

IN THE HIGH COURT OF JUDICATURE AT MADRAS

C.A.V. on 19.12.2014

DATED: 09/01/2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.26856 of 2010 &

M.P.No.1 of 2014

B.M.Purnachandran ... Petitioner

Vs.

- 1.The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Chennai-600 009.
 - 2.The Tamil Nadu Housing Board,
Rep. by its Managing Director,
Nandanam, Chennai.
 - 3.The Special Tahsildar,
(Land Acquisition-III)
Tamil Nadu Housing Board Scheme,
Nandhanam, Chennai 600 035.
 - 4.The Chennai Metro Rail Limited,
Rep. by District Revenue Officer and
Project Implementation Officer,
No.11/6, Seethammal Road,
Alwarpet, Chennai - 600 018.
 - 5.The Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.8, Gandhi Irwin Road,
Egmore, Chennai 600 008.
- ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, declaring that the Land Acquisition Proceedings initiated by the respondents 2 and 3 with respect to the lands comprised in Survey Nos.164/1, 165, 166/2, 167/1B, 167/2, 167/5, 167/6, 168/2, as

notified in the Notification SUPPLEMENT TO PART II SECTION 2 OF TAMIL NADU GOVERNMENT GAZETTE dated 01.10.1975 issue No.39(A) as published in as declared in SUPPLEMENT TO PART II SECTION 2 OF TAMIL NADU GOVERNMENT GAZETTE issue 302 dated 29.9.1978 is invalid, null and void and will not binding upon the petitioner, since no award amount was either paid or deposited in any forum for the past 28 years.

For Petitioner : Mr.R.Muthukumarasamy, Senior Counsel
for Mr.P.Mahadevan

For Respondents : Mr.M.S.Ramesh (for R1 and R3)
Additional Government Pleader

Mr.B.Vivekavanan (for R2)

Mr.R.Thiyagarajan, Senior Counsel (for R4)
for Mr.Jayesh B. Dolia

Mr.N.Sampath (for R5)

O R D E R

The short facts of the case are as follows:

The petitioner submits that his brother M.Nithyanandham and himself are joint owners of dry lands measuring to an extent of 20.60 acres comprised in Survey Nos.164/1, 165, 166/2, 167/1B, 167/2, 167/5, 167/6 and 168 situated at Koyambedu Village, now in Egmore-Nungambakkam Taluk. The said lands originally owned by his grandmother by name B.C.Chellammal, who expired on 24.02.1972 leaving behind a Will dated 20.03.1971 bequeathing all their properties including the above said lands in favour of his brother M.Nithyanandam and the petitioner. The petitioner further submits that even during the life time of his grandmother, a substantial portion of the land belonging to her was divided into plots and a layout plan was made as approved by the Deputy Director of Town Planning, Chennai in Letter No.5659/70. Se.Ma-3 dated 16.11.1970 acquisition proceedings were initiated by the respondents 1 to 3. The petitioner further submits that the said land acquisition proceedings were initiated for the purposes of the development of Housing for the Neighbourhood Scheme with respect to the lands measuring 20.60 acres comprised in Survey Nos.164/1, 165, 166/2, 167/1-B, 167/2, 167/5, 167/6 and 168 situated at Koyambedu Village, now in Egmore-Nungambakkam Taluk. The said land acquisition proceedings were quashed by this Court. However, the authorities took the issue to the Hon'ble Supreme Court though the Special Leave Petition was filed with heavy delay of four years and above,

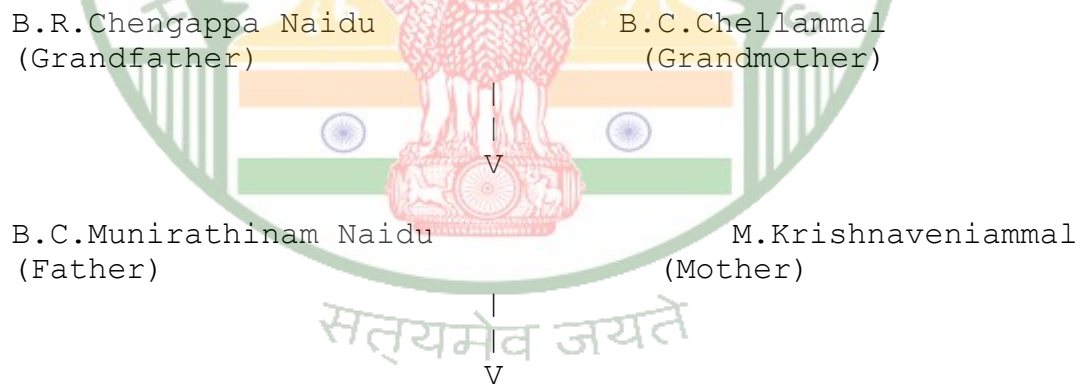
without notice to the concerned land owners, the delay was condoned and the acquisition proceedings were held to be valid.

2. The petitioner further submits that the Hon'ble Supreme Court deleted only a small extent of land measuring 1.50 acres as reported in 1996 (7) SCC page 550. The Hon'ble Supreme Court directed the authorities to demarcate the said land measuring 1.50 acres with specific boundaries. Even this judgment of the Hon'ble Supreme Court was not Honourably and properly respected by the respondents. Hence, he took further legal steps to safeguard his interest. The petitioner further submits that the first respondent is now making hasty steps to give the land in question to the fourth respondent on huge monetary consideration running into hundreds of crores of rupees and hence the respondents are clearing all the bushes with the help of earth moving machines and are making arrangements to put up fence in and around the above said lands, while the possession of the said land is with him till date and possession is not yet taken by the respondents. Hence, the very removal of the bushes and attempt to put up fence is highly illegal and contrary to law and the respondents may hand over the lands in question to any other third parties contrary to the provision of Section 48(B) of the Land Acquisition Act. The petitioner further submits that he has filed this writ petition in-consequence to the earlier writ petition preferred by him in W.P.No.17867 of 2010, which he has filed for the following prayers:-

"Directing the respondents 1 to 4 herein to hand over the land measuring 1.50 Acres to the petitioner with specific boundaries in Survey No.167/9 (sub-divided from S.No.167/1B) as directed by the Hon'ble Supreme Court in Civil Appeal No.1867 of 1992 decided on 17.1.1996 (reported in 1996 (7) SCC page 450 and thus render justice."

The above writ petition was taken on file by this Court and interim orders were passed on 05.08.2010. After appearance, the fourth respondent in this writ petition has filed a counter statement stating that by applying urgency provisions under Section 17 of the Land Acquisition Act, the lands are sought to be acquired. The lands are earmarked and is set apart by the Hon'ble Supreme Court for the sake of his family residential purposes and it is now sought to be acquired. Hence, he has challenged the fresh acquisition proceedings in W.P.No.20769 of 2010 and the same is taken on file by this Court and the same is also pending. While preferring those writ petitions, informations were gathered by him which resulted in filing of this writ petition. This writ petition

is filed on the most important legal issue, namely, the violation of the mandatory provisions of Section 11-A of the Act, thereby rendering the very acquisition proceedings dated 01.10.1975, published SUPPLEMENT TO PART II SECTION 2 OF TAMIL NADU GOVERNMENT GAZETTE as null and void. Challenge to the same though concluded at the stage of Section 6, declaration to the fresh cause of action is given by the respondents to prefer this writ petition. This writ petition is filed on the subsequent development as more fully stated herein. The petitioner further submits that as mentioned earlier the entire acquisition was taken in the name of the dead person B.C.Chellammal. To be more precise, it is submitted that B.C.Chellammal was married to B.R.Chengappa Naidu. They had one child namely B.C.Munirathinam Naidu. His grandfather B.R.Chengappa Naidu died in the year 1970. His grandmother B.C.Chellammal died on 24.02.1972. His father B.C.Munirathinam Naidu having married his mother M.Krishnaveni Ammal had three issues, such as (a) M.Nithyanandam (b) M.Purnachandran (the writ petitioner herein) and his younger sister D.Mohanalakshmi. When Section 4(1) Notification was issued in 1975 his grandmother B.C.Chellammal was not alive, since she died on 24.02.1972. To appreciate the factual details of this writ petition, the complete genealogical tree of his family is narrated hereunder:



Under the Notification, the following extent of lands are sought to be acquired as given under here:

Survey No.	Extent (in Acre)
164/1	1.18
165	1.41
166/2	7.14
167/1B	7.81
167/2	0.08
167/5	0.15
167/6	0.08
168/2	2.75

Total - 20.60 Acres

The petitioner further submits that it is a matter of record and further that it may not be denied by the respondents that the entire acquisition proceedings such as Section 4(1) Notification, Section 5(A) Enquiry, Section 6 declaration all were made only in the name of the dead person namely Chellammal. The petitioner further submits that he is aware of his limitation to challenge the above, since the Hon'ble Supreme Court which decided Civil Appeal No.1867 of 1992, dated 17.01.1996, wherein it reversed the judgment of this Court dated 22.04.1991 as held that Section 6 declaration is valid. Though the acquisition proceedings were upheld by the Hon'ble Supreme Court, the fact remains that the entire proceedings thus conducted was only on the dead person, namely in the name of late B.C.Chellammal. The petitioner further submits that the writ petition preferred is on the reason that the value of lands as on this date under any conservative calculations is easily worth atleast 100 crores. So far neither a single paise has been paid by the respondents as compensation nor the same is deposited by the respondents till date into any Court. After Section 6 declaration, the question of passing of award or holding any enquiry thereof never arose at any relevant point of time.

3. The petitioner further submits that the entire issue came as a shocking one. When the fourth respondent started troubling this writ petitioner by urgency clause by invoking Section 17 of the Land Acquisition Act. He was forced to peruse the entire records and to his dismay, he has found that not a single paise is ever made available by way of any deposit for the past 28 years at any Forum till this date. It is claimed by the second and third respondents that Award No.1 of 1983, dated 29.01.1983 is to an extent of 18.01 Acre and Award No.2 of 1983 was also passed. The full details of the respective award is enclosed in the typed set. The same may kindly be considered as part and parcel of this affidavit. Award No.1 is dated 27.01.1983 and Award

No.2 is dated 28.02.1983. As on this date for the past 28 years not a single paise is deposited into the Court though it is so claimed. Hence, the petitioner has filed the above writ petition.

4.The second respondent / Tamil Nadu Housing Board has filed a counter statement and refuted the above writ petition. The second respondent submits that the petitioner herein has filed a similar writ petition No.19724 of 2005, writ of Mandamus for re-conveyance of the land in Survey Nos.164/1, 165, 166/2, 167/1B, 167/2, 167/5, 167/6 and 168 at Koyambedu Village and the same is pending with this Court for further proceedings. The other writ petition in W.P.No.20769 of 2010 for challenging the acquisition proceedings and the same was dismissed by this Court on 24.01.2011. The second respondent further submits that in the above circumstances, the petitioner herein has filed the present writ petition, to declare that the Land Acquisition proceedings initiated by the respondents 2 and 3 with respect to the lands comprised in Survey Nos.164/1, 165, 166/2, 167/1B, 167/2, 167/6 and 168/2, as notified in the notification SUPPLEMENT TO PART II SECTION 2 OF TAMIL NADU GOVERNMENT GAZETTE, dated 01.10.1975 issue No.39(A) as published in as declared in SUPPLEMENT TO PART II SECTION 2 OF TAMIL NADU GOVERNMENT GAZETTE issue 302 dated 29.09.1978 is invalid, null and void and will not be binding upon the petitioner. The second respondent further submits that the Tamil Nadu Housing Board has acquired the land in Koyambedu Village for the New Neighbourhood Scheme known as K.K.Nagar Part-II scheme. Accordingly, the notification under Section 4(1) of Land Acquisition Act for an extent of 218.30 Acres in Koyambedu Village was approved by Government vide G.O.R.T.No.221, Housing Department dated 29.08.1975 and published in Tamil Nadu Government Gazette dated 01.10.1975. Further, the Land Acquisition was processed by Land Acquisition Officer as per the Land Acquisition Act. Subsequently, Award passed and lands taken over by the Land Acquisition Officer and handed over to Chennai Metropolitan Development Authority for locating the peripheral outstation bus terminus by PTC and organizing the Whole-sale market complex as per G.O.Ms.No.125 dated 20.01.1978. The second respondent further submits that the Chennai Metropolitan Development Authority has paid the compensation amount sum of Rs.26,45,000/- vide Cheque Nos.78 TV 912826 dated 30.03.1979. Therefore, the land has been acquired and handed over to the Chennai Metropolitan Development Authority. Subsequently, Award of compensation had also been paid to the land owners.

5. The second respondent further submits that the land in Survey Nos.164/1 and 165 measuring an extent of 1.18 and 1.41 Acres are covered in Award No.1/83, dated 29.01.1983 and the above said

lands were handed over to Chennai Metropolitan Development Authority by Land Acquisition Officer on 06.04.1983, the land in Survey Nos.167/1B, 167/5, 167/6, 168/2, 166/2 and 167/2, measuring an extent of 7.81, 0.15, 0.08 and 2.75, 7.14, 0.08 Acres are covered in Award No.2/83, dated 28.02.1983 and the above said lands were handed over to Chennai Metropolitan Development Authority by the Land Acquisition Officer on 04.06.1983. The second respondent further submits that the petitioner herein has filed the M.P.No.1 of 2010 in W.P.No.26856 of 2010 and sought ad-interim injunction restraining the respondents 1 to 5 herein from altering the physical feature of the land comprised in Survey No.164/1 and 165, 165/2, 167/1B, 167/5, 167/6, 168/2, 166/2 and 167/2 pending disposal of the W.P.No.25856 of 2010. However, this Court has dismissed the said M.P.No.1 of 2010 on 13.09.2011 as "the learned counsel for the respondents held that subsequent to the passing of the Award, the amount was deposited in the Revenue Department and the petitioner, instead of making claim before the Department, has filed this writ petition for disbursement of the money. In view of the same, I see no reason to entertain this petition. Hence, this petition is dismissed". Therefore, there are no sufficient documents and revenue records in favour of the petitioner herein. Hence, the interim injunction is not granted in favour of the petitioner herein. The second respondent further submits that as per 4(1) Notification of G.O.Ms.No.221 dated 29.08.1975, the landowners are as follows:-

S.No.	Survey Nos.	Owners Name	Total Extent
1.	164/1	Chellammal & C.Rajaram Mudaliar	1.18 Acres
2.	165	S.Perumal Naidu & Chellammal	1.41 Acres
3.	166/2	Chellammal	7.14 Acres
4.	167/1	S.Perumal Naidu & Chellammal	9.17 Acres
5.	167/2	S.Perumal Naidu & Chellammal	0.08 Acres
6.	167/5	S.Perumal Naidu & Chellammal	0.15 Acres
7.	167/6	S.Perumal Naidu & Chellammal	0.08 Acres
8.	168/2	S.Perumal Naidu & Chellammal	3.71 Acres

As per 4(1) notification, the said Chellammal alone is not an original owner as stated in the present writ petition by the petitioner herein. Further, the said properties are standing in the name of (1) C.Rajaram Mudaliar, (2) S.Perumal Naidu and (3) Chellammal. Therefore, the petitioner herein cannot claim the rights over the entire properties and he must prove his ownership

by way of producing all the relevant revenue records standing in the name of Chellammal. Therefore, the petitioner has to prove his rights and title over the property.

6. The second respondent further submits that the petitioner's family members of (1)B.R.Chengappa Naidu (2) B.C.Munirathinam Naidu (3)M.Krishnaveniammal's names are not available in the 4(1) notification of G.O.Ms.No.221, dated 29.08.1975. Therefore, the petitioner herein has to explain his rights over the properties. The second respondent further submits that the properties acquired and handed over to the Chennai Metropolitan Development Authority on 06.04.1983 and 04.06.1983 and at present the Chennai Metropolitan Development Authority is having possession of the acquired lands. Further, the petitioner herein has failed to produce the copy of the unregistered Will dated 20.03.1971 and the death certificate of Late.Chellammal and other relevant documents before this Court to prove his ownership and the possession of the property. The second respondent further submits that the petitioner herein has filed several writ petitions and the same are pending without any progress. Further, the petitioner herein has not produced any revenue records and documents to prove his case and claim. Further the petitioner's intention is to retain and maintain the writ petitions without any progress. Hence, the second respondent entreats the Court to dismiss the above writ petition.

7. The fourth respondent, namely, Chennai Metro Rail Limited represented by the District Officer has filed a counter statement and refuted the above writ petition. The Chennai Metro Rail Project envisages a creation of two corridors under Phase-I. Corridor-I starts from Washermanpet and ends at the Airport for a length of 23.1 Kilometers and Coridor-II starts from Chennai Central and ends at St.Thomas Mount Station for a length of 22.0 Kilometers. The portions of Corridor-I with a length of 14.3 Kilometers from Washermanpet to Saidapet and Corridor-II with a length of 9.7 Kilometers from Chennai Central to Anna Nagar will be an underground Corridor and the remainder elevated. The Chennai Metro Rail Limited is special purpose vehicle (SPV) formed for the purpose of implementing the Chennai Metro Rail Project. The project is being funded by the Government of India and the State Government by way of equal equity contribution and Subordinate dept. (Government of India 20% and the balance 59.22% being met from the loan assistance from Japan Industrial Co-operation Agency). The Government of India has also accorded sanction for the project and for its participation.

8.The fourth respondent further submits that the Government have approved in Principle the two initial Corridors of the Chennai Metro Rail Project from Washermenpet to Chennai Airport (Corridor-I) and Chennai Central to St.Thomas Mount (Corridor-II). The project is a time bound project planned to ease out phenomenal growth of traffic congestion in the city of Chennai and any delay in carrying out this vital project will affect the plans announced by the Government of India as well as the State Government and will affect the convenience of the public of Chennai seriously. Any delay in project execution will lead to contractual implications such as extension of time and escalation of project costs, costing the public exchequer several hundreds of crores of rupees, besides depriving citizens of Chennai of a safe and quick means of public transport. The fourth respondent further submits that the Chennai Metro Rail depot for housing all the trains and Coaches of the Chennai Metro Rail is located at Koyambedu in the Chennai Metropolitan Development Authority land abutting the Poonamallee High road and Thiruvalluvar Salai. Filling of earth to raise the level of land is under progress. The Koyambedu station is also located in Thiruvalluvar Salai opposite to the Depot. The entrance to the depot is from the junction between Poonamallee High Road and Thiruvalluvar Salai.

9. The fourth respondent further submits that the entry ramp with tracks will be the vital entry point from the elevated corridor for all trains to come into the depot for repair and maintenance as well as for stabling on a daily basis. This building will also be housing the Operation Control Centre having all signal and telecom equipment, Supervisory Control and Data Acquisition (SCADA) etc. from which the entire movement of all the trains will be controlled with sophisticated equipment. They are not only strategic but also sensitive from security angle. The Construction of the depot has already been awarded on 02.11.2010 to M/s.L & T on design and Build Contract system. The contractor has been handed over the possession of these lands for the Depot works on 01.12.2010. Any delay in handing over this land will cost CMRL in terms of cost escalation claimed by the Contractor and seriously hamper the scheduled first service of metro trains in 2013. Therefore, the land in Survey Nos.164/1, 165, 166/2, 167/1B, 167/2, 167/5, 167/6 and 168 situated at Koyambedu Village are technically essential and of topmost priority for setting up the Metro depot and related facilities. The fourth respondent further submits that in G.O.Ms.No.62 Planning Development and Special Initiatives (SI) Department, dated 24.06.2009 allotment of 30 hectare of land from the Koyambedu Wholesale Market complex has been ordered for establishing Chennai Metro Rail Depot with stabling and workshop facilities. Based on the above Government Order Chennai

Metropolitan Development Authority has been granted enter upon permission to start developmental works on 29.04.2010 and also sanctioned for handing over lands in Koyambedu, Nerkundram and Senjeri Villages for 29.57.09 Hectares on 19.05.2010. Formal land delivery receipts were signed between Chennai Metropolitan Development Authority and Chennai Metro Rail Limited for Koyambedu Village on 22.11.2010. The fourth respondent further submits that the averments raised in para 2 and 3 of the affidavit relates to the owners of the properties and how the petitioner came into possession of the properties from his brother by way of family partition and those are all the particulars which are within the personal knowledge of the petitioner and the petitioner is put to strict proof of the same.

10. The fourth respondent further submits that the averments contained in para 4 to 7 of the affidavit relates to the acquisition proceedings. The said acquisition proceedings was challenged by the petitioner which ultimately ended by a final verdict of Supreme Court of India under which an extent of 1.50 acres of lands were directed to be returned to the petitioner for their personal residential use and except to that extent the Hon'ble Supreme Court of India never interfered with the earlier acquisition proceedings and also the respective awards passed under the Land Acquisition Act. In pursuant to the directions of the Supreme Court of India in the earlier round of litigation, the Government of Tamil Nadu issued a withdrawal Notification withdrawing the aforesaid 1.50 acres of land from the earlier acquisition proceedings for the Tamil Nadu Housing Board and the petitioner as well as his other brother had to be granted necessary patta for 0.75 cents respectively. Out of the said extent of 1.50 acres which is released from the earlier acquisition proceedings and therefore, the entire directions of the Supreme Court were strictly complied with. Therefore, the present Notification was issued for acquiring the very same land for a different public purpose of implementing the Chennai Metro Rail Project. This Government have got every jurisdiction to take steps to acquire the said lands for public purpose of implementation of the Metro Rail Project and to issue the Notification under Section 4(1) of the Acquisition Act disclosing their intention to acquire the land for a public purpose of Chennai Metro Rail Project. The fourth respondent further submits that with regard to the contention raised in para 10 of the affidavit, it is submitted that the Hon'ble Supreme Court has upheld the earlier land acquisition proceedings except for 1.5 acres. This 1.5 acres of land is covered by Section 4(1), 6 notification of the Land Acquisition Act. The requisitioning body, namely Chennai Metro Rail Limited is in the process of remitting the land cost for the same to the Land Acquisition Officer for passing of award under the said Act.

11.Further, the fourth respondent has also filed an additional counter statement which are as follows:

The petitioner has filed a writ petition in W.P.No.26856 of 2010, for a writ of declaration, to declare that the Land Acquisition Proceedings initiated by the Managing Director, Tamil Nadu Housing Board, Chennai and the Special Tahsildar (Land Acquisition-III), Tamil Nadu Housing Board with respect to the lands comprised in Survey Nos.164/1, 165, 166/2, 167/1B, 167/2, 167/5, 167/6, 168/2, in Koyambedu Village, Chennai District as notified in the year 1975. Counter affidavit in respect of fourth respondent has already been filed in January 2011. The writ petitioner has filed a miscellaneous petition raising additional grounds in the above writ petition. The Government have approved in principle the two initial Corridors of the Chennai Metro Rail Project from Washermanpet to Chennai Airport (Corridor-I) and Chennai Central to St.Thomas Mount (Corridor-II). The Project is a time bound project planned to ease out phenomenal growth of traffic congestion in the City of Chennai and any delay in carrying out this vital project will affect the plans announced by the Government of India as well as the State Government and affect the convenience of the public of Chennai seriously. Any delay in project execution will lead to contractual implications such as extension of time and escalation of project costs, costing the public exchequer several hundreds of crores of rupees, besides depriving citizens of Chennai of a safe and quick means of public transport. The fourth respondent further submits that with regard to the averments made in para 2 of the affidavit that the petitioner narrates about the issuance of the Land Acquisition Proceedings in respect of Lands belonging to him. In fact, the lands of the petitioner along with a larger extent of lands were acquired and award passed in the 1983 and compensation was deposited in Court and possession has been taken. It is wrong for the petitioner to state that the acquisition does not bind on him. The following lands have been acquired by the Tamil Nadu Housing Board in the year 1983.

Sl. No.	Old S.No.	Extent In acres	Award No. & Date	New T.S.No.	Remarks
1	164/1	1-18	1/83 Dt.29-1-83	2/1 Part	CMRL Possession
2	165	1-41	1/83 Dt.29-1-83	2/1 Part	CMRL Possession

Sl. No.	Old S.No.	Extent In acres	Award No. & Date	New T.S.No.	Remarks
3	166/2	7-14	2/83 dt.28-2-83	2/1 Part	CMRL Possession
4	167/1B	7-81	2/83 dt.28-2-83	2/1 Part 2/2	CMRL Possession Out of 781 acres, the Hon'ble Supreme Court has given back 1.50 acres of acquired land to the family of Writ Petitioner. This area comprised in New T.S.No.2/2 and 2/3 each 3037 Sq.mt. They have now been acquired by CMRL in Award No.3/2010 Dt.30-3-2012
5	167/2	0-08	2/83 Dt.28-2-83	2/1 Part	CMRL Possession
6	167/5	015	2/83 Dt.28-2-83	2/1 Part	CMRL Possession
7	167/6	0-08	2/83 Dt.28-2-83	2/1 Part	CMRL Possession
8	168/2	2-75	2/83 Dt.28-2-83	2/1 Part	CMRL Possession

12. The fourth respondent further submits that with regard to the averments made in para 3 of the affidavit, that it is true that the new Act came into force from 01.01.2014 and the old Act has been repealed. But this Act has no relevance to the land acquired in the year 1983 as the Award has been passed, possession of the acquired lands was taken long before and compensation amount also deposited into Court. The fourth respondent further submits that with regard to the averments made in para 4 of the affidavit, that the provisions of section 24(2) of the new Act applies to a Land Acquisition initiated under the old Act, five years or more prior to 1.1.2014, but physical possession has not been taken or compensation not been paid. Per contra, Award has been passed in the year 1983 and the compensation deposited in Court and physical possession taken by the Government. As per section 16 of the old Act, once possession

is taken after passing Award the land vests with the Government absolutely free of all encumbrances. Hence, the lands vested with the Government as early as 1983, after possession was taken by the Government which has been admitted by the petitioner in his affidavit at para 5. The said lands were handed over to Chennai Metropolitan Development Authority and in fact, roads were formed by Chennai Metropolitan Development Authority in part of the said lands designated as 'F' and 'G' roads long before connecting Poonamallee High Road and the Vegetable Market Complex. Thereafter, the said lands were handed over to CMRL for construction of depot vide G.O.Ms.No.62, Planning Development and Special Initiatives Department dated 24.06.2009 and the proceedings of the Member Secretary, CMDA in his proceedings in K1/879/2008 dated 19.05.2010. Thereafter CMRL has already constructed various structures of CMRL Depot in the said lands in the year 2012 itself. Therefore, it would not come within the meaning of 'Lapsed' as specified under Section 24(2) of the New Act. The fourth respondent further submits that with regard to the averments made in para 5 of the affidavit, that it is wrong for the petitioner to term the land acquisition proceedings as having 'lapsed'. The averments made in this para are denied. The Award was passed in the year 1983 and the Awards were upheld by the Hon'ble Supreme Court of India. The Land Acquisition Officer passed the award in the year 1983 stating that the compensation amount will be deposited into Sub Court under Section 30 and 31(2) of the Land Acquisition Act, as there was dispute in ownership and apportionment. The writ petitioner should have approached the Land Acquisition Officer to ascertain the facts and get the payments from the Sub Court. Instead, he filed a M.P.No.1 of 2010 in W.P.No.26856 of 2010 and this Court has dismissed the miscellaneous petition on 13.09.2011 stating that the writ petitioner instead of making claim before the Department has filed this writ petition for disbursement of money. In the writ petition again pleaded non-payment of money before this Court instead of making claim to the Land Acquisition Officer. The Land Acquisition Officer issued notice to the persons whose names were found in the Village Records. The petitioner having failed to take steps for mutation of village records cannot now find fault with the Land Acquisition Officer. The Hon'ble Apex Court and this Court have already ruled that issuance of notice in the name of dead persons will not vitiate the Award. Therefore, the averments of the petitioner are devoid of merits. Moreover, if the petitioner is not satisfied with the value of the land as determined by the Land Acquisition Officer, he ought to have taken steps for making reference under Section 18 of the Land Acquisition Act 1894.

13. The fourth respondent further submits that Section 24 (2) of the Act 30 of 2013 will not be applicable to his claim as the award was already passed in the year 1983 with a direction to deposit the compensation amount into Sub Court as there was dispute in ownership and apportionment and possession was taken thereafter. The land was handed over by the Tamil Nadu Housing Board to Chennai Metropolitan Development Authority for the establishment of Koyambedu Vegetable Market Complex and the CMDA has laid F & G Road in the acquired area long back in order to have access from Poonamallee High Road to Koyambedu Wholesale Market Complex. Thus the land was taken possession and utilized long back prior to the introduction of New Land Acquisition Act 30 of 2013. Further, Chennai Metro Rail Limited planned for housing all the trains and coaches of the CMRL at Koyambedu in the CMDA land abutting the Poonamallee High Road and Thiruvalluvar Salai. In G.O. Ms.No.62 PD & SI (SI) Department dated 24.06.2009, the Government allotted 30 hectares of land from the Koyambedu Wholesale Market Complex for establishing Chennai Metro Rail Depot with stabling and workshop facilities. Based on the above G.O., CMDA has granted enter upon permission to start developmental works on 29.04.2010 and also handed over the lands on 19.05.2010. Formal land delivery receipts were signed between CMDA and CMRL for Koyambedu Village on 22.11.2010. The construction of the Depot has already been awarded on 02.11.2010 to M/s.L & T on design and Build Contract System. The contractor has been handed over possession of these lands for the depot works on 1.12.2010. The construction of Depot works has reached the final stage and the trial running of Metro train is in progress daily. Thus, the acquired land of Writ petitioner was already taken possession prior to coming into force of New L.A. Act 30 of 2013 and utilized for Public Metro Rail Project.

14. The fourth respondent further submits that with regard to the averments made in para 6 to 8 of the affidavit, that as legal heir of the person whose lands were acquired, the petitioner ought to have moved the Civil Court concerned in accordance with law, to get payment of compensation released from the deposit. Having failed to take lawful steps in that direction, he cannot make any allegations in that regard. Further, the merits of the rulings referred to by him do not apply to the present case and he is not entitled to any relief under Section 24(2) of the new Act. The fourth respondent further submits that with regard to the averments made in para 9, it is wrong for the petitioner to state that he retained possession right from the date of initiation of Land Acquisition proceedings. After passing the Award in the year 1983, the amount of compensation was deposited and the possession of the land was taken. The land thus become the property of the Government and therefore, the possession as claimed

by the petitioner is purely imaginary. The fourth respondent further submits that with regard to the averments made in para 11, that the additional grounds now raised in the petition are devoid of merits and are not applicable to the facts and circumstances of the case of the petitioner. The grounds, if allowed would only re-open the issues settled in accordance with the provisions of the Act prevailing at the time of initiation of the land acquisition proceedings and ultimately cause great prejudice to the Chennai Metro Rail Project.

15. The fourth respondent further submits that with regard to the averments raised under the paras 12(A) to 12(E), that the petitioner has once again raised the same averments that have been raised in the preceding paras of his affidavit. The Special Tahsildar (LA-3) Tamil Nadu Housing Board passed the Award in the year 1983 stating that the compensation will be deposited into Sub Court under Section 30 and 31(2) of the Land Acquisition Act as there was dispute in ownership and apportionment. The writ petitioner has to approach the Land Acquisition Officer to get details and to receive payment from Sub Court. The Award was passed in the year 1983 and it was upheld by the Hon'ble Supreme Court in 1996. The land was taken possession and handed over to CMDA for locating Wholesale Market Complex and then CMDA laid F & G Road to have access from Poonamallee High Road to Market Complex long back. Thus the land was taken possession and utilized long back. As there was dispute in ownership and apportionment, the Land Acquisition Officer has passed the Award in the year 1983 in the pattadar name. This Award was upheld by the Hon'ble Supreme Court of India in 1996. The then Land Acquisition Officer has deducted reclamation charges for low laying area as per procedure. The remedy of the writ petitioner was to challenge the quantum of compensation under Section 18 of the Land Acquisition Act before the Sub Court. The Awards were passed in the year 1983, in accordance with the Land Acquisition Act 1894 and the Awards were upheld by the Hon'ble Supreme Court of India in 1996.

16. The fourth respondent further submits that with regard to the averments made in para 12(F) of the affidavit, that it is true that on the verdict of the Apex Court, the Government had withdrawn the acquisition in respect of 1.50 Acres of Land as stated therein. As the land to the extent of 1.50 Acres which were earlier exempted, was also required for the Chennai Metro Rail Project the Government initiated fresh land acquisition proceedings in the year 2010 and deposited the compensation into the City Civil Court under Section 30 and 31(2) of the Land Acquisition Act 1894 as proper apportionment could not be done. The petitioner filed necessary petition and the Civil Court ordered the release of the

compensation among the interested persons. Possession of the land acquired was taken by the respondent. Therefore, the averments raised by the petitioner are false, devoid of merits and bereft of truth. Hence, the fourth respondent entreats the Court to dismiss the above writ petition.

17.The fifth respondent, namely, Chennai Metropolitan Development Authority has filed a counter statement and refuted the above writ petition. The fifth respondent submits that the petitioner has filed the present writ petition to declare that the land acquisition proceedings initiated by the second and third respondents, namely Managing Director, Tamil Nadu Housing Board and Special Tahsildar, Land Acquisition-III of Tamil Nadu Housing Board with reference to the lands comprising in Survey Nos.164/1, 165, 166/2, 167/1B, 167/2, 167/5, 167/6 and 168/2 of Koyambedu Village as notified in Gazette dated 01.10.1975 issue No.37(A), as published in Gazette issue No.302 dated 29.09.1978 is invalid. The total extent of this land is about 20.60 acres. The fifth respondent further submits that these lands were taken over possession by Tamil Nadu Housing Board in Award No.1, dated 27.01.1983 and Award No.2, dated 28.02.1983. Later, these lands were handed over to CMDA by Tamil Nadu Housing Board for the development of Koyambedu Wholesale Market Complex (KWMC) in the year 1983. Subsequently, CMDA has prepared detailed plans for the development of Textile Market in Koyambedu Wholesale Market Complex. Further, the textile market project was not taken up for implementation due to poor response from Textile traders. The fifth respondent further submits that the Government in G.O.Ms.No.185, Planning Development and Special Initiatives (SI) Department, dated 07.10.2011 have allotted an extent of 30 Hects. including the above lands in Koyambedu Village for the development of Chennai Metro Rail Limited (CMRL) Depot cum allied facilities in KWMC. Accordingly, Chennai Metro Rail Limited has taken over these lands and commenced the construction activities for their Depot cum allied facilities in KWMC. As of now, the land is utilized and there is no land available for re-conveyance, as requested by the petitioner. The fifth respondent further submits with reference to averments in para Nos.3, 4 and 5 of the affidavit that the contention of the petitioner is not correct. Earlier the Government of Tamil Nadu has initiated Land Acquisition proceedings in Koyambedu and Nerkundram Villages for the development of K.K.Nagar Neighbourhood, after complying all the Land Acquisition proceedings with the ex-land owners. Later, these lands were handed over to CMDA for the development of wholesale perishable market in Koyambedu as one of the decongestion measure, recommended in the first Master Plan of CMDA.

18. The fifth respondent further submits with reference to averments in para Nos.6, 7 and 8 of the affidavit that the contention of the petitioner is not correct. The lands said to be belonging to the grandmother of the petitioner has been acquired for the public purpose. Hence, the provision of Section 48-B of the Land Acquisition Act is not applicable for the present case. Subsequently, the Hon'ble Supreme Court of India, during 1996 in Civil Appeal No.1867 of 1992 excluded a small extent of land measuring 1.5 Acres in S.No.167/1B for the family members for residential purposes. Further, the Government in G.O.Ms.No.185, Planning, Development and Special Initiatives (SI) Department, dated 07.10.2011 have allotted an extent of 30 Hectares in Koyambedu Village for the development of CMRL Depot cum allied facilities in KWMC. CMDA then passed orders to release the above said 1.50 acres to the land owners. Further, the lands allotted to Chennai Metro Rail Limited have been taken over by CMRL for their depot cum allied facilities which is for a public purpose. The fifth respondent further submits with reference to averments in para No.9 of the affidavit that the contention of the petitioner is not correct. This Court passed interim orders on 05.08.2010, after appearance of the fourth respondent i.e. M.D., CMRL in W.P.No.17867 of 2010 and filed counter stating that, by applying the urgency provision under Section 17 of the Land Acquisition Act, the lands are sought to be acquired for the public purpose viz., development of depot cum allied facilities in KWMC. Further, the fresh acquisition proceedings were challenged in W.P.No.20769 of 2010, which is still pending before the Court for orders.

19. The fifth respondent further submits with reference to averments in para Nos.10 to 17 and Grounds (a) to (y) of the affidavit that earlier, these lands were taken over possession by Tamil Nadu Housing Board in Award No.1, dated 27.01.1983 and Award No.2, dated 28.02.1983. Later, these lands were handed over to CMDA. Subsequently, CMDA has prepared detailed plans for the development of Textile Market in KWMC. Further, the textile market project was not taken for implementation due to poor response from Textile traders. Subsequently, the Government in G.O.Ms.No.185, Planning, Development and Special Initiatives (SI) Department dated 07.10.2011 have allotted an extent of 30 Hects. in Koyambedu Village for the development of CMRL Depot cum allied facilities in KWMC. Accordingly, CMRL has taken over this land and commenced the construction activities for their Depot cum allied facilities in KWMC. As of now, there are no lands available for re-conveyance, as requested by the petitioner. Hence, the fifth respondent entreats the Court to dismiss the above writ petition.

20.The highly competent senior counsel Mr.R.Muthukumarasamy, appearing for the petitioner submits that the writ petitioner and his blood brother namely Mr.M.Nithyanandham are joint owners of dry lands measuring to an extent of 20.60 acres comprised in Survey Nos.164/1, 165, 166/2, 167/1-B, 167/2, 167/5, 167/6 and 168 situated at Koyambedu Village, now in Egmore-Nungambakkam Taluk. Originally, the property was belonging to their grandmother late Tmt.B.C.Chellammal, who expired on 24.02.1972. She had executed a Will to and in favour of the petitioner and his brother dated 20.03.1971, bequeathing all her immovable properties including the subject lands. The said lands were divided into house site plots and a layout plan was approved by the Deputy Director of Town and Country Planning, Chennai, in his proceedings dated 16.11.1970. Thereafter, the respondents had initiated land acquisition proceedings for Neighbourhood Housing Scheme. The 4(1) of notification was issued in the year 1975 in the name of late Tmt.B.C.Chellammal, the grandmother of the writ petitioner herein. As such, the acquisition proceedings had been initiated by the third respondent herein has become null and void. The husband of the said Chellammal had expired prior to her death and therefore, the petitioner and his brother have succeeded the said properties by way of a Will and they are the owners of the property. Thereafter, the acquisition proceedings under Section 5 (A) of the Old Act, enquiry was conducted by the Land Acquisition Officer in the name of the dead person namely Tmt.B.C.Chellammal. Further, under Section 6 declaration was published in the Government Gazette is not valid under law and as such the entire acquisition proceedings had not been operated over the said landed properties. Therefore, the so called acquisition proceedings cannot be permitted for operation. Further, so far the neighbourhood housing scheme had not been implemented for around 35 years. The respondents had passed an award No.1 of 1983 and award No.2 of 1983 in the name of the late Chellammal and as such the entire land acquisition proceedings are all sham and nominal. The highly competent senior counsel further submits that the compensation amount had not been paid by the respondents, further the said property still remains idle.

21.The highly competent senior counsel appearing for the petitioner supporting his arguments has submitted a detailed written submission and disclosed the entire factual position of the case and also revealed the legal portion of the case which are as follows:-

Tmt.Chellammal, paternal grandmother of M.Nithyanandam and his brother B.M.Purnachandran, who owned the aforesaid lands in Koyambedu by her registered Will in Doc.No.16-111/1971 at Sub-Registrar Office, Tiruvallur, dated 20.03.1971 bequeathed the same

in favour of her aforesaid two grandsons and Chellammal died on 24.02.1972 and that on the date of her death the two aforesaid legatees M.Nithyanandam and B.M.Purnachandran were minors. It is submitted that on 01.10.1975, Notification under Section 4(1) was published by the Government proposing to acquire 20.60 acres of land in Koyambedu covered by various survey numbers. Tmt.Chellammal was the registered owner, which was shown in the notification also. It is submitted that since the acquisition proceedings was initiated against the dead person, no notice was received by the petitioner or his brother, in the light of numerous judgments of the Hon'ble Supreme Court holding that land acquisition proceedings initiated in the name of a dead person is invalid and consequently, the Declaration under Section 6 was issued on 29.09.1978 acquiring the lands above mentioned for the K.K.Nagar Neighbourhood Scheme of the Housing Board. It is submitted that Award No.1 of 1983 for 2.59 acres and Award No.2 of 1983 for 18.01 acres was passed against the name of the deceased Chellammal. On coming to know of the above acquisition proceedings on 29.06.1983, the petitioner and his brother / legal heir under the Will, filed W.P.No.6169 of 1983 challenging the acquisition proceedings.

22. The petitioner further submits that on 22.04.1991, this Court allowed the above writ petition by judgment dated 22.04.1991 and quashed the acquisition proceedings. By this proceeding, the right of the petitioner and his brother over the lands in question was recognized and accepted. It is submitted that aggrieved by the above judgment of this Court, State of Tamil Nadu has filed a Civil Appeal No.1867 of 1992 before the Hon'ble Supreme Court. The Hon'ble Supreme Court, by an order dated 17.01.1996 allowed the civil appeals and upheld the acquisition, but however, directed exclusion of an extent of 1 Acre 50 cents comprised in S.No.167/1B which was later subdivided as S.No.9 from the acquisition. Following the said judgment, the Government of Tamil Nadu issued a Notification on 16.07.1996 under Section 48(1) of the Land Acquisition Act excluded 1.50 acres from the acquisition. It is submitted that in the above way the position as of 1996 was the acquisition in respect of 19.10 acres covered by various survey numbers was upheld for the housing scheme and 1.50 acres in S.No.167/1B stood excluded. It is further submitted that as stated already, the award for the entire extent was passed in award Nos.1 and 2 of 1983 and after the Hon'ble Supreme Court Judgment and the exclusion of the lands measuring 1.50 acres revised award was not passed. Even the original awards were furnished only after this Court issued directions on 01.03.1999 in Writ Petition No.2370 of 1999. It is submitted that the petitioner submits that in so far as 19.10 acres which had been acquired for

Housing Board, the Government had issued orders revising the purpose from housing scheme to wholesale market complex to be executed by the CMDA.

23. The petitioner further submits that the petitioner has sent a number of representations between 1996 and 2002 to the Government as well as the authorities after the exclusion of 1.50 acres from the acquisition. He further submits that there is no answer to any of the representation. Then, the petitioner moved the Hon'ble Supreme Court of India under Article 32 of the Constitution of India in W.P.No.15833 of 2002. In the writ petition, the petitioner questioned the authorities of issues of award on dead persons, non-payment of compensation after the award from the year 1983 and the way possession taken by the authorities, because the possession is with the petitioners only and after the exclusion of 1.5 acres on 16.07.1997 by the Government, the petitioner questioned the Government for not issuing fresh award under Section 11(A) of the Land Acquisition Act, 1894. Hence, the entire acquisition proceedings has lapsed. The Hon'ble Supreme Court, in its order dated 30.09.2002 granted liberty to the petitioner to move before the Madras High Court for appropriate relief. It is submitted that the petitioner has also moved this Court in W.P.No.21314 of 2003 for directions to dispose of the representations. This Court directed the Government and the authorities to consider and pass orders on merit and in accordance with the law within a period of 8 weeks. The authorities just ignored even after the direction by this Court. It is submitted that the above lands were in the possession of the petitioner and were not taken possession in accordance with law as laid down in the judgments in 1996 SC 3377. It is submitted that while the matter stood thus, the petitioner and his brother filed W.P.No.19724 of 2005 for re-conveyance of the lands measuring 19.10 acres since it was not used for any purpose. The said writ petition is still pending without any counter.

24. The petitioner further submits that while the matter stood thus, the Government initiated acquisition proceedings in the year 2010 for acquiring the 1.50 acres which was excluded by the Supreme Court for CMRL. The petitioners filed their objections and also challenged the said acquisition proceedings in W.P.No.20769 of 2010 which was dismissed. Writ Appeals filed against the said judgment were pending. It may be stated that award was passed for this 1.5 acres of land which has also been paid to the petitioner alone since in the meanwhile, the brother of the petitioner has released his rights through orders of Court in favour of the petitioner, in C.S.No.354 of 2006 dated 25.08.2010. It is

submitted that in the year 2010, the present writ petition in W.P.No.26856 of 2010 was filed to quash the entire acquisition proceedings relating to 19.10 acres on the ground that the compensation amount determined for the said lands has neither been paid to the petitioners / owners nor has been deposited in Court and that physical possession of the said lands has not been taken following the procedure contemplated by law as held by the judgment of the Hon'ble Supreme Court and this Court. It is submitted that it may be stated that till 2010 all the lands were lying vacant. After November, 2010 without following due procedure and contrary to the interim orders then prevailing in W.P.No.17867 of 2010, the respondents entered into the lands. The purpose for which the land was acquired for the Housing Board was given up. The later purpose notified for CMDA was also given up. It is now stated that apart from 1.5 acres which was acquired for CMRL, the remaining lands of 19.10 acres has also been handed over to the CMRL by CMDA. It is submitted that while the matter stood thus, the new Land Acquisition Act 30 of 2013 came into force on 01.01.2014. The petitioner therefore, filed M.P. to raise additional grounds stating that since neither compensation has been paid for the 19.10 acres nor physical possession taken according to law, the acquisition proceedings would stand lapsed. It is submitted that from the above facts, so far as 1.50 acres of land in S.No.167/1B is concerned, acquisition has been made for CMRL, compensation determined also paid. It is submitted that in so far as 19.10 acres is concerned, though award was passed in 1983, the compensation amount has neither been paid nor been deposited in Court. Further, the possession of the said lands have also not been in accordance with law as laid down by the Hon'ble Supreme Court and this Court. In view of the above facts and circumstances the acquisition proceedings in respect of 19.10 acres would stand lapsed.

25. The petitioner further submits that it may be relevant to state that two portions of land viz., one measuring 5 acres on the North West abutting Poonamallee High Road and other being 3.5 acres of land on the North East are vacant and not to be utilised. In respect of 5 acres not covered by the CMRL requirement, there are temporary sheds by the Contractor, L&T which would be vacated after the contract of the CMRL is over. The other 3.5 acres is lying vacant. Thus, out of the lands mentioned above, 8.5 acres of land is still vacant may be handed over to the petitioner which are shown in sketch annexed to this written submissions. It is further submitted that phrase "compensation has not been paid" used in Section 24(2) of the 2013 Act has also come up for consideration before the Full Bench of the Hon'ble Supreme Court in the case of Pune Municipal Corporation Vs. Harakchand

Misirimal Solanki decided on 24.01.2014 and reported in (2014) 3 SCC 183. The Hon'ble Supreme Court has held in no uncertain terms that deposit of compensation awarded under Section 11 of the 1894 act into the Government Treasury is not enough and for the purpose of Section 24(2), compensation shall be regarded to be "paid" only if the compensation is actually tendered to landowners / affected persons, or, is offered to interested persons and on their refusal to accept the same, such compensation is deposited in Court.

26. The petitioner further submits that in the case of land acquisition proceedings initiated by the respondents with respect to the subject property, no compensation amount has been offered to him at any point of time even though the award was passed way back for the past 31 years. Furthermore, no amount has been deposited in the Court upon his refusal to accept the same either. He further submits that in fact the third respondent herein had filed a counter affidavit in the earlier writ petition No.6169 of 1983 filed by him stating that the Special Deputy Collector (L.A.) Tamil Nadu Housing Board made peaceful entry upon the lands and took possession of them on 06.04.1983 and 04.06.1983 and handed them over to the requisitioning body on the same dates. He further submits that possession cannot be taken by adopting such a method and the same is in gross violation of the principles laid down by the Hon'ble Supreme Court regarding taking of possession. It is submitted that the Tamil Nadu Housing Board admitted in their counter affidavits filed in W.P.No.6169 of 1983 before this Court that at the time of Section 5A enquiry on 10.12.1975 Mr.M.Nithyanandam, one of the owners and petitioner appeared, filed his written objections stating inter alia that the aforesaid Koyambedu lands notified for acquisition under the Land Acquisition Act 1894 were owned by their paternal grand mother, Chellammal who died in 1972 and that by her registered Will of 1971 she had bequeathed the said lands in favour of Mr.Nithyanandam and his brother B.M.Purnachandran absolutely. Thus, the Land Acquisition Officer of Tamil Nadu Housing Board with knowledge of the claims of the aforesaid beneficiaries as interested persons did not take steps to given them any notice or any opportunity to submit their claims for compensation nor did they initiate fresh award proceedings showing the real owners names as persons interested as provided in Section 3(b) of the Land Acquisition Act 1894. It shows a clear non-application of mind by the officer in-charge.

27. The petitioner further submits that both the 1894 Act and 2013, being in the nature of expropriatory legislation enacted for the purpose of forcibly acquiring the lands of a citizen in the interest of the greater good, have to be construed strictly. The manner in which compensation should have been paid

has been laid out in Section 31 of the 1894 Act. The Special Tahsildar having been conferred with certain powers under the said Act, should have exercised them in the manner so provided or not exercised it all. Having passed the Award in the name of a dead person in 1983 itself, the Special Tahsildar should have tendered the payment of the compensation to the persons entitled as per Section 31(1) of the 1894 Act. If the landowner had not consented to receive the compensation, or if there is no person competent to alienate the land, or if there is any dispute as to the title, then the Special Tahsildar should have deposited the amount of compensation in the Court to which a reference under Section 18 would be submitted as per Section 31(2) of the 1894 Act. However, the Special Tahsildar has miserably failed to follow the provisions of the 1894 Act regarding payment of compensation. In addition, as stated above, the respondents have not taken possession by a procedure prescribed under law. In such circumstances, it has to be held that he is entitled to the benefit granted under Section 24 (2) of the 2013 Act. Apart from the acquisition of 1.50 Acres the petitioner moved W.P.No.17867 of 2010 challenging the acquisition of 1.5 Acres and obtained interim order dated 05.08.2010 for the entire area of 20.60 Acres of land. During the existence of interim order the CMRL took over the land from CMDA through a land delivery receipt on 22.11.2010 despite the disposal of the above writ petition on 24.01.2011, appeal filed against that order pending. It is evident that the land was vacant till 22.11.2010, taken over by the Chennai Metro Rail Limited. The news was reported in Daily Paper "Dina Malar" dated 22.01.2011 clearly shows that the vacant status, shown in the typed set of papers. Thereafter, on 22.11.2010 the petitioners filed W.P.No.26856 of 2010 challenging the possession as well as non payment of compensation pending hearing.

28. The petitioner further submits that even though the respondents herein initiated the land acquisition proceedings in 1975, he continued to be in possession of the property till November 2010. However, the fourth respondent under the guise of having obtained land transfer of the 19.10 acres acquired for the second respondent entered into the property in November 2010 and started developing the same for its use. He further submits that this was done in spite of the fact that the respondents herein had never taken possession of the property in a manner known to law. In addition, the CMRL also has not taken possession from him in a manner known to law. None of the respondents have taken possession from him in accordance with the principles laid down by the Hon'ble Supreme Court. Therefore, on coming into force of Act 30 of 2013 on 01.01.2014, the land acquisition proceedings shall be deemed to have lapsed as provided under Section 24(2) of the 2013 Land

Acquisition Act. Therefore, for the reasons stated above, the acquisition in respect of 19.10 acres will have to be declared as having lapsed in view of the new Land Acquisition Act. Hence, the petitioner entreats the Court to allow the writ petition.

29. The highly competent senior counsel Mr.R.Muthukumarasamy, appearing for the petitioner further submits that a major portion of the land is vacant and the original purpose for implementing the neighbourhood housing scheme had not been carried out and the compensation amount had also not been paid. As such, the petitioner is entitled to get relief under Section 24(2) of the New Act 30 of 2013. Hence, the highly competent senior counsel entreats the Court to allow the above writ petition.

30. The highly competent senior counsel Mr.R.Thiyagarajan appearing for the fourth respondent / Chennai Metro Rail Limited submits that the Chennai Rail Project envisages the creation of two corridors and the Phase-I starts from Washermanpet and ends at Meenambakkam Airport, for a length of 23.1 Kilometers and the second corridor starts from Chennai Central and ends at St.Thomas Mount station for a length of 22 Kilometers. For this purpose, the petitioner's lands were assigned to the fifth respondent by the other respondents. Now, the entire physical possession has been taken by the fourth respondent from the Chennai Metropolitan Development Authority. The administrative blocks were constructed and other Railway layout plans were made out. Now, the said project will be ready for occupation and operation. Accordingly, the entire lands are required to be earmarked for the Chennai Metro Rail Project which is of paramount importance to the general public.

31. The highly competent senior counsel appearing for the fourth respondent further submits that the Chennai Metro Rail Depot for housing all trains and coaches of Chennai Metro Rail is located at Koyambedu, Chennai Metropolitan Development Authority land abutting the Poonamallee High Road and Thiruvalluvar Salai. Now, the Koyambedu Station is also located in Thiruvalluvar Salai opposite to the Depot. The entrance to this Depot is from the junction between Poonamallee High Road and Thiruvalluvar Salai. As such, the entire lands are absolutely required by the Chennai Metro Rail Limited which is a major project and the entire project is almost at completion stage. The petitioner had not established the case that he and his brother are the owners of the properties by way of a Will that has been executed by the erstwhile owner Tmt.Chellammal. Further the Will had not been probated and the petitioner had not produced any title deeds pertaining to the properties which is belonging to him. The Hon'ble Supreme Court of

India passed a final Judgment on the same issue and directed the respondents to provide to an extent of 1.5 acres of lands to the petitioners for their personal residential use. The Hon'ble Apex Court Judgment has become final. Accordingly, the Hon'ble Supreme Court's order has been complied with. Therefore, the above writ petition is not maintainable.

32. The highly competent senior counsel appearing for the fourth respondent further submits that the subject matter of landed property and adjacent properties were acquired and compensation also deposited into Court. Now, the Chennai Metro Rail Limited is in possession and enjoying the same. Therefore, the petitioner is not entitled to seek remedy under the New Act. The same petitioner had filed an additional affidavit for receiving compensation amount and the same was dismissed since the amount was deposited with the Revenue Department and he was at liberty to claim the said amount from the Revenue Authorities. As per the Hon'ble Apex Court order, the State Government had withdrawn the acquisition in respect of 1.50 acres of land. Therefore, the highly competent senior counsel entreats the Court to dismiss the above writ petition.

33. The very competent Additional Government Pleader Mr.M.S.Ramesh appearing for the respondents 1 and 3 submits that the second respondent herein had requested for acquiring the petitioner's land and others lands in order to formulate the Neighbourhood Housing Scheme at Koyambedu Village. On the basis of the request, the first respondent had issued a Government Order for acquiring the lands. Accordingly, the first respondent had issued a Government Order in the year 1975 for acquiring the said lands. As per the Government Order, the third respondent had initiated Land Acquisition Proceedings under the old Act and acquired the said land after strictly complying to legal formalities. The possession had been taken over by the third respondent and the same was handed over to the second respondent herein. The Very Competent Additional Government Pleader further submits that adequate compensation had been assessed and the same was deposited into the Revenue Department. Therefore, the petitioner cannot claim any rights over the said property, besides the same issue was already decided by the Hon'ble Supreme Court and the writ petitioner had obtained a favourable order i.e. he and his brother were granted 1.50 acres from the acquired lands, which has become final. Hence, the above writ petition is not maintainable.

34. The very competent counsel Mr.B.Vivekavanam appearing for the second respondent submits that the third respondent herein had acquired the property on behalf of the second respondent for

forming the Neighbourhood Housing Scheme. Accordingly the petitioner's property and others property had been acquired totally to an extent of 218.30 acres in Koyambedu Village. After acquiring the said land, the same was handed over to the second respondent. Now, the property has been utilized for peripheral out station bus terminus and also organizing the wholesale market complex, besides some portion of the property had been handed over to the fourth respondent herein for the formation of Chennai Metro Rail Limited. Now, the entire acquired properties had been occupied by the respondents and utilizing the same for the public purpose. However, out of the acquired petitioner's lands, a portion of 1.50 acres had been handed over to the petitioner and his brother for his residential purposes as per the order of the Hon'ble Supreme Court. The award amount had been deposited and the possession had been taken by the authorities for public purpose. The compensation had been deposited in the year 1983 and therefore, the petitioner cannot seek remedy under the new Act. The very competent counsel further submits that the petitioner had so far not produced any valid title deeds for claiming ownership over the said property, especially, the said Will which had been executed by their grandmother had not been probated, which is a vital document in the instant case. Hence, the very competent counsel entreats the Court to dismiss the above writ petition.

35. Per contra, the highly competent senior counsel Mr.R.Muthukumarasamy appearing for the petitioner submits that if the rest of the vacant land is delivered to the land owner, i.e. the petitioner herein, the respondents will not be prejudiced. At the same time the second respondent had not utilized the acquired properties for their original purpose i.e. Neighbourhood Housing Scheme. The highly competent counsel further submits that now the acquired properties are diverted to other purposes. As per the Hon'ble Supreme Court order, the second respondent had released 1.50 acres in favour of the petitioner and his brother. The highly competent counsel further submits that if this Court directs the respondents to release unutilized vacant land to the petitioner, it will not run against the Hon'ble Supreme Court's order. Further, the original owner had expired on 24.02.1972 after executing a Will in favour of the petitioner and his brother and as such the notification had been issued in the name of the deceased person on 01.10.1975 is not valid. Thereafter, the declaration was issued under Section 6 of the Act dated 29.07.1978. Subsequently, two awards have been passed dated 29.01.1983 and 28.02.1983 respectively in the name of the deceased person.

36. The highly competent senior counsel appearing for the petitioner further submits that the petitioner and his brother had

filed a writ petition in W.P. No.6169 of 1983 and challenged the acquisition proceedings before this Court and the entire acquisition proceedings were quashed and the writ petition was allowed. Aggrieved by the same, the State Government had filed an appeal before the Hon'ble Supreme Court of India and the appeal was disposed of with a direction to the Government to exclude 1.50 acres from the acquisition of the lands i.e. out of 20 acres and 60 cents. Accordingly, the State Government had given a notification and excluded the land to an extent of 1.50 acres comprised in Survey No.167/9 and the Special Tahsildar, Land Acquisition informed to the petitioner about the withdrawal of petitioner's land to an extent of 1.50 acres from the acquisition proceedings by its letter dated 21.08.1996.

37. The highly competent senior counsel appearing for the petitioner submits that the petitioner had filed a writ petition in W.P.No.15833 of 2002, seeking direction to the Government of Tamil Nadu to release the balance lands from acquisition. The Hon'ble Supreme Court of India was pleased to give liberty to the petitioner to file a writ petition before this Court and accordingly the writ petitioner has filed writ petition in W.P.No.19724 of 2005 and sought re-conveyance of lands from acquisition proceedings under Section 48-B of Land Acquisition Act, 1894 in respect of 19.10 acres. Under these circumstances, the respondent had issued notice dated 23.12.2008 for acquiring the lands to an extent of 1.50 acres of land for Chennai Metro Rail Project Limited. The petitioner also sent a reply on 02.02.2009. Subsequently the State Government had issued a Government Order for acquiring the said land 1.50 acres for the formation of Chennai Metro Rail Project. Against the said notification, the petitioner has filed another writ petition No.17867 of 2010 for a direction to the Government to hand over the land measuring to an extent of 1.50 acres with the specific boundaries, the another writ petition No.20769 of 2010 filed for quashing the Government Order for acquiring the 1.50 acres. The acquisition proceedings under Section 4(1) of the Act dated 28.07.2010 has been stayed. Thereafter, the writ petitioner has filed a suit for specific performance against his brother in C.S.No.354 of 2006 on the file of this Court. The said Civil Suit had been amicably settled between the parties. On the basis of a compromise on the terms and conditions, this Court granted a decree in favour of the petitioner. Now, the writ petitioner has filed the above writ petition and challenged the entire notification dated 29.09.1978 is not valid since the acquisition proceedings had been issued on the deceased person namely Tmt.B.C.Chellammal, who was the grandmother of the petitioner herein. The highly competent counsel appearing for the petitioner further submits that all the respondents had not

furnished correct details regarding the occupation and usage of the acquired land by the fourth respondent / The Chennai Metro Rail Limited. Actually a vast land is vacant out of 20.60 acres of land. The highly competent counsel further submits that the compensation amount had not been paid. However, the two writ petitions had been filed against the respondents in respect of 1.50 acres were dismissed. Now, the petitioner has filed an appeal before this Court. Further, the fourth respondent had issued a notice to the petitioner for acquiring the 1.50 acres from the petitioner and his brother. This is the current prevailing position. Hence, the highly competent counsel entreats the Court to allow the above writ petition.

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

(i) The Land Acquisition Proceedings had been initiated by the respondents 1 and 3 for acquiring the subject lands to an extent of 20.60 cents, situated at Koyambedu Village in various Survey Numbers. The said notification was issued on 01.10.1975 in the name of the deceased person namely B.C.Chellammal (Late), who expired prior to the notification i.e. 24.02.1972, which is a grave error committed by the land acquisition officer.

(ii) Subsequently, the Land Acquisition Officer had issued a declaration under Section 6 of the Act on 29.09.1978 and thereafter Award Nos.1 and 2 were passed dated 29.01.1983 and 28.02.1983 respectively. These proceedings were also passed in the name of the deceased person. It clearly shows that the Land acquisition Officer had not applied his mind to carry out the acquisition proceedings in an appropriate manner. Therefore, the said acquisition proceeding is unfit to operate over the said lands for acquisition.

(iii) Now the fourth respondent, namely Chennai Metro Rail Limited has occupied the said lands as per the counter statement filed by the fourth respondent, supporting which, the highly competent senior counsel appearing for the fourth respondent has produced coloured photographs indicating that the fourth respondent has constructed an Administrative Block and also formation of Railway lines and infrastructures and as such, the entire lands were occupied by the fourth respondent. However, this Court is of the view that there is no authenticated documents to prove that the entire lands i.e. to an extent of 20.60 acres occupied by the fourth respondent herein. Therefore, all the respondents herein are directed to conduct a spot inspection in the presence of the petitioner for arriving at a correct conclusion as

to what is the minimum requirement of land needed by the fourth respondent and thereafter the excess of vacant lands, if any shall be handed over to the petitioner herein with an appropriate order along with a fresh sketch within a period of two months from the date of receipt of this order.

39. In the result, the writ petition is disposed of. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst. Registrar (CS III)

/true copy/

Sub Asst. Registrar

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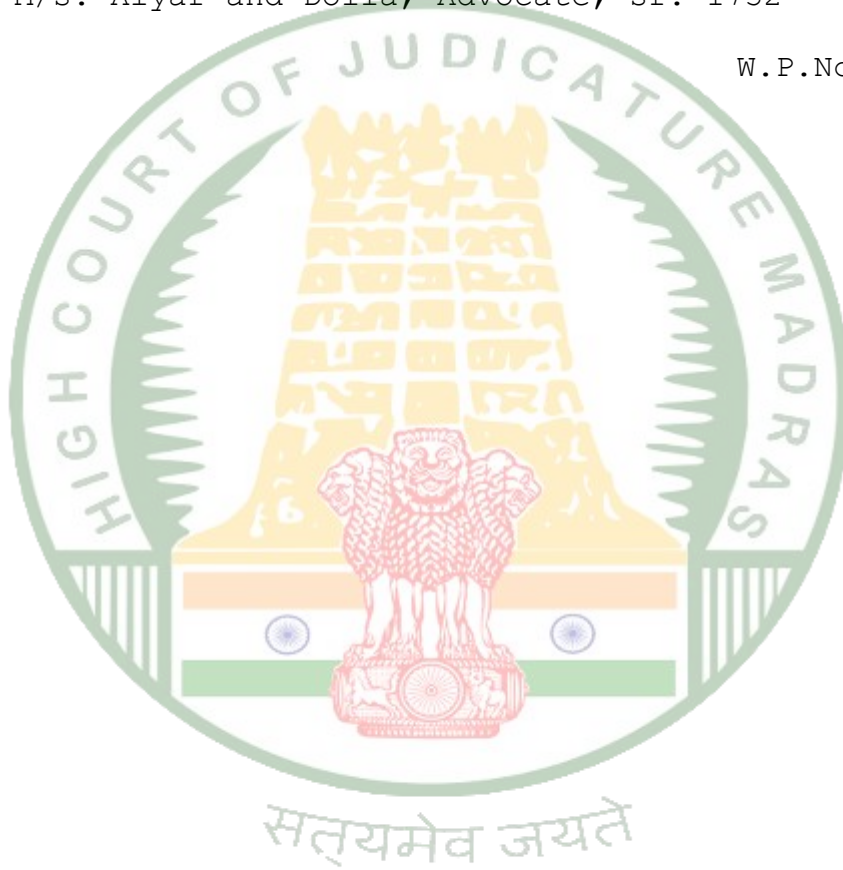
1. The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Chennai-600 009.
2. The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai.
3. The Special Tahsildar,
(Land Acquisition-III)
Tamil Nadu Housing Board Scheme,
Nandhanam, Chennai 600 035.
4. The District Revenue Officer and
Project Implementation Officer,
The Chennai Metro Rail Limited,
No.11/6, Seethammal Road,
Alwarpet, Chennai - 600 018.

5.The Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.8, Gandhi Irwin Road,
Egmore, Chennai 600 008.

2 ccs to M/s. P. mahaadevan, Advocate, sr. 1574
1 cc to M/s. Aiyar and Dolia, Advocate, sr. 1732

W.P.No.26856 of 2010 &
M.P.No.1 of 2014

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