the respondents acquired the lands of the writ petitioners, the Act provides that they should deposit the compensation amount payable to the land owners, in the Court concerned, which has not been done and the respondents have simply kept the compensation in the Revenue Deposit before the Sub-Treasury, Chidambaram, which shows that they have not passed any Award, thereby, the respondents have not complied with the mandatory provisions of law. Therefore, it is not available for the respondents to plead that they have paid the compensation amount in terms of Section 17(3-A) of the Act, since the provisions contained therein clearly show that the Collector, without prejudice to the provisions of sub-section (3) therein, shall tender payment of 80% of the compensation before taking possession of any land to the persons interested. Therefore, when the land owners, whose lands were sought to be acquired in 1982, were not paid the compensation for about 20 years, the entire land acquisition proceedings may be held to be vitiated.

4. The respondents filed counter affidavit before the Writ Court contending that the present Writ Petitions are not at all maintainable, since the land owners earlier challenged the very same acquisition proceedings and this Court, by order dated 02.08.1991, dismissed the earlier Writ Petitions, as stated above, holding that the invocation of urgency clause was proper and therefore, the present Writ Petitions at the instance of the very same land owners, cannot be entertained, as the principle of res-judicata will not only apply to civil proceedings, but the same will also apply to writ proceedings. With regard to the delay in utilising the lands of the writ petitioners for which the urgency clause was invoked under Section 17 of the Act, it is stated that when W.P.No.17975 of 1992 was filed by the Bishop of Tanjavur representing Immaculate Conception Church, Udaiyargudi, Kattumannarkoil, against the land acquisition proceedings in respect of Survey Nos.92/3 and 92/4 to an extent of 0.46.0 hectares, this Court allowed the said Writ Petition by order dated 09.02.2000, quashing the acquisition proceedings, against which, W.A.No.980 of 2002 filed by the Government was dismissed, by judgment, dated 10.06.2002. Barring the lands in

S.Nos.92/3 and 92/4 to an extent of 0.46.0 hectares, the remaining extent of 1.55.5 hectares of lands in the other survey numbers, were taken possession by the Government on 11.06.1992 and the same were handed over to the Public Works Department for construction of the Government Office complex and thereafter, the office building for Agriculture Department has been constructed in a portion of the acquired lands and the office of the Assistant Director of Agriculture, Kattumannarkoil, has also been functioning in the new building from 2002 and an extent of 0.02.0 hectares had been earmarked for constructing the office building for Members of Legislative Assembly, Kattumannarkoil and the Public Works Department has also constructed the building in the sub-division bearing No.92/1.B. Hence, the purpose of invocation of urgency clause got defeated and the Taluk Office had been constructed in some other place, and therefore, the respondents prayed for dismissal of the Writ Petitions.

5. On a consideration of the above pleadings and the arguments made on either side and also upon perusing the relevant provisions of law and the decisions of the Supreme Court, the learned single Judge dismissed the Writ Petitions, holding that the writ petitioners have approached this Court after expiry of two decades and are guilty of laches, that the Writ Petitions are hit by the principle of res-judicata, that the possession of the lands has already been taken by the respondents on 11.06.1992 and the lands were also subsequently handed over to the Public Works Department on 01.09.1997 for construction of the Government Office complex and thereafter, the office building for Agriculture Department has also been constructed in a portion of the acquired lands and the office of Assistant Director, Agriculture Department, Kattumannarkoil, is also functioning now and the learned single Judge rejected the contention of the writ petitioners that there has been inordinate delay of 20 years from the date of Section 4(1) Notification after invoking the urgency clause. The learned single Judge further held that the argument of the writ petitioners that non-payment of 80% of compensation for the acquired lands by the Collector, will vitiate the entire land acquisition proceedings, is held to be misconceived, since the land acquisition proceedings were initiated under Section 4 (1) of the Act on 23.01.1982, but sub-section (3-A) of Section 17 of the Act came to be inserted by Act 68 of 1984 and therefore, the said provision cannot be made applicable to the case of the writ petitioners. The learned single Judge further held that in matters involving the acquisition of land for public purpose, this Court has consistently held that the delay in filing the Writ Petitions should be viewed seriously and the relief should be denied to the person, if he fails to offer plausible explanation for any huge delay, that too, when in this case, the respondents have proved that the acquired lands have been utilised for public purpose.

6. Both the learned counsel for the appellants/writ petitioners contended that the learned single Judge erred in dismissing the Writ Petitions, when the fact remains that the lands were acquired by invoking urgency clause 21 years ago and that no such purpose of acquisition exist as on today; that in a similar adjacent land belonging to another land owner, this Court granted relief and hence, the learned single Judge ought to have allowed the present Writ Petitions also. They further pleaded that the principle of res-judicata will have no application to the facts of the present case. The delay and laches might not have been given much importance by the Writ Court and the compensation has not been deposited in appropriate Court, nor was it paid to the land owners/writ petitioners. The learned single Judge failed to note that the respondents have not taken possession of the lands, when the fact remains that the possession still vests with the writ petitioners even today. It is the further argument of the learned counsel for the appellants that the present Writ Petitions arise out of fresh cause of action, which was not available in the earlier litigation. In support of all the above submissions, the learned counsel for the appellants/writ petitioners relied on the following decisions:

(a) AIR 1993 SC 1756 (Inacio Martins, Deceased, through LRs. Vs. Narayan Hari Naik and others):

" ... As stated earlier, the first suit was dismissed on a technical ground that the suit for a mere declaration without seeking consequent relief of possession could not lie. In that suit the issue regarding the status of the plaintiff as a lessee was not settled once for all and hence that issue could not be stated to be barred by res judicata in the subsequent suit brought by the lessee for possession of the demised property. We are, therefore, of the opinion that the High Court was wrong in holding that the second suit was barred by res judicata.

..... Therefore, the cause of action for the former suit was based on an apprehension that the defendants were likely to forcibly dispossess the plaintiff. The cause of action for that suit was not on the premise that he had in fact been illegally and forcibly dispossessed and needed the Court's assistance to be restored to possession. Therefore, the subsequent suit was based on a distinct cause of action not found in the former suit and hence we do not think that the High Court was right in concluding that the suit was barred by Order 2 Rule 2(3) of the Code of Civil Procedure. It may be that the subject matter of the suit was the very same property but the cause of action was distinct and so also the relief claimed in the subsequent suit was not identical to the relief claimed in the previous suit. The High Court was, therefore, wrong in

thinking that the difference in the reliefs claimed in the two suits was immaterial and irrelevant. In the previous suit the relief for possession was not claimed whereas in the second suit the relief was for restoration of possession. That makes all the difference. We are, therefore, of the opinion that the High Court was completely wrong in the view that it took based on the language of Order 2 Rule 2(3) of the Civil Procedure Code. ..."

(b) 2010 (4) KLT 49 (Division Bench of the Kerala High Court) (Jayachandran.C. Vs. The High Court of Kerala):

"14. So, it appears from the above that knowledge of the relevant fact is an essential ingredient to be ascertained before coming to a conclusion that a party ought to be barred from seeking a relief from this Court on the ground of constructive res judicata. The fact that the writ petitioners did not have the knowledge of the decision of the 1st respondent to grant moderation and the 1st respondent declined to divulge such information, in spite of the application by the petitioners, is clearly established. In the circumstances, we see no substance in the preliminary objection raised by the 9th respondent."

(c) AIR 1979 SC 1594 (Dera Phalauli Vs. State of Punjab & others):

" In the portion of the Notification which we have extracted above, it is neither mentioned that the land is waste or arable nor has it been stated that in the opinion of the Government, there was any urgency to take recourse to the provisions of Section 17 of the Act. A direction to the Collector has been given to take action under Section 17 on the ground of urgency but this is not a legal and complete fulfilment of the requirement of the law. It is to be remembered that the right of a person having any interest in the property to file an objection under Section 5A of the Act should not be interfered with in such a casual or cavalier manner as has been done in this case."

For the reasons stated above, we allow this appeal, set aside the order of the High Court dismissing the appellant's writ petition, allow the writ petition and strike down that portion of the Notification issued on 23.08.1967 under Section 4 of the Act which directed the exercise of power under Section 17. The authorities, if so advised, may proceed further in the matter after giving an

opportunity to the appellant of filing their objection under Section 5A. Since the other side has not appeared, there is no order as to costs."

(d) AIR 1960 All. 564 (Gur Dayal and others Vs. State of Uttar Pradesh and others):

"12. The next point for consideration is whether this Court should quash those parts of the notifications under Sections 4 and 6 of the Act which are invalid, that is, relating to land which is neither waste nor arable, or to grant a relief on the lines sought for in the petition. I am of opinion that a writ be issued merely to quash the invalid parts of the notifications; but the learned counsel for respondent No.2 brought to my notice the difficulties in which the Municipal Board shall be placed if the notifications are quashed directly and not by implication.

The effect of the writ to be issued in the case will be the same, that is, the notifications under Sections 4 and 6 shall for all practical purposes be invalid in so far as the land, which is not waste or arable, is concerned. But in view of the contention raised on behalf of the respondent No.2, I would grant the relief on the lines sought for in the petition itself. I would however, like to make it clear that respondents Nos.2 and 3 shall be advised to proceed only in respect of waste or arable land and if they desire to acquire land, which is not waste or arable land, they should move the appropriate Government to take action in accordance with law.

13. To sum up, the notifications under Sections 4 and 6 are valid only to the extent that they apply to waste or arable land, and are invalid to the extent of other land. As the Land Acquisition Officer has at present issued notices under Section 9(3) of the Land Acquisition Act against petitioners Nos.1 to 11 only, these notices alone are being quashed. No further action has yet been taken against the petitioners Nos.12 to 42 and for this reason and also because no specific relief was sought for, no order is being issued with regard to these petitioners. It is expected that the respondents shall not take any further steps with regard to the land of petitioners Nos.12 to 42 which is not waste or arable land."

(e) AIR 1986 Raj 149 (Dr.Laxmi and others Vs. The State & others):

"20. It is, thus, crystal clear that the mandatory provision of Section 4(1), in so far as it relates to the publication of the notice/order, in terms of Section 45(4) of the Act is concerned, was not followed and, therefore, failure to comply with the same, renders proceedings in pursuance thereof void and as a result of that the subsequent proceedings are also void and bad in the eye of law.

21. The net result of the discussion made hereinabove is:--

(1) that Kanwar Chandra Singh's case (Kanwar Chandra Singh Vs. State of Rajasthan) (ILR (1961) 11 Raj 486) is no more good law to the extent it is not in conformity with the principles laid down in Raja Anand's case (Raja Anand Brahma Shal Vs. State of Uttar Pradesh) (AIR 1967 SC 1081) and Ishwarlal's case (Ishwarlal Girdharilal Joshi Vs. State of Gujarat) (AIR 1968 SC 870);

(2) that the Notification Ex.5 in so far as it relates to the petitioner's land under Section 4(1) of the Act, is void for non-compliance of the mandatory provisions contained in it, as, that was not published in terms of Section 45(4) of the Act in the vicinity of the petitioners' land in question and further proceedings taken in pursuance thereof are, therefore, void;

(3) that no action or proceedings could be taken under Section 17(1) read with Section 17(4) of the Act for the reasons that the petitioners' land which is sought to be acquired is neither waste nor arable land; non-mention of the facts in the notification Ex.6 about its character as waste or arable land and the urgency.

22. For the aforesaid reasons, the writ petition is allowed and the notification Ex.5 dt. Mar. 23, 1977 and the Notification Ex.6 dt. April 28, 1977, in so far as they relate to the petitioners' land and acquisition proceedings taken in pursuance thereof are quashed."

(f) 2014 (3) SCC 183 (Pune Municipal Corporation and another Vs. Harakchand Misirimal Solanki and others):

"20. From the above, it is clear that the award pertaining to the subject land has been made by the Special Land Acquisition Officer more than five years prior to the commencement of the 2013 Act. It is also admitted position that compensation so awarded has neither been paid to the

land owners/persons interested nor deposited in the court. The deposit of compensation amount in the government treasury is of no avail and cannot be held to be equivalent to compensation paid to the land owners/persons interested. We have, therefore, no hesitation in holding that the subject land acquisition proceedings shall be deemed to have lapsed under Section 24(2) of the 2103 Act.

21. Under Section 24(2) land acquisition proceedings initiated under the 1894 Act, by legal fiction, are deemed to have lapsed where award has been made five years or more prior to the commencement of 2013 Act and possession of the land is not taken or compensation has not been paid. The legal fiction under Section 24(2) comes into operation as soon as conditions stated therein are satisfied."

(g) 2011 (10) SCC 714 (J & K Housing Board and another Vs. Kanwar Sanjay Krishan Kaul and others):

"20. In Syed Hasan Rasul Numa (supra) (Syed Hasan Numa and others Vs. Union of India and others) (1991 (1) SCC 401), this Court considered the dictum laid down by Subba Rao, C.J., in Khub Chand (supra) (Khub Chand and others Vs. State of Rajasthan and others) (AIR 1967 SC 1074 = 1967 (1) SCR 120) . The following conclusion is relevant:

"13. There is a broad basis for the view that we have taken from the decisions of this Court although on the provisions of other enactment. Section 4(1) of the Land Acquisition Act, 1894 provides for publication of the notification in the official Gazette and in two daily newspapers circulating in that locality where the land is situated of which at least one shall be in the regional language. Section 4 (1) further provides that the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality. In Khub Chand Vs. State of Rajasthan, Subba Rao.,C.J., while construing the object and scope of Section 4(1) expressed the view that provisions of the section requiring public notice are mandatory and the legislature thought that it was absolutely necessary that the owner of the land should have a clear notice of the proposed acquisition. It was said that the fact that the owner may have notice of the particulars of the intended acquisition by any other means does not serve the purpose of Section 4 and does not absolve the obligations to follow the method of publication of

the notification. It was also observed that the notification issued under Section 4(1) without complying with the mandatory direction would be void and the land acquisition proceedings taken pursuant thereto would also be void. This view has been reiterated in a number of subsequent decisions of this Court. In Collector (District Magistrate), Allahabad Vs. Raja Ram Jaiswal (AIR 1985 SC 1622 = 1985 SCR (3) 995), most of the earlier decisions have been referred to and the view taken in Khub Chand case has been reiterated.

14. In the instant case, the notice has been published only in the local newspapers, namely, the Daily Pratap, the Hindustan Times, the Statesman, the Indian Express and the Navbharat Times. This is only one of the three means of publication provided under Section 44 and it apparently falls short of the mandatory requirements of the section. Since the provisions of the Section 44 have not been complied with, the notice in question has no validity and the action taken pursuant thereto has also no validity."

21. In Kunwar Pal Singh (supra), (Kunwar Pal Singh (dead) by LRs. Vs. State of U.P and others - 2007 (5) SCC 85), this Court while construing three modes of publication, namely, (i) publication in the Official Gazette. (ii) in two daily newspapers circulating in the locality and, (iii) causing public notice of the substance in the locality where the land situate, provided under the Central Act, held as under:-

"16. Section 6(2), on a plain reading, deals with the various modes of publication and they are:

(a) publication in the official gazette, (b) publication in two daily newspapers circulating in the locality in which the land is situate of which at least one shall be in the regional language, and (c) causing public notice of the substance of such declaration to be given at convenient places in the said locality. There is no option left with anyone to give up or waive any mode and all such modes have to be strictly resorted to. The principle is well settled that where any statutory provision provides a particular manner for doing a particular act, then, that thing or act must be done in accordance with the manner prescribed therefor in the Act."

23. ... By virtue of the provisions of the State Act, the valuable right/ownership of the land owners being taken away, hence, those provisions have to be strictly construed. The object of publication in terms of Section 4 (1)(c) of the Act is to intimate the people who are likely to be affected by the notification. It is not in dispute that when the officers attempted to serve the notice by affixation or to persons in charge of the land, they were informed about the absence of the land owners due to disturbance in the area in question and it was also informed that they are residing in Delhi. In spite of such information, the authorities have not taken care of sending proper notice to the respondents or comply with the provisions, particularly, Section 4(1)(c) of the Act.

(h) AIR 1973 SC 552 = 1973 (1) SCC 157 (Narindrajit Singh and another Vs. State of U.P. and others):

" ... Thus the construction of S.4(1) cannot be made to depend upon any action or direction which the State Government may choose to make under S.17(4) of the principal Act. In our opinion S.4(1) has to be read as an integrated provision which contains two conditions; the first is that the notification in the official gazette must be published and the second is that the Collector has to cause public notice of the substance of such notification to be given. These two conditions must be satisfied for the purpose of compliance with the provisions of S.4(1). In the above view of the matter the appeals which involve the same point must succeed. They are consequently allowed and the acquisition proceedings in question in both the appeals shall stand quashed. The appellants will be entitled to costs in this Court one hearing fee."

(i) 1982 (2) MLJ 98 (Madras High Court) (Periya Angammal and others Vs. The State of Tamil Nadu):

"11. ... But, where the occupier of the land is known and the person interested in the land can also be known, yet, the Collector perversely or wilfully or fraudulently omits to serve the statutory notice, on the person concerned, the proceedings which follow and culminate in an award can be characterised as absolutely lacking in bona fides, and inoperative and ineffective in the eye of law.

12. In the instant case, the petitioners are persons not only interested in the land but also occupies thereof. The records disclose that the authority concerned had no

regard for the provisions of the Act with reference to the service of the statutory notices.

... ..

14. However, it will be open to the second respondent to prosecute the acquisition proceedings under the Act after issuing and serving the statutory notices under Section 9 and 10 of the Act."

(j) 2012 (1) SCC 792 (Ragbir Singh Sehrawat Vs. State of Haryana):

"26. Therefore, before acquiring private land the State and/or its agencies/instrumentalities should, as far as possible, use land belonging to the State for the specified public purposes. If the acquisition of private land becomes absolutely necessary, then too, the concerned authorities must strictly comply with the relevant statutory provisions and the rules of natural justice."

(k) 2013 (11) SCC 235 (Lajja Ram Vs. U.T. Chandigarh):

"8. Although the underlying policy behind dismissal of petitions on grounds of delay and laches is to discourage agitation of stale claims, still this Court has held that the delay in approaching the court must not always act in prejudice to the aggrieved party and the court must prudently exercise its discretion in doing so. This Court in Tridip Kumar Dingal Vs. State of W.B. (2009 (1) SCC 768 = 2009 (2) SCC (L & S) 119) has held that this Court may refuse to exercise its discretion where there is delay and laches in invoking jurisdiction of the writ court. However, the exercise of such discretion must be based on the facts and circumstances of each case and the decision must rest upon a variety of factors including the nature of fundamental rights breached, the remedy claimed and when and how the delay arose. This Court in Northern Indian Glass Industries Vs. Jaswant Singh (2003 (1) SCC 335) has observed that the conduct of the party challenging the notifications and pleading condonation of delay also plays an important role in exercise of this discretion."

(l) 2013 (1) SCC 353 (TukaramKana Joshi Vs. MIDC):

"12. The State, especially a welfare State which is governed by the Rule of Law, cannot arrogate itself to a status beyond one that is provided by the Constitution. Our Constitution is an organic and flexible one. Delay and laches is adopted as a mode of discretion to decline exercise of jurisdiction to grant relief. There is another

facet. The Court is required to exercise judicial discretion. The said discretion is dependent on facts and circumstances of the cases. Delay and laches is one of the facets to deny exercise of discretion. It is not an absolute impediment. There can be mitigating factors, continuity of cause action, etc. That apart, if whole thing shocks the judicial conscience, then the Court should exercise the discretion more so, when no third party interest is involved. Thus analysed, the petition is not hit by the doctrine of delay and laches as the same is not a constitutional limitation, the cause of action is continuous and further the situation certainly shocks judicial conscience.

13. The question of condonation of delay is one of discretion and has to be decided on the basis of the facts of the case at hand, as the same vary from case to case. It will depend upon what the breach of fundamental right and the remedy claimed are and when and how the delay arose. It is not that there is any period of limitation for the Courts to exercise their powers under Article 226, nor is it that there can never be a case where the Courts cannot interfere in a matter, after the passage of a certain length of time. There may be a case where the demand for justice is so compelling, that the High Court would be inclined to interfere in spite of delay. Ultimately, it would be a matter within the discretion of the Court and such discretion, must be exercised fairly and justly so as to promote justice and not to defeat it. The validity of the party's defence must be tried upon principles substantially equitable. (Vide: P.S.Sadasivaswamy Vs. State of T.N. (AIR 1974 SC 2271 = 1975 (1) SCC 152 = 1975 SCC (L & S) 22); State of M.P. & Ors. Vs. Nandlal Jaiswal & Others, (AIR 1987 SC 251 = 1986 (4) SCC 566); and Tridip Kumar Dingal & Others. Vs. State of West Bengal & Others (2009 (1) SCC 768 = 2009 (2) SCC (L & S) 119).

14. No hard and fast rule can be laid down as to when the High Court should refuse to exercise its jurisdiction in favour of a party who moves it after considerable delay and is otherwise guilty of laches. Discretion must be exercised judiciously and reasonably. In the event that the claim made by the applicant is legally sustainable, delay should be condoned. In other words, where circumstances justifying the conduct exist, the illegality which is manifest, cannot be sustained on the sole ground of laches. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred, for the other side cannot claim to have a vested right in the injustice being done, because

of a non-deliberate delay. The court should not harm innocent parties if their rights have in fact emerged, by delay on the part of the petitioners. (Vide: *Durga Prasad Vs. Chief Controller of Imports and Exports & Others.*, (AIR 1970 SC 769 = 1969 (1) SCC 185); *Collector, Land Acquisition, Anantnag & Another. Vs. Mst. Katiji & Others.*, (AIR 1987 SC 1353 = 1987 (2) SCC 107 = 1989 SCC (Tax) 172); *Dehri Rohtas Light Railway Company Ltd. Vs. District Board, Bhojpur & Others* (AIR 1993 SC 802 = 1992 (2) SCC 598); *Dayal Singh & Others. Vs. Union of India & Others* (AIR 2003 SC 1140 = 2003 (2) SCC 593) and *Shankara Co-op. Housing Society Ltd. Vs. M.Prabhakar & Others* (AIR 2011 SC 2161 = 2011 (5) SCC 607 = 2011 (3) SCC (Civ) 56).

15. In the case of *H.D.Vora Vs. State of Maharashtra & Others* (AIR 1984 SC 866 = 1984 (2) SCC 337), this Court condoned a 30 year delay in approaching the court where it found violation of substantive legal rights of the applicant. In that case, the requisition of premises made by the State was assailed."

(m) 2011 (14) SCC 94 (*Laxman Pandya Vs. State of U.P.*):

"19. We are also of the view that dismissal of CMWP No. 1769/1982 and CMWP No. 14885/1982 should not have affected adjudication of the writ petitions filed in 2000 because two sets of writ petitions were based on different causes. In the first batch of writ petitions, the Appellants had questioned the notification issued under Section 4(1) read with Section 17 and the declaration issued under Section 6(1) read with Section 17. In those petitions, they neither had the opportunity nor they could claim that the acquisition will be deemed to have lapsed due to non-compliance of Section 11A because by the time the writ petitions were filed, Section 11A had not even been enacted. Thus, dismissal of the writ petitions filed in 1982 in default or otherwise did not operate as bar to the filing of fresh writ petitions in 2000 for grant of a declaration that the acquisition proceedings will be deemed to have lapsed due to non passing of an award within the period prescribed under Section 11A. Once the writ petitions filed in 1982 were dismissed, the stay order passed by the High Court stood automatically vacated and there was no impediment in the passing of award, which the competent authority failed to do for more than 10 years in the first case and more than 3 years in the second case. The possession of the acquired land also continued with the Appellants till May, 2000 when attempts were made to

dispossess them. Therefore, the conclusion recorded by the High Court that the land stood vested in the State is clearly erroneous."

(n) 2012 (12) SCC 443 (Anil Kumar Gupta Vs. State of Bihar):

"15. The issue needs to be examined from another angle. A person who is deprived of his land can challenge the acquisition proceedings at various stages. He can question the notification issued under Section 4(1) on the ground of violation of the mandate contained therein like publication of the notification in the official gazette and/or two newspapers including the one in the regional language, failure of the Collector to cause public notice of the substance of the notification to be given at convenient places in the locality. He can challenge the declaration issued under Section 6(1) on the ground of non-compliance of Section 5A(1) and/or (2) or violation of proviso (ii) to Section 6(1). In a given case, the land owner can also challenge the notice issued under Section 9 and the award passed under Section 11 on the ground that he had not been heard or that the acquisition proceedings are nullity. He can also challenge the award if it is not made within the period prescribed under Section 11 A. The vesting of land in the Government can be challenged on the ground that the possession had not been taken in accordance with the prescribed procedure. The invoking of urgency clause contained in Section 17 can be questioned on the ground that there was no real urgency. There may be many more grounds on which the land owner can challenge the acquisition proceedings. Insofar as the Appellant is concerned, he had challenged the acquisition proceedings immediately after passing of the award and pleaded that the declaration issued under Section 6(1) was liable to be declared nullity because of violation of the time limit prescribed in proviso (ii). This being the position, it is not possible to approve the view taken by the Division Bench of the High Court that the writ petition was belated."

(o) 2015 (1) CTC 551 (SC) = 2015 (1) SCALE 598 =
MANU/SC/0061/2015 (Karnail Kaur Vs. State of Punjab):

"20. After referring to the aforesaid decisions with reference to the facts and circumstances of the case on hand, we are of the view that physical possession of the land belonging to the Appellants have neither been taken by the Respondents nor compensation paid to them even though the award was passed on 06.08.2007, and more than five years have lapsed prior to date on which the Act of 2013

came into force. Therefore, the conditions mentioned in Section 24(2) of the Act of 2013 are satisfied in this case for allowing the plea of the Appellants that the land acquisition proceedings are deemed to have lapsed in terms of Section 24(2) of the Act of 2013. The said legal principle laid down by this Court in the case of Pune Municipal Corporation (Pune Municipal Corporation and another Vs. Harakchand Misirimal Solanki and others - 2014 (1) CTC 755 (SC) = 2014 (3) SCC 183) and other cases referred to supra with regard to the interpretation of Section 24(2) of the Act of 2013, with all fours are applicable to the fact situation in respect of the land covered in these appeals for granting the relief as prayed by the Appellants in the applications."

7. Per contra, learned Special Government Pleader appearing for the respondents submitted that after perusal of the records/files relating to the land acquisition proceedings, the learned single Judge came to the conclusion that the acquisition proceedings are valid having been initiated in 1982 and the writ petitioners failed in their attempt in questioning the urgency clause invoked by the respondents, more so, when the possession was taken over by the Government in 1992 itself. After 21 years, the writ petitioners failed to question Section 4(1) Notification, as their relief is barred by delay and laches and the principle of res-judicata will apply to the present case. Since the writ petitioners did not receive the compensation, the same was deposited in the Revenue Deposit and all the legal formalities have been duly complied with and the lands in question now vest with the Government and if at all the writ petitioners are in possession, they could only be stated as encroachers and hence, they are not entitled to have any right of possession and in the above circumstances, the Writ Appeals are liable to be dismissed, as there is no warranting circumstance to interfere with the impugned order of the learned single Judge.

8. Heard the learned counsel appearing for the parties and perused the material documents available on record, besides perusing the original records/files produced by the respondents.

9. It is admitted that earlier, aggrieved by the initiation of land acquisition proceedings in respect of the subject lands, W.P.Nos.4264 to 4266, 4606 and 4609 of 1983 were filed questioning the correctness of the reasoning for invoking urgency clause under Section 17 of the Act and this Court, by order dated 02.08.1991, dismissed those Writ Petitions, indicating that the invocation of the urgency clause was proper. Accordingly, the acquisition proceedings were initiated by invoking the urgency clause and due procedures of law have been followed.

10. It is seen that the lands in question were already acquired and Notification under Section 4(1) of the Act had been issued invoking urgency clause under Section 17 of the Act. In view of the dismissal of the earlier Writ Petitions on 02.08.1991, the present Writ Petitions questioning the acquisition proceedings by way of alleged fresh cause of action, are not maintainable, when no subsequent development or any cause of action has been put forth to substantiate the case of the petitioners. It is the specific plea of the appellants/writ petitioners that the Government at the relevant point of time, has not taken the possession of the lands from them and even till date, they alone are in possession of the lands. Contrary to the said stand, the learned Special Government Pleader appearing for the respondents stated that the possession has been taken way back in 1992 itself and if at all the writ petitioners claim any possession, it could only be construed as encroachment. But, the fact remains that the writ petitioners have not produced any material document to show that they are in possession even as on today. Hence, the contention of the learned Special Government Pleader that the writ petitioners could only be termed as encroachers, is acceptable. Though the house tax receipts are produced to substantiate their claim that they are in possession, the writ petitioners fail to produce any document to show that they are in possession after 23.04.2003, when the forcible possession was taken by the respondents, which is evident from the telegram, dated 23.04.2003 sent by one of the land owners to the District Collector, Cuddalore, as enclosed in the typed set of papers filed along with the Writ Appeals.

11. It is argued on the side of the appellants that they have not received any notice subsequent to the taking of possession and they have also not received any compensation from the respondents/Government for their lands and hence, on this ground, the acquisition proceedings are liable to be set aside. In this context, learned Special Government Pleader appearing for the respondents contended that since the writ petitioners/land owners did not receive the compensation, the same had been duly kept in the Revenue Deposit, which shows that the entire compensation amount had been deemed to have been paid to them. Further, it is seen from the records that the writ petitioners have been questioning the acquisition proceedings from the beginning itself and hence, the contention of the learned Special Government Pleader that as the land owners (writ petitioners) did not receive the compensation, the respondents have made Revenue Deposit, is acceptable.

12. It is strenuously contended by the learned counsel for the appellants that in similar land acquisition proceedings, the relief was granted to the land owner and hence, the same will equally apply to the present writ petitioners. It is to be noted at this juncture that on the side of the writ petitioners, no document has been produced to substantiate the fact that the possession still vest with

them. Even taking for granted that the land was handed over back to the land owner in the other case, who is the adjacent land owner to the present writ petitioners, that cannot be a ground to set aside the impugned Notification under Section 4(1) of the Act in the present case. In this regard, it is relevant to note that one of the land owner-Mohammed Sarvar Hussain (since deceased) has sent a representation dated 15.10.1999 to the Secretary to Government, Revenue Department, Secretariat, Chennai, requesting for re-conveyance of the land, which is found in page 20 of the typed set of papers filed in W.A.No.1154 of 2014 and the relevant portion of which reads as follows:

".... நான் எந்தவித நட்புடனும் இதுவரை மேற்படி நிலத்திற்காக பெறவில்லை. மேலும் இந்நிலம் இதுவரை என் வசத்தில் தான் உள்ளது. எனக்கு 4 மகன்கள் 5 பெண்கள் உள்ளனர். எனக்கு இதை தவிர வேறு நிலமும் இல்லை. எனது மக்களுக்கு கொடுக்க வேறு இடமும் இல்லை. எனவே, அய்யா அவர்கள் இந்த நினைவூட்டும் கடிதம் கிடைத்தபின்பாவது நிலமெடுப்ப, சட்டத்தின் பிரிவு 48-பி-யின் கீழ் மேற்படி நிலத்தை திரும்ப அளித்து உத்தரவிட வேண்டுகிறேன். இதற்கு நான் அரசுக்கு ஆன செலவுத் தொகைகளையும் செலுத்த தயாராக உள்ளேன் என்பதையும் பணிவுடன் தெரிவித்துக் கொள்கிறேன்."

13. In view of the above letter submitted by one of the land owners to the authority/Government requesting for re-conveyance of the land under Section 48-B (inserted as per the Tamil Nadu State Amendment) in the Land Acquisition Act, 1894, it is clear that the land owners are not questioning the acquisition proceedings or Section 4(1) Notification already issued by the Government and they only seek for re-conveyance of the lands under Section 48-B of the Act. Hence, the argument of the learned counsel for the appellants/writ petitioners that the land acquisition proceedings are vitiated in law in not taking possession of the lands or not deposited the amount before the concerned Court, cannot be countenanced, as they only plead for re-conveyance, as is evident from the above letter/representation of the land owner. Further, the appellants/writ petitioners have filed the present Writ Petitions in 2003/2005, only after the passing of the Award on 18.03.1983, and they mainly contend that fresh cause of action has arisen for challenging the acquisition proceedings, which acquisition has already been sustained by this Court in the earlier round of litigation in W.P.Nos.4264 to 4266, 4606 and 4609 of 1983, which were dismissed on 02.08.1991. Therefore, the present Writ Petitions are hit by the principle of res-judicata and the same are not maintainable. It is not correct on the part of the writ petitioners to state that there is fresh cause of action, and there is nothing on record to substantiate the same. Moreover, the paper possession was taken on 11.06.1992 subsequent to the passing of the Award on 18.03.1983 and as submitted by the learned Special Government

Pleader, the possession vests with the respondents/Government, which is evident from the records/files produced by them. The compensation has also been kept in the Revenue Deposit in view of the fact that the land owners/writ petitioners did not receive the compensation. Hence, the contention of the writ petitioners that they have filed the present Writ Petitions on the subsequent cause of action, is not tenable, as the present acquisition proceedings were already sustained on contest in the earlier round of litigation as stated supra. In this regard, learned counsel for the appellants relied on a decision of the Supreme Court reported in AIR 1993 SC 1756 (Inacio Martins, deceased, through LRs. Vs. Narayan Hari Naik and others) and the Division Bench decision of the Kerala High Court reported in 2010 (4) KLT 49 (Jayachandran.C. Vs. The High Court of Kerala), which are not applicable to the facts of the present case, since in this case, the acquisition proceedings were already sustained by this Court in the first round of litigation as stated supra and there is no material on record to substantiate the alleged new cause of action.

14. Further, the Writ Petitions are liable to be rejected on the ground of delay and laches, as they have been filed after 21 years, that too with no fresh cause of action. It is also to be further noticed that the learned single Judge has rightly followed the decisions of the Supreme Court reported in 2000 (2) SCC 48 (Municipal Council, Ahmed Nagar and another Vs. Shalu Hyder Beig and others) and 2011 (5) SCC 394 (Banda Development Authority, Banda Vs. Motilal Agarwal and others), while dealing with the aspect of delay and laches in filing the Writ Petitions. The relevant observations of the Supreme Court in those two decisions are extracted hereunder:

(a) 2000 (2) SCC 48 = 1999 Supp (5) SCR 197 (Municipal Council, Ahmednagar Vs. Shah Hyder Beig and others):

"14.It is now a well-settled principle of law and we need not dilate on this score to the effect that while no period of limitation is fixed but in the normal course of events, the period, the party is required for filing a civil proceeding ought to be the guiding factor. While it is true that this extraordinary jurisdiction is available to mitigate the sufferings of the people in general but it is not out of place to mention that this extraordinary jurisdiction, has been conferred on to the law courts under Article 226 of the Constitution on a very sound equitable principle. Hence, the equitable doctrine, namely, 'delay defects equity' has its fullest application in the matter of grant of relief under Article 226 of the Constitution. The discretionary relief can be had provided one has not by his act or conduct given a go-bye to his rights. Equity favours a vigilant rather than an indolent litigant and this being the basic tenet of law, the question of grant of an order as has been passed in the

matter as regards restoration of possession upon cancellation of the notification does not and cannot arise. ..."

(b) 2011 (5) SCC 394 (Banda Development Authority, Banda Vs. Motilal Agarwal and others):

"16. It is true that no limitation has been prescribed for filing a petition under Article 226 of the Constitution but one of the several rules of self imposed restraint evolved by the superior courts is that the High Court will not entertain petitions filed after long lapse of time because that may adversely affect the settled/crystallized rights of the parties. If the writ petition is filed beyond the period of limitation prescribed for filing a civil suit for similar cause, the High Court will treat the delay unreasonable and decline to entertain the grievance of the petitioner on merits. In State of Madhya Pradesh v. Bhailal Bhai (MANU/SC/0029/1964 = AIR 1964 SC 1006), the Constitution Bench considered the effect of delay in filing writ petition under Article 226 of the Constitution and held:

"... It has been made clear more than once that the power to give relief under Article 226 is a discretionary power. This is specially true in the case of power to issue writs in the nature of mandamus. Among the several matters which the High Courts rightly take into consideration in the exercise of that discretion is the delay made by the aggrieved party in seeking this special remedy and what excuse there is for it...."

It is not easy nor is it desirable to lay down any Rule for universal application. It may however be stated as a general Rule that if there has been unreasonable delay the court ought not ordinarily to lend its aid to a party by this extraordinary remedy of mandamus.

...Learned Counsel is right in his submission that the provisions of the Limitation Act do not as such apply to the granting of relief under Art 226. It appears to us however that the maximum period fixed by the legislature as the time within which the relief by a suit in a Civil Court must be brought may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Article 226 can be measured. The court may consider the delay unreasonable even if it is less than the period of

limitation prescribed for a civil action for the remedy but where the delay is more than this period, it will almost always be proper for the court to hold that it is unreasonable."

17. In matters involving challenge to the acquisition of land for public purpose, this Court has consistently held that delay in filing the writ petition should be viewed seriously and relief denied to the Petitioner if he fails to offer plausible explanation for the delay. The Court has also held that the delay of even few years would be fatal to the cause of the Petitioner, if the acquired land has been partly or wholly utilized for the public purpose."

Hence, there is no infirmity or illegality in the impugned order of the learned single Judge, who has rightly rejected the Writ Petitions, not only on the ground of delay and laches, but also on the ground that they are hit by the principle of res-judicata. Therefore, the Writ Appeals are liable to be dismissed.

15. It is further submitted by the learned counsel for the appellants that Section 17(1) of the Act, 1894, as it stood prior to amendment by Act 68 of 1984, provided for invocation of urgency clause under Section 17 of the Act, if and only if the lands to be acquired are waste or arable lands, as explained in that provision as per the Tamil Nadu Amendment. In this regard, it is worthwhile to notice the Notification issued under Section 4(1), dated 28.01.1982, wherein, the lands have been specifically stated to be "dry". Hence, the contention of the writ petitioners that there is no application of mind and there is no subjective satisfaction on the part of the respondents while acquiring the lands, is not acceptable. Resultantly, the decision of the Supreme Court reported in AIR 1979 SC 1594 (Dera Phauli Vs. State of Punjab and others), the decision of the Allahabad High Court reported in AIR 1960 All. 564 (Gur Dayal and others Vs. State of Uttar Pradesh and others) and the decision of the Division Bench of the Rajasthan High Court reported in AIR 1986 Raj. 149 (Dr.Laxmi and others Vs. The State and others), as relied on by the learned counsel for the appellants, will have no application to the facts of the present case.

16. Furthermore, the reliance placed on by the appellants/writ petitioners on Section 24(2) of the new Land Acquisition Act, i.e. the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (with effect from 01.01.2014), will have no bearing on the case on hand, though it is contended by the appellants/writ petitioners that they have been in possession as on date and also produced the house tax receipt in support of the same and though there was only paper possession on 11.06.1992, but ultimately, the physical possession was taken by the

respondents/Government, which is evident from the telegram, dated 23.4.2003 sent by one of the land owners to the District Collector, Cuddalore, which shows that the land owner(s) have been dispossessed and the physical possession therefore vests with the respondents/Government. There is no material document produced by the appellants to prove their case that the possession vests with them subsequent to 23.04.2003, as there has been forcible possession on 23.04.2003, as seen from the said telegram. This itself shows that the respondents/Government is in possession of the lands in question. Hence, there is no question of application of Section 24(2) of the new Act, 2014 and there is no question of statutory lapse of acquisition proceedings. The decision of the Supreme Court in the case of Pune Municipal Corporation and another Vs. Harakchand Misirimal Solanki and others in Civil Appeal No.877 of 2014, arising out of S.L.P(C).No.30283 of 2008, etc., dated 24.01.2014, relied on by the learned counsel for the appellants, will also have no relevance to this case.

17. One more point urged by the learned counsel for the appellants/writ petitioners is that the substance of the Notification issued under Section 4(1) of the Act, has not been duly published in news papers and in support of this contention, he relied on the following decisions:

(i) 2011 (10) SCC 714 (J & K Housing Board and another Vs. Kanwar Sanjay Krishan Kaul and others);

(ii) AIR 1986 Raj. 149 -- Division Bench of the Rajasthan High Court -- (Dr.Laxmi and others Vs. The State and others) and

(iii) 1973 (1) SCC 157 = AIR 1973 SC 552 (Narindrajit Singh and another Vs. State of U.P. and others).

This contention also fails, in view of the fact that in this case, the respondents have invoked the urgency clause under Section 17 of the Act and acquired the lands and when once there is invocation of urgency clause, there is no question of publication in newspapers and also for the conduct of enquiry under Section 5-A of the Act and hence, the said decisions relied on in that regard also will have no bearing to this case.

18. It is further argued by the learned counsel for the appellants that there is no service of notice under Section 9(3) and 12(2) of the Act. It is evident from the counter affidavit filed by the respondents before the learned single Judge that they have duly served the notice by affixture as per the Rules, which was refused to have been received by the land owners. It is also evident from the records that there has been due compliance of issuance of the said notice. Hence, the decision of this Court reported in 1982 (2) MLJ 98 (Periya Angammal and others Vs. The State of Tamil Nadu), relied on by the learned counsel for the appellants, will have no application to the facts of the present case.

19. One more point sought to be urged before us is that before acquiring private land, the State and/or its agencies/instrumentalities should as far as possible, use land belonging to the State for the specified public purposes and if the acquisition of private land becomes absolutely necessary, then too, the concerned authorities must strictly comply with the relevant statutory provisions and the rules of natural justice. This contention totally fails, as the respondents/Government had duly complied with the relevant provisions of the Act, much less, they have also followed the rules of natural justice and hence, the decision of the Supreme Court reported in 2012 (1) SCC 792 (Raghbir Singh Sehrawat Vs. State of Haryana), relied on by the learned counsel for the appellants, will not apply to the facts of the present case.

20. It is lastly contended that the lands have not been ultimately used for the purpose for which they were sought to be acquired, i.e. for construction of Taluk Office and hence, the lands will have to be re-conveyed to them under Section 48-B (Tamil Nadu Amendment) of the Act. In this regard, it is stated by the learned Special Government Pleader appearing for the respondents that after this Court dismissed the earlier Writ Petitions on 02.08.1991, the acquired lands were taken possession on 11.06.1992 and the Taluk Office complex could not be constructed immediately for want of funds and the entire acquired lands except the lands in R.S.No.92/3 - 0.18.5 hectares and S.No.92/4 - 0.27.5 hectares were handed over to the Public Works Department on 01.09.1997 for going ahead with the construction of Government Buildings and that a building for Agriculture Department has already been constructed in a portion of the acquired lands and the Office of the Assistant Director of Agriculture is now functioning and that in another portion of the acquired lands, i.e. in S.No.92/1.B (in a portion of the lands in Old S.Nos.92/6.A and 92/12.A), the office building for the MLA is being constructed and that the writ petitioners are colluding with each other in obstructing the construction work. Hence, the fact remains that though the purpose for acquisition of the present lands is for the construction of Taluk Office complex, yet, for paucity of funds, the Government has changed its decision for constructing other Government Offices, which no way could be found fault with, as the purpose is also for the Government's own office, coupled with the fact that Section 48-B (Tamil Nadu Amendment) of the Act itself specifically provides for usage of any other public purpose, i.e. if the land is not required for the purpose for which it was acquired and furthermore, under Section 48-B (Tamil Nadu Amendment) of the Act, if the lands are not to be used even for any other public purpose, then only it has to be re-conveyed to the land owner, and in this case, they have very well utilised the acquired lands for constructing some other Government office, and hence, the writ petitioners have no say in the matters of the Government's policy decision.

21. Further, the following decisions are also relied on by the learned counsel for the appellants/writ petitioners:

(i) 2013 (11) SCC 235 (Lajja Ram Vs. Chandigarh) - for delay and laches;

(ii) 2013 (1) SCC 353 (Tukaram Kana Joshi Vs. MIDC) - for delay and laches;

(iii) 2011 (14) SCC 94 (Laxman Pandya Vs. State of U.P.) - for not following the provisions of Section 11-A of the Act in time;

(iv) 2012 (12) SCC 443 (Anil Kumar Gupta Vs. State of Bihar) - for invocation of Section 17 of the Act - i.e. the urgency clause, and

(v) 2015 (1) CTC 551 (SC) (Karnail Kaur Vs. State of Punjab) - relying Section 24(2) of the New Act, 2013 (with effect from 01.01.2014).

These decisions will also have no application to the present facts of the facts, in view of the foregoing discussion made and the reasons assigned therefor.

22. Hence, for all the reasons stated above, we are of the considered view that there is no reason to interfere with the order of the learned Single Judge dated 21.12.2012 made in W.P.Nos.8340 of 2005, 13853, 13854 and 16610 of 2003. Therefore, all the Writ Appeals are liable to be dismissed and accordingly, the Writ Appeals are dismissed. The impugned order of the learned single Judge is confirmed. No costs. The Miscellaneous Petitions are closed.

cs

s/d-
Assistant Registrar(V)

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Sub-Assistant Registrar

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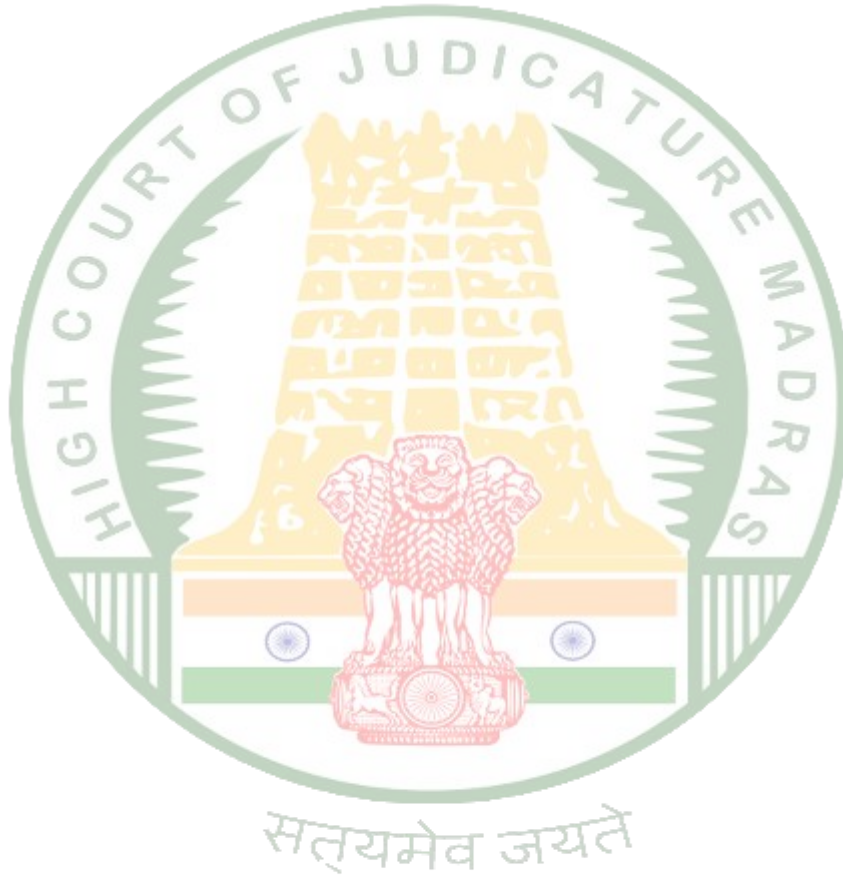
1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue Department,
Fort St.George, Chennai-9.
2. The Land Acquisition Officer,
Sub Collector,
Chidambaram.

+ 3 ccs to Mr.V.Ayyadurai, Advocate SR 18059

+ 1 cc to the Government Pleader, High Court, Madras SR 18341

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W.A.Nos.1305 &
1153 to 1155 of 2014



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