

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :: 21.11.2017

Delivered on : 28.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.Nos.691 of 2015 and 1374 of 2017

W.A.No.691 of 2015 :-

1.The Chairman,
Thiruvottiyur Municipality,
Thiruvottiyur, Chennai 19

2.The Commissioner,
Thiruvottiyur Municipality,
Thiruvottiyur, Chennai 19

versus

1.R.Revathy

2.The Principal Secretary to Government,
Municipal Administration & Water Supply Department,
Secretariat, Chennai 9

3.The State of Tamil Nadu,
rep. By the Secretary to Government,
Revenue Department, Fort St.George,
Chennai 600009

4.The Chairman,
Chennai Port Trust,
Chennai 600 001

... Appellants

सत्यमेव जयते ... Respondents

Appeal filed against the order passed by this Court dated
6.1.2015 passed in W.P.No.16146 of 2010

W.A.No.1374 of 2017 :-

The Chairman,
Chennai Port Trust,
Chennai 600 001

... Appellants

versus

1.R.Revathy

2.The Principal Secretary to Government,
Municipal Administration & Water Supply Department,

Secretariat, Chennai 9

3.The State of Tamil Nadu,
rep. By the Secretary to Government,
Revenue Department, Fort St.George,
Chennai 600009

4. The Chairman,
Thiruvottiyur Municipality,
Thiruvottiyur, Chennai 19

5. The Commissioner,
Thiruvottiyur Municipality,
Thiruvottiyur, Chennai 19

...Respondents

Appeal filed against the order passed by this Court dated
6.1.2015 passed in W.P.No.16146 of 2010.

W.P.No.16146 of 2010:

Writ petition is filed under Article 226 of the constitution
of India for issuance of a Writ of Certiorarified Mandamus
calling for the records pertaining to the impugned order dated
22.08.2008 in the letter Ni 14428/MAV/2007-7 passed by the first
respondent and quash the same and consequently direct the
respondents to recovery the property situate in survey No
35/2,36/2,37,62/1,62/2 and 63/2 at Thiruvottriyur Village,
Measuring 13.93 acres in favour of the petitioner.

Appearance :-

Mr.V.Ayyathurai,
Addl. Advocate General :: for appellant in W.A.No.691/2015
for Mr.S. Saravanan and respondents 4 and 5 in
W.A.No.1374/2017

Mr.S.Prabhakaran, Senior Counsel,
for M/s.P.S.Amalraj :: for R-1 in W.A.Nos.691/2015
and 1374/2017

Mr.S.Krishna Ravindran :: for R-4 in W.A.No.691/2015 and
appellant in W.A.No.1374 of 2017

Mrs.Sri Jayanthi, Spl.G.P. :: for respondents 2 and 3
in W.A.Nos.691/2015 and 1374/2017

COMMON JUDGMENT
K.K.SASIDHARAN, J.

Introductory:-

The land acquired by the State for a water supply project
floated by the Thiruvottiyur Municipality, which is now part of
Greater Chennai Corporation was partly utilized for the scheme

and the remaining land could not be used on account of the replenishment of sea water and later, when it was found that there was heavy traffic congestion in the area on account of parking the container trucks coming to the Chennai port, the Government of Tamil Nadu took a conscious decision to allot the land to the Chennai Port Trust to establish a container station with customs warehousing. The container terminal has been in operation from 1 May 2007 on the basis of the lease given by the Thiruvottiyur Municipality in favour of the Chennai Port Trust. It was later renewed by the Chennai Corporation after the amalgamation of the Municipality. However, by order dated 6 January 2015, the learned Single Judge directed the Chennai Corporation and the Government of Tamil Nadu to return 13.93 acres of land in the possession of the Chennai Port Trust to one of the legal heirs of the erstwhile land owner on the ground that the land was not utilized for the purpose for which it was acquired. Feeling aggrieved, the local body and the Chennai Port Trust are before this Court.

The facts:-

2. The Government of Tamil Nadu at the instance of Thiruvottiyur Municipality acquired an extent of 13.93 acres of land in T.S.No.27 from the predecessor-in-interest of the respondent. The award was passed on 14 April 1964. The land was taken possession by the Thiruvottiyur Municipality and it was partly used for the water supply scheme. Due to the replenishment of sea water, the water could not be used for public consumption. The Municipality therefore, kept the remaining land unutilized. In view of the increase in the volume of cargo handled by Chennai Port Trust and more particularly containerized cargo, there was heavy traffic congestion on the Ennore Expressway, Manali Road, TPP Road and Inner Ring Road, which form the Northern corridor from NH4 and NH5. There was wide opposition from the public for use of the road by container trucks. It was aggravated on account of the several road accidents that took place in and around the area. The Chief Secretary to the Tamil Nadu government therefore convened a meeting of the officials of Chennai Port Trust, police department, Thiruvottiyur Municipality and all other stake holders to resolve the traffic bottleneck. In the said meeting a decision was taken to allot 11.26 acres of unutilized land belonging to the Thiruvottiyur Municipality to the Chennai Port Trust on lease, initially, for a period of three years. The Chennai Port Trust agreed to establish a transit parking terminal of container trailers as per standard terms. The land was initially given by lease deed dated 13 June 2007.

3. While so, a writ petition was filed by one of the legal heirs of the original land owner for reconveyance of the entire

acquired land on the ground that the land was not used for the purpose for which it was acquired. The writ petition filed in W.P.No.14012 of 2007 was disposed of by a learned Single Judge by order dated 18 April 2007 directing the Government to consider and dispose of the representation on merits. The representation was ultimately rejected by the government by order dated 22 August 2008 on the ground that the land has already been given to Chennai Port Trust for operating its container parking yard.

4. The order passed by the government, dated 22 August 2008 was challenged by the legal representative of the land owner in W.P.No.16146 of 2010.

5. The writ petition was opposed by the State as well as the Chennai Port Trust on the ground that the land was used for a larger public purpose and as such, the order rejecting the request for reconveyance was perfectly correct.

6. The learned Single Judge recorded the factual position that the Chennai Port Trust is utilizing the acquired land for parking container trucks and it is a public purpose. However, the learned Judge further observed that the local body is enjoying monetary benefits by giving lease. The learned Single Judge was of the view that the civil right of the private individual was violated by giving the acquired land to third parties. The writ petition was allowed and a Mandamus was issued to reconvey the land to the writ petitioner on payment of original compensation paid by the government for the acquired land.

7. There are two appeals challenging the very same order dated 6 January 2015 in W.P.No.16146 of 2010.

8. The intra court appeal in W.A.No.691 of 2015 is at the instance of the local body. The connected writ appeal in W.A.No.1374 of 2017 is filed by Chennai Port Trust.

Rival submissions:-

9. The learned Additional Advocate General contended that the acquired land was used in part for the water supply scheme. The entire land could not be used on account of the replenishment of sea water. Subsequently, when it was found that

there was heavy traffic congestion, the Government took a policy decision to allot the land to the Chennai Port Trust for establishing a container parking station. According to the learned Additional Advocate General, there is no question of exercising power under Section 48B of the Land Acquisition Act in view of the decision taken by the Government to use the land for a larger public purpose. The learned Additional Advocate General contended that before giving the land to the Chennai Port Trust on lease, a notification was published by the Thiruvottiyur Municipality, calling for objections from the public. There was no objection either from the public or from the legal heirs of the erstwhile land owners. The Municipality with the permission of the Government, granted lease of 11.26 acres of land to the Chennai Port Trust and executed a lease agreement, initially for a period of three years. The lease agreement was renewed subsequently. The learned Additional Advocate General contended that the Chennai Port Trust established a comprehensive container terminal on behalf of the Port Trust by spending considerable amount. The Container Corporation of India is now operating the container terminal on behalf of the Port Trust. The learned Additional Advocate General further submitted that no right would accrue to the land owners for reconveyance solely on the ground that the original scheme failed. It was further contended that the land was given in public interest to ease the traffic in the area. The learned Single Judge was therefore not correct in directing the local body to reconvey the land to the legal heirs of the erstwhile land owner.

10. The learned Standing Counsel for Chennai Port Trust, the appellant in W.A.No.1394 of 2014 contended that the Chennai Port Trust spent about Rs.7.5 crores for establishing the container terminal by utilizing the subject land allotted on lease. The Chennai Port Trust entrusted the container terminal to the Container Corporation of India, which again is a Public Sector Undertaking. According to the learned Standing counsel, it was only to avoid the traffic bottleneck, the State Government directed the Chennai Port Trust to establish the container terminal, without delay. The land was given in larger public interest in 2007 and as such, the learned Single Judge erred in directing return of the land.

11. The learned Senior counsel appearing for the legal heir of the land owner who filed the Writ Petition for reconveyance contended that it was only after the direction by the writ court to the Government to consider the question of reconveyance, by order dated 18 April 2007, action was taken to part with the land to the Port Trust. The learned Senior counsel submitted that the award was passed on 14 April 1964. Even after a period of 43 years, the land is not utilized for the purpose for which

it was acquired. The learned Senior counsel contended that since the land was acquired for a particular scheme, it was not proper to give it on lease to the Port Trust for profitable purpose. It was further contended that the local body is now engaged in a commercial venture by giving the land on rent. The learned Senior counsel contended that the land owner is denied of an opportunity to use the land notwithstanding the failure of the scheme for which it was acquired.

Discussion:-

12. The Government of Tamil Nadu acquired 13.93 acres of land owned by Thiru.V.T.Shanmugam, predecessor-in-interest of the petitioner in W.P.No.16146 of 2010. The land is situate at S.Nos.35/2, 36/2, 37, 62/1, 62/2 and 63/2 of Thiruvottiyur village, which is presently included in S.No.27 on the side of Ennore Expressway. The award was passed on 14 April 1964. It was acquired for a water supply scheme to provide drinking water to the local people.

13. The Thiruvottiyur Municipal council after taking possession of the land, utilized a portion of the land for water supply scheme. The scheme ended in failure due to replenishment of sea water. In view of this, water could not be used for drinking purpose. Therefore, the local body discontinued the scheme. The land was kept unutilized by the Thiruvottiyur Municipality.

14. The cargo handled by Chennai Port Trust, especially container cargo has substantially increased, causing congestion on the city roads within the jurisdiction of Thiruvottiyur Municipality viz., Ennore Expressway, Manali Road, TPP Road and Inner Ring Road, which form Northern corridor from NH4 and NH5. The roads were not only narrow but also used widely by general public. There was widespread public unrest due to the use of the road by container trucks with trailers as it affected the vehicular traffic besides causing several road accidents.

15. The public started agitation and even made an attempt to stop the container trucks from using the public road. The file produced before us by the Government shows that there were several accidents involving the container trucks and trailers, and newspapers have reported the public unrest and the casualty.

16. In order to mitigate the situation, the Chief Secretary to the Government of Tamil Nadu convened several meetings with the representatives of the Chennai Port Trust, Police Department, Local Administration Department, Thiruvottiyur Municipality and all the other stake holders. The meeting resolved to call upon the Chennai Port Trust to develop a dedicated container parking area. It was decided that the terminal shall act as a buffer area to avoid queuing of trailers

on the road and disrupting flow of public vehicles. It was further decided to grant a lease of about 11.26 acres of land owned by the Thiruvottiyur Municipality to the Chennai Port Trust, initially for a period of three years to establish a transit parking terminal of container trailers as per standard terms.

17. The decision taken in the meeting convened by the Chief Secretary was approved by the Government. Thereafter, the Chennai Port Trust took over the land in April 2007. The Chennai Port Trust executed a lease agreement initially with the Thiruvottiyur Municipality. The agreement was executed on 14 June 2007, making it effective from 1 April 2007.

18. While so, one of the legal representatives of the erstwhile land owner filed a Writ Petition in W.P.No.14012 of 2007 to direct the Government of Tamil Nadu to reconvey the acquired land to her taking into account the representation submitted for the said purpose. The Writ Petition was disposed of by order dated 18 April 2007. The learned single Judge issued a Mandamus directing the state to consider and dispose of the representation within a period of 16 weeks.

19. The Government considered the representation in the light of the order dated 18 April 2007 in W.P.No.14012 of 2017 and by order dated 22 August 2008, rejected the request for reconveyance, on the ground that the land has already been given to the Chennai Port Trust for establishing a container truck terminal.

20. The order dated 22 August 2008 rejecting the request for reconveyance was challenged in W.P.No.16146 of 2010.

21. The writ petitioner in her affidavit filed in support of the Writ Petition in W.P.No.16146 of 2010 contended that the land was not utilized for the purpose for which it was acquired and as such, she is entitled to an order for reconveyance under Section 48B of the Land Acquisition Act. Before the writ court, the writ petitioner contended that the Government and the local body have deviated from the original object of acquisition and are not using the property for any public purpose. The learned Single Judge notwithstanding the factual position demonstrated by the State Government, allowed the Writ Petition, directing reconveyance.

22. The learned Senior Counsel for the land owners contended that it was only after the order dated 18 April 2007, in W.P.No.14012 of 2017, the land was given to the Chennai Port Trust. There is absolutely no merit in the said contention on account of the documents available on file.

23. The file produced before us by the State shows that the proposal for easing the traffic by giving the land to the Chennai Port Trust was initiated even in 2006 on account of the traffic congestion in the area. The Principal Secretary, Home Department, convened a meeting on 5 June 2006 to discuss about the traffic congestion in S.N.Chetty Street, Royapuram, within the jurisdiction of the Thiruvottiyur Municipality. The meeting was attended by the Special Secretary to Government, Transport Commissioner, Commissioner of Chennai Corporation, Commissioner of Municipal Administration, Joint Commissioner of Police, Chief Planner, CMDA, Chief Engineer, Port Trust, Deputy Secretary to Government, Municipal Administration and Water Supply and Commissioner, Thiruvottiyur Municipality. The Chief Secretary to the Government again convened series of meetings to discuss about the burning issue relating to traffic congestion and other related problems in S.N.Chetty Street and Expressway adjacent to the acquired land. In the said meeting, a decision was taken to allot the unutilized land in the possession of the Thiruvottiyur Municipality to accommodate the containers.

24. In the meeting held on 5 June 2006, the Principal Secretary to the Government, Home Department, pointed out that Royapuram Main Road is badly damaged and the road leading to Manali is an accident prone area. The Chennai Port Trust was in search of about 200 acres of land for establishing a container vehicle parking station. Since sufficient land was not available, it was resolved to allot the land acquired from the writ petitioner's predecessor-in-interest to the Chennai Port Trust. The port trust authorities were directed to take immediate action to establish the container truck terminal. It was only thereafter, the Government have permitted the Thiruvottiyur Municipality to grant lease to the Chennai Port Trust.

25. The Writ Petition in W.P.No.14012 of 2017 was filed only thereafter. Before giving the land to the Chennai Port Trust, on lease for establishing the truck terminal, Thiruvottiyur Municipality passed a resolution and it was published in newspapers and Chengai Anna District Gazette, calling for objections. There was no objection from the land owners. In fact, the public welcomed the move as hitherto the trucks were parked on the side of the busy road, contributing to the traffic congestion and fatal accidents.

26. The proceedings of the Municipal Council, Thiruvottiyur, which is available on file indicates that the issue regarding parking of vehicles on the side of the main road which was subsequently developed as Ennore Expressway received the attention of the Government and Municipality in 1990 itself. The Municipality made a proposal to the Government for lease of

the land to the Port Trust for establishing the container terminal. The Director of Municipal Administration granted permission. Thereafter, the Municipality published a notification in the Gazette, indicating its intention to grant the lease of the acquired land, which is abutting the main road for the container station.

27. The necessity to establish a container station was not only the concern of the Port Trust. It was also the obligation of the Municipality to provide a parking station for containers, as otherwise, the main road would be occupied by the trucks destined to the port. The local body owes a duty to its citizens to provide motorable road and easy traffic without much traffic hazard. It was only in discharge by this solemn duty, the local body took a decision to give the land to the Port Trust. In fact, the proposal was not originated from Chennai Port Trust. It was mooted by the Municipality and the Government to ease the traffic congestion and avoid accidents in the area.

28. The land acquired for the water supply scheme originally is situated on the Eastern side of Ennore Expressway. The very concept of Expressway would be defeated in case the traffic is slow in the area on account of parking containers on both the sides of the Expressway. Therefore, the Government and requisitioning Department made use of the acquired land for a larger public purpose. The lease of land to the Port Trust should be considered in this factual background. This vital aspect was ignored while directing return of land to the legal heir of the original land owner.

29. This is not an ordinary case of return of the unutilized land like other cases under Section 48B of the Land Acquisition Act. This is a clear case of utilization of a part of the land for the original scheme and the balance for another public purpose by the Requisitioning Department. By utilizing the land for the container station, the Municipality originally, and subsequently the Chennai Corporation, have discharged their statutory obligation to the taxpayers. The Court should compliment the local body for undertaking such pilot schemes for the welfare of the people rather than directing closure of the project and reconveyance of the land to the erstwhile landowner, who lost his right over the land on account of payment of compensation in 1964. It is also a matter of record that the lease rent was fixed by giving concession, taking into account the public purpose for which it was given to the Chennai Port Trust. In view of all these reasons, we do not find any ground to entertain the request for reconveyance under Section 48B of the Land Acquisition Act.

Limited scope of Section 48-B of Land Acquisition Act

30. Section 48-B was inserted by State amendment in the Land Acquisition Act, for re-conveyance of the property. The provision reads thus:-

"48-B Transfer of land to original owner in certain cases- Where the Government are satisfied that the land vested in the Government under this Act is not required for the purpose for which it was acquired, or for any other public purpose, the Government may transfer such land to the original owner who is willing to repay the amount paid to him under this Act for the acquisition of such land inclusive of the amount referred to in sub-section (1-A) and (2) of Section 23, if any, paid under this Act."

31. The question of re-conveyance in terms of Section 48-B would arise only in case the State Government is of the view that the land is not required for the purpose for which it was acquired or for any other public purpose. Before taking a decision for reconveyance, the Government must be convinced that the land is not required not only for the purpose for which it was acquired, but for any other public purpose also.

32. As observed by the Hon'ble Supreme Court in Tamil Nadu Housing Board v. Keeravani Ammal and others [(2007) 9 SCC 255], Section 48-B introduced into the Land Acquisition Act in the State of Tamilnadu is an exception to the general rule that the land on acquisition become the property of the State and it could be used by the Government for any other public purpose or in case, it is not needed for such public purpose, the same can also be sold by public auction. The provision like 48-B must therefore requires a strict construction, meaning thereby, satisfaction of the State Government with regard to the non-utilisation of the land must be arrived at on the basis of relevant materials.

33. There is no right to compel the Government or the requisitioning body to reconvey the land either to the erstwhile land owner or to the subsequent purchaser. The issue is no longer res integra in view of the string of decisions on the point.

34. The Supreme Court in Keeravani Ammal (cited supra) considered the scope and ambit of Section 48-B of the Land Acquisition Act. The Supreme Court made it very clear that there is no vested right to the land owner to claim reconveyance. The Supreme Court, in the said decision, by quoting an earlier judgment in State of Kerala v. M.Bhaskaran Pillai [(1997) 5 SCC 432] indicated that in case the land is not required for the purpose for which it was acquired, it should be sold through

public auction and the provision like Section 48-B is an exception to the said rule and as such, it should be construed very strictly and the Court must insist upon strict compliance with its terms.

35. The Hon'ble Supreme Court in Tamil Nadu Housing Board v. L.Chandrasekaran (dead) by Lrs. and others [(2010) 2 SCC 786] once again considered the right claimed by the erstwhile land owners under Section 48-B for reconveyance and made the legal position very clear that there is no question of reconveyance by the Government, in case, the land had already been transferred to the requisitioning body and the latter had utilised substantial portion thereof for execution of the Scheme and for other public purpose. The following observation would make the position clear:-

"28. It need no emphasis that in exercise of power under Section 48-B of the Act, the Government can release the acquired land only till the same continues to vest in it and that too if it is satisfied that the acquired land is not needed for the purpose for which it was acquired or for any other public purpose. To put it differently, if the acquired land has already been transferred to other agency, the Government cannot exercise power under Section 48-B of the Act and reconvey the same to the original owner. In any case, the Government cannot be compelled to reconvey the land to the original owner if the same can be utilised for any public purpose other than the one for which it was acquired."

36. The question before the Supreme Court in Rajasthan State Industrial Development and Investment Corporation v. Subhash Sindhi Cooperative Housing Society, Jaipur and others [(2013) 5 SCC 427], was as to whether transferee of land after issuance of Section 4(1) notification is entitled to claim release of land from acquiring authorities on the basis of similar release of land. The Hon'ble Supreme Court, by placing reliance on the earlier judgments indicated that the sale subsequent to Section 4(1) notification is void and there would be no need for an order for quashing as it would be automatically null and void without more ado. The question regarding discrimination was answered by the Supreme Court by observing that if the land of other similarly situated persons have been released, the Court must be satisfied that it is similarly situated in all respects, and has an independent right to get the land released. It was further observed that Article 14 of the Constitution does not envisage negative equality and it cannot be used to perpetuate any illegality. The Supreme Court set aside the order passed by the High Court directing reconveyance and held that there was no right to claim release on the ground that others were given the

benefit of such release.

37. This is not a case of non utilization of the land acquired. The land was acquired for water supply scheme. The Municipality implemented the scheme partly by utilizing a portion of the acquired land. However, there was no progress on account of the presence of sea water near the site. In short, due to replenishment of sea water, the water could not be used for drinking purpose. The municipality was therefore not in a position to use the remaining land for the purpose for which it was acquired. Since there was no value appreciation for the land in question as it is situated near the sea and in an underdeveloped area, there was no claim made by the land owners for return of land for a period of 43 years. This is also evident from the fact that there was no objection given by the legal heirs of the erstwhile owner, opposing the decision taken by the municipality to convey the land to the Chennai Port Trust on lease. It was only when action was taken to entrust the land with the Chennai Port Trust, one of the legal representatives initiated Writ Petition for reconveyance in 2007.

38. The question of transfer of the land to the original land owner would arise only in case the Government is satisfied that the land is not required for the purpose for which it was acquired. The Government examined the ways and means to ease the traffic congestion on S.N.Chetty street and Ennore Expressway and finally a decision was taken to allot 11.26 acres of municipal land lying on the eastern side of the Ennore Expressway to the Chennai Port Trust. The Chennai Port Trust opened and operated the transit parking station during the currency of the initial lease period. Subsequently, Thiruvottiyur Municipality was merged with the Corporation of Chennai. The Corporation of Chennai executed a lease agreement in favour of the Chennai Port Trust on 1 August 2012 whereby and whereunder, 11.26 acres of land was again given on a monthly rent of Rs.12,66,508/- with increase in rent by 15% per three years. The lease was given for a period of thirty years. The Chennai Port Trust spent Rs.7.5 crores for making the container terminal operational.

39. The Chennai Port Trust entrusted the management of the container terminal to the Central Warehousing Corporation, a statutory body incorporated under the Warehousing Companies Act, 1962. The Memorandum of Agreement was signed on 29 November 2013. The documents produced by the Chennai Port Trust shows that the Central Warehousing Corporation developed a buffer parking yard. There is also a Customs bond house. It is now a fully developed container terminal. The terminal is operated by the Central Warehousing Corporation of India to the satisfaction of one and all.

40. The land is now situate within the jurisdiction of the Chennai Corporation. The local body is expected to ease out the perennial traffic congestion on the road. The Ennore Expressway is the arterial road leading to Chennai Port Trust. The queuing of the trailers on the road and disrupting the flow of public vehicles were considered as a perennial problem by the Thiruvottiyur Municipality and traffic police. The traffic police, taking into account the magnitude of the accidents and piling up of vehicles, took up the issue with the Government for an alternative parking yard for container trucks. The string of documents available on record clearly demonstrated the traffic congestion along the Ennore Expressway due to unauthorized parking and movement of container trucks. The regular flow of container trucks leading to heavy traffic congestion on the Ennore Expressway has been a long pending civic issue in the region. The efforts to streamline the traffic had gone in vain on account of the non availability of sufficient parking place. It was only as a possible solution, the Government resolved to lease out the land owned by the Thiruvottiyur Municipality to the Chennai Port Trust. We have found a document in the file indicating that at least 20 people died every month in accidents on the Ennore Expressway, involving the container trucks. Therefore, it was a move, which was aimed not only to fetch revenue to the local body but also to reduce the traffic congestion and save valuable lives. The efforts taken by the State in association with the local body to ease congestion on the Ennore Expressway is nothing but a public purpose. The expression "public purpose" as contained in Section 3(f) would include provision of land for planned development for town and for rural planning. There is no traffic bottleneck now. The public and authorities are relieved of the problem of traffic congestion.

Conclusion:-

41. The question of invoking Section 48B of the Land Acquisition Act does not arise in the subject case for the simple reason that part of the acquired land has already been used for the very same purpose. The remaining part of the land is now used by the Government for another public purpose. This aspect was not taken note of by the writ court. We are therefore of the view that the impugned order is liable to be set aside.

42. In the result, the order dated 6 January 2015 is set aside. The Writ Petition in W.P.No.16146 of 2010 is dismissed.

43. In the upshot, we allow the intra court appeals. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.The Chairman,
Chennai Port Trust,
Chennai 600 001
 - 2.The Principal Secretary to Government,
Municipal Administration & Water Supply Department,
Secretariat, Chennai 9
 - 3.The State of Tamil Nadu,
rep. By the Secretary to Government,
Revenue Department, Fort St.George,
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Thiruvottiyur Municipality,
Thiruvottiyur, Chennai 19
 5. The Commissioner,
Thiruvottiyur Municipality,
Thiruvottiyur, Chennai 19
- +1 CC to Govt. Pleader sr 85082.
+2 Ccs to Mr.Krishna Ravindran, Advocate sr 84528 & 84529.
+3 Ccs to Mr.P.S. Amalraj, Advocate sr 84283.
+4 Ccs to Mr.S. Saravanan, Advocate sr 84414 & 84415.

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W.A.Nos.691 of 2015 & 1374/2017

PA(CO)
SP(11/12/2017)