

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON:17.09.2014

DATED:11.01.2016

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.27109 of 2007

1.M/s.Telecommunications Private Limited,
Rep by its Director R.Ravchandran,
No.1F, Century Plaza,
Nos.560-562, Anna Salai,
Teynampet, Chennai - 600 018.

2.Mr.R.Ravichandran
3.Janaki Ravichandran

... Petitioners

vs.

1.The Government of Pondicherry,
Revenue Department,
Rep by Additional Secretary (Revenue),
Pondicherry.

2.The Deputy Collector,
Revenue South,
Government of Pondicherry, Villianur,
Pondicherry.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari or any appropriate Writ, Order or Direction in the nature of Writ of Certiorari to call for the records of the 1st respondent in G.O.No.27, Revenue Department dated 04.03.2005 and G.O.Ms.No.58, Revenue Department dated 05.05.2005 published in Daily Thanthi and quash the same in so far as it relates to the lands of the petitioner of the lands of an extent of 17.50.00 Hectares of land in T.S.No.177 of Pillaiyarkuppam Village.

For Petitioner ... Mr.C.T.Murugan
for M/s.A.L.Gandhimathi

For Respondent ... Mr.R.Sreedhar
Government Advocate (Pondicherry)

ORDER

The 2nd petitioner submits that the petitioners are commonly aggrieved against the respondents herein and are the owners of undivided share of lands in one property which is the subject matter of the present litigation in S.No.1308 in an extent of 17 hectares and 50 Ares, Re-survey No.177 and Patta No.259, Pillaiyarkuppam Village. The petitioner respectfully submitted that the first petitioner herein under a registered sale deed dated 04.10.2001, registered as document No.1615 of 2001 in the Office of Sub Registrar, Bagur had purchased half undivided share of land to an extent of 17 hectares and 50 Ares in S.No.1308 in Pillaiyarkuppam Village referred to above for a sale consideration of Rs.26,25,000/- from one Tmt.Anthuvaneth Vincent, wife of Mr.Vincent Jagaraj and daughter of Lazar Arumaidas, represented by their power of Attorney Mr.Sekar.

2. The second petitioner respectfully submits that the first respondent herein had sought to acquire the lands of an extent of 29 Hectares 13 Ares and comprised in Town Survey Nos.169/1 and 170/2, Kirumambakkam Village and Town Survey No.177 of Pillaiyarkuppam Village inclusive of the lands of an extent of 17 hectares, 50 Ares and which belong to the petitioners herein for the purpose of creation of Indian Reserve Police Force in Pillaiyarkuppam and Kirumambakkam Village in Pondicherry. It is further stated that the entire compensation is to be paid out of Government Revenue notification under Section 4(1) of the Land Acquisition Act, 1894 was issued in G.O.Ms.No.25, dated 04.03.2005 and a Declaration under Section 6 of the Land Acquisition Act, 1894 was issued by the first respondent herein in G.O.Ms.No.58, Revenue Department, dated 05.05.2005. It was further stated in the said Notification that urgency under section 17 of the said Act was invoked and that within fifteen days from the date of issuance of Notification under Section 9(1) of the said Act, possession would be taken by the first respondent. The petitioner respectfully submits that the names of their vendors were shown as owners in the aforesaid Notification in respect of 17.50.0 hectares. On coming to know of the aforesaid declaration which was published under Section 6 of the Land Acquisition Act, which was published in the Dhinathanthi dated 07.05.2005, the first petitioner herein stating that the first petitioner had purchased a portion of the aforesaid property from its owners on 04.10.2001. A copy of the sale deed was also enclosed and the first petitioner requested the first respondent herein to note the petitioners herein as

legitimate owners of the said property and address all communications to the petitioners.

3. Thereafter, nothing was heard from the respondents herein and on 07.10.2005, first petitioner herein addressed another letter to the second respondent herein reminding about the earlier communication dated 09.05.2005 and also sought for a hearing before the acquisition. The said communication was duly received by the second respondent herein on 24.10.2005. In the mean time, on 20.10.2005, the second respondent herein addressed a letter to the petitioners 2 and 3 herein stating that pursuant to the enquiry which was held on 31.08.2005 under Section 17(3-A) of the Land Acquisition Act, 1894, relating to acquisition of lands referred to above, it was informed that a decision was taken, namely, that 80 percent of the total amount of compensation which works out to Rs.57,25,117/- tentatively for the lands in R.S.No.177 measuring an extent of 17.50.0 Hectares will be paid on submission of the original documents and Nil Encumbrance Certificate for 30 years and that the said amount can be claimed on any working day. Under another communication of the same date addressed to the petitioners 2 and 3 herein, the second respondent stated that the Land Acquisition Officer had proposed to take over the said lands on 27.10.2005 at 10.00 a.m., and the petitioners were requested to be present at the spot on the said date. On 27.10.2005 was a day with heavy rains, the petitioners herein were not able to be present and hence they addressed a communication on 09.11.2005 to the second respondent herein submitting a copy all the parent documents and the sale deed by which petitioners herein had purchased the aforesaid property, the encumbrance certificate for a period of 36 years and also individual letters to protest in original in respect of valuation and requested the second respondent herein to refer the matter under Section 18 of the Land Acquisition Act to the Court on behalf of all the three petitioners herein. The petitioners submitted copies of the documents and undertook to produce the originals at the time of receiving payments when notified. The petitioners also offered to give further clarification, if any required. The petitioner submits that the said letter, the subsequent correspondence was made and the Writ Petition in W.P.No.10373/2006 referred to hereinafter was filed by them under the bonafide impression and legitimate impression that the Land Acquisition was valid, legal, the purpose was genuine and there was real urgency to justify the action and there could be no challenge to the same and the petitioner has to be satisfied with the compensation only.

4. The second petitioner respectfully submits that thereafter nothing was heard from the respondents herein and petitioners sent a further reminder on 20.03.2006 calling upon the respondents 1 and 2 herein to make payment of the sum of

Rs.57,25,000/- and refer the matter to the Court with regard to the valuation. The petitioner submits that the respondents have not responded to any of the requests of the petitioners but, on the other hand, taken possession of the lands of the petitioners on 27.10.2005 and had deprived the petitioners of both of the land and the money. The respondents had not even paid the compensation as mandatorily required under Section 17 of the Land Acquisition Act till date. The final determination of compensation to be awarded had also not been made by them. As a consequence, the request of the petitioners for referring the matter to the Civil Court under Section 18 of the Land Acquisition Act has also not been done by the respondents.

5. The second petitioner respectfully submits that the action of the respondents is arbitrary, illegal and violative of Articles 14,21 and 300-A of the Constitution of India. In the above circumstances, the petitioners were constrained to file a Writ Petition in W.P.No.10373/2006 in this Court against the respondents herein praying for a Writ of Mandamus directing the respondents herein to forthwith refer the valuation and determination of the compensation in respect of the lands to an extent of 17.50.00 Hectares of land in T.S.No.177 of Pillaiyarkuppam Village pursuant to G.O.Ms.No.58, Revenue Department, dated 05.05.2005 to the Civil Court under Section 18 of the Land Acquisition Act, 1894. The petitioners also filed a Writ Miscellaneous Petition in W.P.M.P.No.11722/2006 in the said Writ Petition praying for an Interim Direction to the respondents to pay the petitioners a sum of Rs.57,25,177/- being 80% of the total amount of compensation tentatively determined by the second respondent.

6. As already submitted, he respectfully submits that the petitioners have filed the said Writ Petition only under a bonofide impression and legitimate opinion that the Land Acquisition and urgency proceedings were for a real, genuine and urgent purpose and the same could not be challenged and they had to submit themselves to the proposed acquisition. He submits that the respondents herein were by an order dated 21.06.2006 in W.P.M.P.No.11722/2006 in W.P.No.10373/2006 directed to deposit the sum of Rs.57,25,117/- within eight weeks from the date of receipt of a copy of the said order. He submits that the respondents, though not within time, have subsequently deposited the said amount before the Civil Court and have on the basis of an alleged protest referred the determination of entitlement to the Civil Court under Section 30 of the Land Acquisition Act, 1894, there is no doubt at all that the petitioners are the true, registered owners of the property in question. Yet as a clear abuse of power, to disable the petitioners in order to have the compensation. As such petitioners, though sought to be deprived of lands, have not been allowed to have the compensation. He submits that the lands which are sought to be

acquired for the alleged public purpose of establishing Indian Reserve Police Force and which were sought to be taken possession within 15 days from the date of Section 6 declaration, namely 05.05.2005 under urgency clause, even without an enquiry under section 5A of the Act, were not taken possession of for long. Possession itself was sought to be taken only on 27.10.2005. Further, the land has also not been utilized for the alleged urgent need, namely for establishing the Indian Reserve Police Force. He submits that the Government of Puducherry has utilized some other land at Gorimet for the said purpose and the establishment therein has also been made and inauguration was celebrated on 15.06.2007 by the Hon'ble Chief Minister, Puducherry on 15.06.2007. At that time it has been suggested that the lands of the petitioners were going to be used for Tourism Development purpose. He respectfully submits the action of the respondents in acquiring the lands even without an enquiry under Section 5A of the Act, on an alleged urgent need and not utilizing the same for the said alleged urgent need for more than two years and contemplating to use it for some other need which is obviously not an urgent need, is a fraud against power. It is a clear case of deprivation of property illegally and otherwise than in accordance with law. He submits the petitioners themselves had purchased the lands only with a legitimate hope to develop the land into a theme park with all added attractions, conveniences and facilities but their plans were crushed under the guise of acquisition. The petitioners have to remain silent without protest to the acquisition till now as they legitimately believed the acquisition was actually for establishing the Indian Reserve Police Force and it was a really urgent purpose. Now, the truth has shown itself. The fraud on power has revealed itself. He is advised to submit there is no estoppel against the constitution and stature. Further, no one has been prejudiced by not challenging the acquisition till now. That apart the cause of action for the challenge has arisen only now. He respectfully submits that the impugned acquisition is arbitrary, illegal, unjust and unsustainable in law and deserves to be quashed.

7. The 2nd respondent has filed counter statement and the same was adopted by the 1st respondent. The second respondent submits that the same writ petitioner has filed in W.P.No.10373/2006 seeking the relief for payment of 80% of the compensation in the said writ petition having made averments which are perfectly the same in this writ affidavit from paragraph 1 to 16 and as such the reply filed in the said writ petition being the same in respect of those paragraphs. He submits that at the instance of the Superintendent of Police (HQ), Police Department, Pondicherry Land Acquisition Proceedings were initiated to acquire the lands in R.S.Nos.1691/1 and 170/2 of Kirumampakkam Village and R.S.No.177

of Pillaiyarkuppam measuring to a total extent of 29-13-00 Ha. by invoking urgency clause under Section 17(3A) of the Land Acquisition Act by dispensing with the enquiry under section 5 (A) of the Act 1894. The notification under section 4(1) of the Land Acquisition Act was submitted to the Government on 15.02.2005 and the same was approved by the Government vide G.O.Ms.No.27, dated 04.03.2005 of the Revenue Department, Puducherry and published in four modes as contemplated in the Land Acquisition Act has been dispensed with, since the lands have been proposed to be acquired by invoking urgency clause of the Act. Consequently, declaration under Section 6 was approved by the Government vide Department's G.O.Ms.No.58, dated 05.05.2005 and published in four modes as contemplated in the Land Acquisition Act.

8. The respondent further submits that after publication of 6 declaration, the petitioner along with two interested persons viz., Manjiny and Chandirasekaran have produced the copy of the documents and claimed ownership right over the property for land under acquisition. Accordingly, the following names have been included as the interested persons for the land under acquisition for further proceedings:

- (i) M/s.Telecommunication Private rep. by its Managing Director R.Ravichandran
- (ii) R.Ravichandran, S/o.N.V.Ravichandran
- (iii) Janaki Ravichandran, W/o.Ravichandran
- (iv) Manjiny
- (v) Chandirasekaran

9. The respondent further submits that an enquiry was conducted by the Land Acquisition Officer on 31.08.2005 for tendering 80% of compensation amount under section 17(3) of the Land Acquisition Act, so as to take over possession of the lands. During this enquiry, none of the petitioners have appeared and produced original documents for the payment of compensation. As such the land was taken possession and handed over to the requisitioning department. Subsequently, as per section 9(3) and 10(1) of the Land Acquisition Act, the Award enquiry was conducted by the Land Acquisition Officer on 22.11.2005, for deciding rightful ownership of the land under acquisition. The third petitioner Tmt.Janaki, W/o.Ravichandran had appeared before the Land Acquisition Officer and produced the copy of the documents. Similarly, the other interested persons viz., Manjiny and Chandirasekaran have appeared and produced copy of the documents and claimed compensation to an extent of 01-16-00 Ha. each.

10. The respondent submits that the Writ Prayer "for issuance of a Writ of Mandamus or any appropriate Writ, order or Direction in the nature of Writ of Mandamus directing the respondents herein to forthwith refer the valuation and

determination of the compensation in respect of the lands to an extent of 17.50.00 Hectares of land in R.S.No.177 of Pillaiyarkuppam Village pursuant to G.O.Ms.No.58, Revenue Department dated 05.05.2005 to the Civil Court under section 18 of the Land Acquisition Act 1894. Obviously this prayer cannot be sustained before this Court by the petitioners by any act of recourse to Art 226 of the Constitution. Where notice of passing of award is given under section 12(2) of the Land Acquisition Act and any land owner dissatisfied with the quantum of compensation determined by the Land Acquisition Officer the said land owner can present a petition to the Land Acquisition Officer seeking reference to the Civil Court by virtue of section 18 of the Land Acquisition Act. Apparently, the petitioners who claimed to have received the notice of passing of the award and of the taking of the possession in accordance with the section 12(2) of Land Acquisition Act have preferred a petition for referring the matter to the Civil Court by the Land Acquisition Officer. The reference under section 18 was made by the Land Acquisition Officer to the Lower Court for determination of the enhanced compensation.

11. The respondent submits that the petitioners without prejudice to the submissions made above, claim that by virtue of a sale deed dated 04.10.2001 had purchased undivided half share of land to an extent of 17 hectares and 50 Ares from one Tmt.Anthuvaneth Vincent represented by their Power of Attorney agent one Sekar. Further claim is that the third petitioner had purchased 1/4th share of land in the aforesaid 17 Hectares and 50 Ares from one Paul Radjanedssou and Anthuvan Vallabe Mariadassou through several Power of Attorney Agents and the sale deed was also registered. Similarly, it is claimed that the second petitioner purchased 1/4th share of the aforesaid 17 Hectares and 50 Ares from the above same persons by another document. The petitioners further contended that they addressed a letter dated 09.05.2005 followed by another letter dated 07.10.2005 as a reminder and despite that there was no response and that on 20.10.2005, the respondent addressed a letter to the petitioners 2 and 3 stating that they could come and receive Rs.57,25,117/- representing 80% of total amount of the compensation to be awarded for the acquisition of land and that there was also further communication to the petitioners about taking of possession of the land on 27.10.2005 at 10.00 a.m., and because of the rains they were not present on the spot thereby apparently expressing no objection regarding taking the possession as well as the process of acquisition.

12. The respondent submits that the petitioners have not referred to the developments subsequent to the letter of this Office dated 20.10.2005 requesting them to receive the amount of 80% of the compensation upon production of the original documents proving the ownership of the property. To the said

letter on 09.11.2005 the first petitioner claimed that the Photostat copies of the document under which they would claim title were being handed over and that "he shall submit the Original documents while he receives the payment from the respondent, when notified". This letter was received by the second respondent on 10.11.2005. But subsequent thereto the petitioners never turned up. Therefore, the originals were not produced as claimed by them. He submits that in the meanwhile, as their records reveal that one lady by name Ramola Jegannathan Rayor claiming to be the daughter of the original owner of the property by viz., Anthuvanath Vincent has submitted a deed of Power of Attorney whereby it is found that the original owner has given power to deal with the sale of the properties in her favour only and that subsequently without any reference to such power of attorney deed another power of attorney is for second time given while the earlier power of attorney given to his daughter is subsisting obviously, the sales invoked by these petitioners as having been taken by Om Sakthi Sekar cannot be valid. In such circumstances, there is a dispute in regard to the title in terms of section 3(2) of the Land Acquisition Act.

13. The respondent further submits that this is a matter where the Government have invoked section 17(4) of the Land Acquisition Act on the basis of existence of urgency and therefore had to comply with section 17(3) (A) which provides for tendering of payment of 80% of the compensation to the interested persons before taking possession and pay the same to them unless prevented by someone or more contingencies mentioned in sub section 2 of section 31 and where the Collector is so prevented, he shall apply the provision of section 31(2). He submits that Section 31(2) stipulates that if there is any dispute as to title the Collector shall deposit the amount of compensation in to the Court to which a reference under Section 18 would be submitted.

14. The respondent submits that the lady by name Ramola Jegannathan Rayor, who is a daughter of the original owner, has submitted her objections in regard to the maintainability of the claims of the petitioners and the validity of their sales. In such circumstances it is only the Civil Court which can decide on this question. Therefore, in the absence of production of the original documents by these petitioners and in the light of the application of Section 31(2) read with section 17(3) (A) the prescription under Section 17(3) (A) r/w 31(2) applies and the deposit of the money into Court has to be made. Therefore, in such circumstances, they took steps to deposit the money into the Court. He submits that in this matter already the Government has taken possession of the land for public purpose by invoking urgency clause on tendering of 80% of the compensation. He submits that in view of the dispute in the matter of interest in the land the amount has already been

deposited with the Court. As such, the averments in the paragraphs 9 to 12 are factually incorrect and are denied.

15. The respondent submits that consequently, individuals under section 9(3) and 10 have been sent to the land owners/interested persons fixing 22.11.2005 as the date of award enquiry for deciding the ownership and apportionment of the compensation and the same was conducted by the Land Acquisition Officer as scheduled. Tmt.Janaki W/o.Ravichandran had appeared before the Land Acquisition Officer for enquiry and produced the copy of the documents. On verification of the documents, it reveals that in the year of 2001, Thiru.Ravichandiran, S/o.Ramamurthy and Tmt.Janaki W/o.Ravichandran, Director of Telescreen Communications Pvt Ltd., Chennai had purchased the land from Thiru.S.Segar, Power Agent of Anthuvanath Vincent W/o.T.S.Vincent Jagaraj to an extent of 8-75-00 Ha. vide document No.1615/2001, dated 04.10.2001. However, on perusal of the petition filed by Tmt.Anthuvanath Vincent W/o.T.S.Vincent Jagaraj had already given power of attorney to her to an extent of 2-19-00 Ha in R.S.No.177 vide Document No.908/98 dated 23.06.1998. Tmt.Anthuvanath Vincent has given Power of Attorney in respect of this portion i.e., 2-19-00 Ha as well as the remaining portion i.e., 6-56-00 Ha to Thiru.Segar vide Doc.No.71/2001, dated 20.09.2001. He submits that in accordance with 6 Declaration issued within 45 days from the date of 4(1) Notification, 6 land owners were identified and specified in 6 Declaration. In view of the invoking of the Urgency Clause, a tender of 80% of the compensation amount was made to them by notice dated 20.10.2005, whereby they were required to produce all their original documents and take the amount of 80%. But they did not turn up to accept the tender and receive the amount on production of original documents evidencing their holding of title to the property. Therefore, in these circumstances resort had to be made to Section 31(2) of the Act for purpose of deposit of the amount and further process was made. Now it is open to the claimants (land owners) to approach the Civil Court for the purpose of apportionment of the compensation amount in accordance with Section 30 of the Land Acquisition Act. Further, the land was taken possession on 27.10.2005 and handed over to the requisitioning department on the same day. He submits that as per provision under section 18 of the Land Acquisition Act, if any person interested who has not accepted the Award passed by the Land Acquisition Officer, shall make a written application requesting to refer the matter to the Court for determination of higher compensation within six weeks from the date of receipt of notice under section 12(2) of the Act from the Land Acquisition Officer or within the period of six months from the date of Collector's Award, whichever period shall first expire.

16. The respondent submits that in this case, the petitioner has filed an application before the Land Acquisition Officer to refer the matter to Civil Court under Section 18 of the Act for higher compensation before the date of passing Award and requested to tender 80% of compensation amount to the total extent of land under acquisition when dispute arises while settlement of the compensation to the land owners/interested persons. Similarly, he submits that the averment in 13 to 15 is also baseless and denied. There is no merit at all in the averment to the effect that the Government have invoked urgency clause and taken possession have not utilized the land. Obviously, in accordance with the invoking of urgency clause the lands have been taken possession and handed over to the requesting department, namely, the Police Department for the purpose of utilization for Indian Reserve Battalion. Therefore, the purpose of the lands for which it is acquired has been already fulfilled and this petitioner cannot questioned the same in this manner and it is not open to him either to suggest in which way the lands are to be utilized and it is only for the requesting department to decide which is also part of the Government. Hence, the respondent prays to dismiss the writ petition.

17. The learned counsel Mr.C.T.Murugappan, appearing for the petitioner submits that the petitioners are the owners of the land comprised in Survey No.1308, situated at Pillaiarkuppam Village, to an extent of 17 Hectares 450 Ares. The petitioners have purchased the said property under a registered sale deed dated 04.10.2001. The 1st respondent herein had sought to acquire the lands to an extent of 29 Hectares, 13 Ares and to an extent of 17 Hectares, 15 Ares in two different survey numbers for the purpose of creation of Indian Reserve Police Force. The respondent had issued notification under Section 4(1) of the Old Act. Subsequently, declaration was published under section 6 of the Act. The respondent had initiated land acquisition proceedings under the emergency Clause Section 17 of the Act. After, knowing the declaration published by the respondents, the petitioner submitted a letter to the 1st respondent to note the petitioners herein as legitimate owners of the said property and address all communication to the petitioners. Similar letter also has been communicated to the 2nd respondent. It was informed that a decision was taken that 80% of the total amount of compensation will be paid on submission of the original documents and nil Encumbrance Certificate for a period of 30 years and the said amount can be claimed on any working day. Under these circumstances, the 2nd respondent sent a communication to the petitioners and informed that the land Acquisition Officer had proposed to take over the said lands on 27.10.2005. The petitioners were not able to be present due to heavy rain.

18. The very competent counsel further submits that the respondents had not responded to any of the request of the petitioners. On the other hand, the possession was taken by the respondents on 27.10.2005, without paying compensation as mandatorily required under Section 17 of the Old Act. The action of the respondents is arbitrary and they had not adhered to the land acquisition proceedings. The petitioner filed a writ petition No.10373 of 2006 to direct the respondents to refer the valuation and determination of the compensation in respect of the lands. The petitioner also sought interim direction to pay the 80% of the compensation tentatively within a period of eight weeks. Further, the Government of Pondicherry has utilized some other land at Gorimet for the said purpose and also implemented the said scheme. Further, the respondents had changed his view that the subject lands are going to be used for tourism development. Hence, the learned counsel entreats the Court to quash the said acquisition proceedings.

19. The learned counsel has submitted judgments reported in 2004 (8) Supreme Court Cases 14 in Union of India and Others Vs. Mukesh Hans.

"A.Land Acquisition Act, 1894 Ss.17(4) (1) & (2), 4(1), 5-A,6,7,9,11 and 16 - Dispensing with S. 5-A inquiry by invoking S.17(4)-Proper course for - Right of owner/person interested under S. 5-A - Nature of S. 5-A inquiry, held, can be dispensed with only after the appropriate Government forms an opinion that along with the existence of urgency under S.17(1) of unforeseen emergency under S.17(2), there was also a need to dispense with S. 5-A inquiry - Mere existence of such urgency or unforeseen emergency not by itself sufficient - Rule against redundancy, applied for interpretation - Further held, the limited right of an owner/person interested under S. 5-A to object to the acquisition proceedings is not an empty formality but is a substantive right which can be taken away only for good and valid reason and within the limitations prescribed under S. 17(4) - Hence, such a decision must be based on material on record - In the present case, notification under S.4(1), showing the need of land for conducting the concluding ceremony of a festival, declaring S.17(1) to be applicable and dispensing with S.5-A inquiry - Declaration under S.6 issued simultaneously - No material on record showing discontinuance of the festival for want of land or any hindrance in using the land so far used for that purpose - An earlier attempt to acquire that land for the very same purpose having been allowed to lapse by efflux of time but the

authority dispensing with S.5-A inquiry not made aware of this fact - Moreover, no reference in the notings in the file, to the need of invoking S.17(4) - In such circumstances, High Court rightly held that the decision to dispense with S.5-A inquiry stood vitiated by non-application of mind.

B. Constitution of India - Art.136 - maintainability - Infructuous appeal of petition-Land Acquisition Proceedings - Notification issued under S.4(1) Land Acquisition Act, declaring S.17(1) thereof to be applicable and dispensing with inquiry under S.5-A - Simultaneously declaration under S.6 also issued - High Court quashing the declaration under S.6 on the ground that the decision to dispense with the inquiry under S.5-A suffered from non-application of mind but permitting the acquisition proceedings to continue from the stage of notification under S.4(1) - Government filing appeal - During the pendency of the appeal, the authorities concerned conducting inquiry under S.5-A and issuing a fresh declaration under S.6 - In such circumstances, the Government's appeal whether ceased to be maintainable - Question left open - Land Acquisition Act, 1894, Ss 4(1), 5-A and 6."

20. The learned counsel Mr.R.Sridhar, appearing for the respondents submit that the petitioner has filed writ petition on an earlier occasion in W.P.No.10373 of 2006. The land acquisition proceedings had been initiated for the purpose of establishing Police Force, under the emergency clause. In the said writ petition, the petitioner sought relief for payment of 80% of the compensation. The said lands have been acquired after observing necessary formalities. Declaration also has been published. Under the circumstances, the petitioners and two others have produced the copy of the documents and claimed ownership over the said properties. The respondent had conducted enquiry on 31.08.2005 for tendering 80% compensation amount under section 17(3) of the Act. But, during enquiry, none of the petitioners have appeared and produced required original documents for the payment of compensation. Therefore, the land was taken possession and handed over to the Requisitioning Department. Subsequently, award enquiry was conducted and at that time, Mrs.Janaki, the 3rd respondent herein had appeared before the land Acquisition Officer. Similarly, other interested persons, viz., Manjiny and Chandrasekaran have appeared and produced the copy of the documents and claimed compensation to an extent of 01.16 Hectares each. The writ prayer for issuance of mandamus directing the respondents to refer the valuation and determination of the compensation in respect of the lands to an

extent of 17.50 Hectares comprised in R.S.No.177, Pillaiyarkuppam Village. Under these circumstances, the present prayer in the writ petition is not maintainable.

21. The learned counsel further submits that the respondent had sent a communication and directed the petitioner to come and receive 80% compensation amount tentatively. Further it was informed to them about taking of possession of the lands on 27.10.2005. The petitioner's apparently expressed no objection regarding taking the possession as well as the process of acquisition. The petitioner had not produced original documents to receive the compensation. As per the Government records, one lady by name Ramla Jaganatha Rayur, claiming to be the daughter of the original owner of the property by name Anthuvanath Vincent, has submitted a deed of power of attorney whereby it is found that the original owner has given power to deal with the sale of the properties in her favour only. Likewise, another Power Agent viz., Om Sakthi Sekar also is claiming similar relief.

22. On considering the facts and circumstances of the case and arguments advanced by the learned counsel on either side and on perusing the typed set of papers, this Court is of the view that the respondents had acquired the lands under the emergency provision after observing necessary legal formalities and had taken the possession on 27.10.2005. The writ petitioners, initially sought compensation. As per the counter statement filed by the respondents. Some other persons also are claiming ownership over the said properties and claiming compensation. As such, the petitioners prayer to quash the acquisition proceedings is not appropriate. Therefore, the above writ petition does not generate enough force to allow it. Hence, the above writ petition is dismissed. No Costs. Connected MP is Closed.

सत्यमेव जयते

-s/d-

Assistant Registrar

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Sub-Assistant Registrar

To

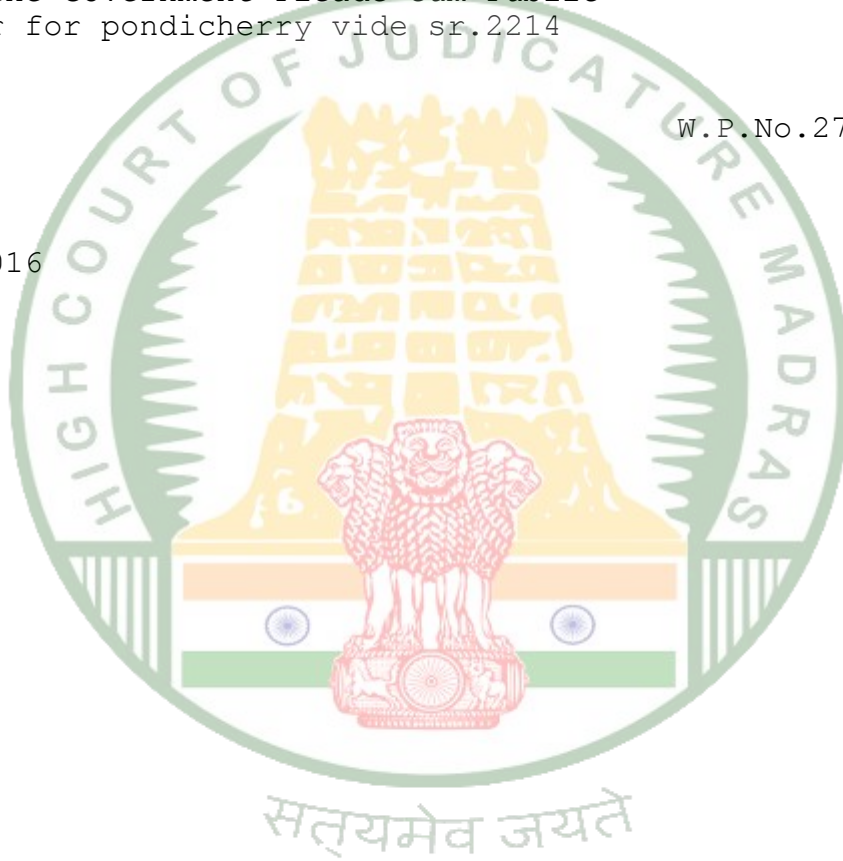
1.The Additional Secretary (Revenue),
Revenue Department,
Government of Pondicherry
Pondicherry.

2.The Deputy Collector,
Revenue South,
Government of Pondicherry, Villianur,
Pondicherry.

+1 cc to the Government Pleade-cum-Public
Prosecutor for pondicherry vide sr.2214

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