

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE HULUVADI G RAMESH

and

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.A.Nos.36 to 42 & 249 of 2016

and C.M.P.Nos.463, 465, 467, 469, 471, 473, 475 and 4223 of 2016

W.A.No.36 of 2016

1.A.S.Abdul Shukoor
2.Abdul Gaffer
3.A.S.Musthaq Mohammed Appellants / Petition

vs.

- 1.The Government of Tamil Nadu,
Rep. By its Secretary,
Housing and Urban Development Department,
Fort St. George, Chennai - 9.
- 2.The Chennai Metropolitan Development Authority,
Rep. By its Member Secretary,
No.8, Gandhi Irwin Road, Egmore,
Chennai - 8.
- 3.The District Collector,
Thiruvallore District,
Thiruvallore.
- 4.The Special Thasildar (LA),
Unit-IV, Outer Ring Road,
CMDA, No.8, Gandhi Irwin Road,
Egmore, Chennai - 8.
- 5.The Thasildar,
Poonamallee Taluk, Poonamallee.

6.The Tamil Nadu Road Development Corporation,
No.171, 2nd Floor,
Tamil Nadu Maritime Board Building,
South Kesava Perumal Puram,
Raja Annamalaipuram, Chennai-28.

... Respondents

WA.37 of 2016:

1 L.Rejinamary
2 G.Gunalan
3 S.Renganathan
4 M.Ramesh Babu
5 D.Kaliappan
6 Pathima Arokiasamy

[PETITIONER]

Vs

1 The Government of Tamil Nadu
Rep by its Secretary Housing and Urban
Development Development Fort St. George
Chennai 9
2 The Chennai Metropolitan
Development Authority Rep by its Member
Secretary No.8 Gandhi Irwin Road Egmore
Chennai 8
3 The District Collector
Thiruvallore District Thiruvallore
4 The Special Thasildar (LA)
Plan IV Outer
Ring Road CMDA No.8 Gandhi Irwin Road
Egmore Chennai 8
5 The Thasildar
Poonamallee Taluk Poonamallee
6 The Tamil Nadu Road Developmen
No.171 2nd floor Tamil Nadu Maritime
Board Building South Kesava Perumal puram
Pasumpon Muthuramalingam Road Raja
Annamalai Puram Chennai-28.

[RESPONDENT]

WA 38 of 2012:

1 V.Venkatasamy
2 M.Arumugam

[PETITIONER]

3 R.Mohanasundaram
4 D.M.Jeffries
5 D.Selvanathan
6 A.Devarajan
7 V.D.Varadarajan
8 S.Palani
9 Dr.Ahmed Basha
10 K.Ramesh Babu
11 Mani Sollamuthu
12 R. Chinnasamy
13 P.A.Krishnamurthy
14 R.Samboornam
15 K.Karunakaran
16 Shanaz Begum
17 P.Adarsh
18 B.P.Dave
19 Harish Dave
20 R.Revathi

Vs

1 The Government of Tamil Nadu [RESPONDENT]
Rep by its Secretary Housing and Urban
Development Development Fort St. George
Chennai 9

2 The Chennai Metropolitan
Development Authority Rep by its Member
Secretary No.8 Gandhi Irwin Road Egmore
Chennai 8

3 The District Collector
Thiruvallore District Thiruvallore

4 The Special Thasildar (LA)
Plan IV Outer
Ring Road CMDA No.8 Gandhi Irwin Road
Egmore Chennai 8

5 The Thasildar
Poonamallee Taluk Poonamallee

6 The Tamil Nadu Road Development Corporation
No.171 2nd floor Tamil Nadu Maritime
Board Building South Kesava Perumal puram
Pasumpon Muthuramalingam Road Raja
Annamalai Puram Chennai-28.

7 M.D.Kaleemullah
S/o M.D. Abdul Shukur 21/24 V.O.C. Colony
Racher Apartment Aminjikarai Chennai -29

8 J.O.H.Mecdrick

WA.39 of 2012:

1 M.Duraisamy [PETITIONER]
2 Girija

Vs

1 The Government of Tamil Nadu [RESPONDENT]
Rep by its Secretary Housing and Urban
Development Development Fort St. George
Chennai 9

2 The Chennai Metropolitan
Development Authority Rep by its Member
Secretary No.8 Gandhi Irwin Road Egmore
Chennai 8

3 The District Collector
Thiruvallore District Thiruvallore

4 The Special Thasildar (IA)
Plan IV Outer
Ring Road CMDA No.8 Gandhi Irwin Road
Egmore Chennai 8

5 The Thasildar
Poonamallee Taluk Poonamallee

6 The Tamil Nadu Road Development Corporation
No.171 2nd floor Tamil Nadu Maritime
Board Building South Kesava Perumal puram
Pasumpon Muthuramalingam Road Raja
Annamalai Puram Chennai-28.

WA.40 of 2016:

1 V.K.Punni Kotti [PETITIONER]
2 K.Jayaraman
3 K.Swaminathan
4 S.Veeralakshmi
5 A.Sampath Kumar

Vs

- 1 The Government of Tamil Nadu [RESPONDENT]
Rep by its Secretary Housing and Urban
Development Development Fort St. George
Chennai 9
- 2 The Chennai Metropolitan
Development Authority Rep by its Member
Secretary No.8 Gandhi Irwin Road Egmore
Chennai 8
- 3 The District Collector
Thiruvallore District Thiruvallore
- 4 The Special Thasildar (LA)
Plan IV Outer
Ring Road CMDA No.8 Gandhi Irwin Road
Egmore Chennai 8
- 5 The Thasildar
Poonamallee Taluk Poonamallee
- 6 The Tamil Nadu Road Development Corporation
No.171 2nd floor Tamil Nadu Maritime
Board Building South Kesava Perumal puram
Pasumpon Muthuramalingam Road Raja
Annamalai Puram Chennai-28.
- 7 M.loganathan
S/O.masilamani Plot No.5 Prakash Nagar
Thirunindravur Thiruvallur DT.
- 8 T.Swamikannu
S/O.K.Dhanapal Plot No.3 Mullai street
East Prakash Nagar Thiruninravour Post
Tiruvallore Dt.

WA.41 of 2016:

- 1 I.Jagdish Rao [PETITIONER]
- 2 V.Neelavathi
- 3 S.Meenakshi

Vs

- 1 The Government of Tamil Nadu [RESPONDENT]
Rep. by its Secretary Housing and Urban
Development Fort St. George Chennai-9

- 2 The Chennai Metropolitan
Development Authority Rep. by its Member
Secretary No.8 Gandhi Irwin Road Egmore
Chennai-8
- 3 The District Collector
Thiruvallore District Thiruvallore
- 4 The Special Thasildar(LA)
Plan-IV Outer Ring Road CMDA No.8 Gandhi
Irwin Road Egmore Chennai-8
- 5 The Thasildar
Poonamallee Taluk Poonamallee

WA.42 of 2016:

- 1 E.Karunakaran [PETITIONER]
Vs
- 1 The Government of Tamil Nadu [RESPONDENT]
Rep. by its Secretary Housing and Urban
Development Fort St. George Chennai-9
- 2 The Chennai Metropolitan
Development Authority Rep. by its Member
Secretary No.8 Gandhi Irwin Road Egmore
Chennai-8
- 3 The District Collector
Thiruvallore District Thiruvallore
- 4 The Special Thasildar(LA)
Plan-IV Outer Ring Road CMDA No.8 Gandhi
Irwin Road Egmore Chennai-8
- 5 The Thasildar
Poonamallee Taluk Poonamallee

WA.249 of 2016:

- 1 K.Selvaraj [PETITIONER]
- 2 S.Rajendran
- 3 M.Raja Manickam
- 4 Paidi Sessaiah
- 5 G.Saroja
- 6 P.Dayalan

7 A.Abdul Lathif
8 M.Sekar
9 Stella James
10 Shakeela Begum
11 Kala Bharathi
12 V.Murthy
13 Kalida Nazeem

Vs

1 The Government of Tamil Nadu [RESPONDENT]
Rep by its Secretary Housing and Urban
Development Development Fort St. George
Chennai 9

2 The Chennai Metropolitan
Development Authority Rep by its Member
Secretary No.8 Gandhi Irwin Road Egmore
Chennai 8

3 The District Collector
Thiruvallore District Thiruvallore

4 The Special Thasildar (LA)
Plan IV Outer
Ring Road CMDA No.8 Gandhi Irwin Road
Egmore Chennai 8

5 The Thasildar
Poonamallee Taluk Poonamallee

6 The Tamil Nadu Road Development
NO.171 2nd floor Tamil Nadu Maritime Board
Bldg South kesava perumal puram Pasumpon
muthuramalingam Road Raja Annamalai Puram
Ch-28.

Writ Appeals filed under Clause 15 of Letter Patent, praying to set aside the common order dated 24.11.2015 made in W.P.No.10984 10986, 10987, 10988, 10989, 36130, 36131 / 2015 & 10985 / 2015 respectively on the file of this Court.

Prayer:

WP.10987 of 2015:

Calling for the records on the file of the 4th respondent pertaining to the impugned awards viz. Award No.4/2010 Roc. No.129/2005/A1/ORR/Unit IV dt 7.4.2010 passed by the 4th respondent and quash the same in so far as the lands of the

petitioners situated in Survey No.7 of Thirunindravur Village are concerned and consequently to declare that all the Land Acquisition proceedings initiated for acquiring lands for public purpose to wit for formation of Outer Ring Road under Outer Ring Road Project proposed by the Government of Tamil Nadu initiated pursuant to the notifications issued by 3rd respondent u/s 4 (1-A) of the Land Acquisition Act 1894 published in Thiruvallur District Gazette on 24.1.2007 in so far as relating to the acquisition of lands of the petitioners situated in survey No.7 of Thirunindravur village.

WP.10984 of 2015:

Calling for the records on the file of the 4th respondent pertaining to the impugned awards viz. Award No.1/2010 Roc. No.129/2005/A1/ORR/Unit IV dt 15.3.2010 passed by the 4th respondent and quash the same in so far as the lands of the petitioners situated in Survey No.9 of Thirunindravur Village are concerned and consequently to declare that all the Land Acquisition proceedings initiated for acquiring lands for public purpose to wit for formation of Outer Ring Road under Outer Ring Road Project proposed by the Government of Tamil Nadu initiated pursuant to the notifications issued by 3rd respondent u/s 4 (1-A) of the Land Acquisition Act 1894 published in Thiruvallur District Gazette on 24.1.2007 in so far as relating to the acquisition of lands of the petitioners situated in survey No.9 of Thirunindravur village.

WP.10986 of 2015:

Calling for the records on the file of the 4th respondent pertaining to the impugned awards viz. Award No.3/2010 Roc. No.129/2005/A1/ORR/Unit IV dt 15.3.2010 passed by the 4th respondent and quash the same in so far as the lands of the petitioners situated in Survey No.5 of Thirunindravur Village are concerned and consequently to declare that all the Land Acquisition proceedings initiated for acquiring lands for public purpose to wit for formation of Outer Ring Road under Outer Ring Road Project proposed by the Government of Tamil Nadu initiated pursuant to the notifications issued by 3rd respondent u/s 4 (1-A) of the Land Acquisition Act 1894 published in Thiruvallur District Gazette on 24.1.2007 in so far as relating to the acquisition of lands of the petitioners situated in survey No.4 of Thirunindravur village.

WP.10988 of 2015:

Calling for the records on the file of the 4th respondent pertaining to the impugned awards viz. Award No.8/2010 Roc. No.129/2005/A1/ORR/Unit IV dt 21.5.2010 passed by the 4th respondent and quash the same in so far as the lands of the petitioners situated in Survey No.17 of Thirunindravur Village

are concerned and consequently to declare that all the Land Acquisition proceedings initiated for acquiring lands for public purpose to wit for formation of Outer Ring Road under Outer Ring Road Project proposed by the Government of Tamil Nadu initiated pursuant to the notifications issued by 3rd respondent u/s 4 (1-A) of the Land Acquisition Act 1894 published in Thiruvallur District Gazette on 24.1.2007 in so far as relating to the acquisition of lands of the petitioners situated in Survey No.7/34,7/14, and 7/22 of Thirunindravur village.

WP.No.36131 of 2015:

Calling for the records on the file of the 4th respondent pertaining to the impugned awards viz. Award No.1/2010 Roc. No.129/ 2005/A1/ ORR/Unit IV dated 15.3.2010 passed by the 4th respondent and quash the same in so far as the lands of the petitioner situated in Survey No.2/1A2 pt (now 2/1A2B of Thirunindravur Village is concerned and consequently to declare that all the Land Acquisition Proceedings initiated for acquiring lands for public purpose to wit for formation of Outer Ring Road under Outer Ring Road Project proposed by the Government of Tamil Nadu initiated pursuant to the Notifications issued by 3rd respondent u/s.4(1-A) of the Land Acquisition Act 1894 published in Thiruvallur District 24.01.2007 in so far as relating to the acquisition of lands of the petitioners situated in survey No.2 of 1A2 pt (Now 2/1A2B) of Thiurnindravur village.

For Petitioner : Mr.N.Subramanian in all W.Ps.,

For Respondents Mr.P.H.Aravindh Pandian AAG
Assisted by
Mr.R.VijayakumarAGP for
RR1,3,4,5,in
W.P.Nos.36130 & 36131 of 2015

Mr.R.M.Muthukumar AGP for RR1,3,4
& 5
in W.P.Nos.10984 to 10989 of 2015

Mr.K.Rajasrinivas for R2 in
W.P.Nos.36130 & 36131 of 2015

Mr.P.Tamil Mani for R2 in
W.P.Nos.10984 to 10989 of 2015

Mr.M.Sivavarathanan for
Mr.Srinivasa Ragavan
for impleaded party

R6 in WPs.10984 to 10989 of 2015

For Appellants : Mrs.R.Maheswari
(In all Writ appeals)
For Respondents: Mr.V.Ayyadurai,
(In all Writ Appeals) Addl. Advocate General
Assisted by
Mrs.A.Srijayanthi,
Special Govt. Pleader for R1, R3
to R5
Mr.C.Johnson for R2
Mr.M.Sivavarathanan for R6

COMMON JUDGMENT

[Judgment of the Court was made by HULUVADI G RAMESH, J.]

These Writ Appeals are preferred against the learned Single Judge's common order dated 24.11.2015 passed in W.P.No.10984 of 2015, etc batch.

2. The appellants own house sites in Thirunindravur Village and most of the sites were constructed with houses and the appellants are residing therein. The respondents sought to acquire the lands of the appellants and others for formation of Outer Ring Road under Chennai City Outer Ring Road Project. Consequently, 4(1) notification of the Land Acquisition Act were issued and after following the procedure laid down under the said Act, the Government passed an awards for acquisition of the lands of the appellants.

3. The case of the appellants is that when new Central Act came into effect (01.01.2014), there were no awards passed in respect of the lands of the appellants and therefore, the entire land acquisition proceedings get lapsed. Further, the awards are not an award under Section 11 of the Land Acquisition Act and the same is null and void. Challenging the awards passed by the Special Thasildar (LA), Egmore, Chennai, the appellants have filed the writ petitions.

4. The learned Single Judge, vide order dated 24.11.2015, dismissed the writ petitions holding that the Land Acquisition Officer was competent to exercise power and there is no lack of jurisdiction on his part. Aggrieved over the same, the appellants have preferred these appeals.

5. When the appeals were taken up on 13.04.2017, the learned counsel for the appellants fairly submitted that the appellants are interested only in getting fair compensation to be fixed as

per the guideline value, rather alternative accommodation. The learned Additional Advocate General appearing on behalf of the respondents submitted that the acquired lands of the appellants are required to complete the Chennai City Outer Ring Road Project. He further submitted that since the appellants have confined their claim only in respect of payment of fair compensation, there shall be no impediment in carrying out the construction activities of the Outer Ring Phase II. Considering the said submissions, this Court directed the authorities to proceed with the construction activities by removing the superstructures. This Court also observed that the Government shall come forward with the proposal of fair compensation payable to the appellants by the next date of hearing in order to dispose of the appeals.

6. For appreciation, we reproduce the order dated 13.04.2017, as under:

"Heard the learned counsel appearing for the appellants and the learned Additional Advocate General for the respondents 1 to 5 and the learned counsel for respondent No.6.

2.As regards providing alternative lands for the appellants in lieu of acquisition of their lands, the learned Additional Advocate General would submit that the Government is not in a position to find and provide alternative lands to the appellants.

3.The learned counsel appearing for the appellants would submit that in fact, the appellants are interested only in getting fair compensation to be fixed as per the guideline value, rather alternative accommodation. In such view of the matter, there is no impediment for disposing of the appeals by directing the Government to pay suitable compensation to the appellants.

4. The learned Additional Advocate General would urge that since the appellants now confined their claim only in respect of fair compensation, there shall be no impediment to carry on the construction activities as Chennai Outer Ring Phase II is under process and to complete the project, the acquired lands of the appellants are absolutely required and hence, he prays that the construction activities shall be allowed by removing the superstructures therein.

5. In view of the above, the authorities shall proceed with the construction activities by removing the superstructures, however, we make it clear that the Government shall come forward with the proposal of fair compensation payable to the appellants by the next date of hearing in order to dispose of the present appeals.

List the matter on 26.04.2017."

7. Today when the appeals are taken up for hearing, the learned Additional Advocate General submits that the Government has assured the appellants to pay the fair compensation.

8. In view of the submissions made by the learned Additional Advocate General, this Court directs the appellants to vacate the houses on or before 15.06.2017, so as to enable the respondents to form Outer Ring Road under Chennai City Outer Ring Road Project. As assured, the Government is directed to pay the fair compensation to the appellants.

9. Accordingly, these Writ Appeals are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

ORDER: These Writ appeals have been posted at the instance of the learned counsel of the appellants under the caption being mentioned on Monday, the twelfth day of June 2017 in the presence of M/s. R.Maheswari, Learned Advocate for the Appellants in all the Writ appeals and of Mr.V.Ayyadurai, Additional Advocate General assisted by Mrs.A.Srijayanthi Special Government Pleaded for R1,R3 to R5 in all the appeals and Mr.C.Johnson, Advocate for respondents No.2 in all the appeals and of Mr.M.Sivavarathanan, Advocate for the Sixth Respondent in all the appeals except WA.41 of 2016 and this Court made the following order:

This matter is listed under the caption "For Being Mentioned" at the instance of the learned counsel for the appellants, mainly on the issue of compensation.

2. Vide the order dated 27.04.2017, this Court, while recording the submissions made by the learned Additional Advocate General that the Government has assured to pay the fair compensation to the appellants, directed the appellants to vacate the houses on or before 15.6.2017 so as to enable the respondents to form the Outer Ring Road and disposed of the matter. However, it is informed that no compensation has been paid till date and the land owners have also not vacated the houses.

3. It is the submission of the appellants that they being senior citizens, who have put in their hard earned money and left with limited means for their livelihood, relocation to an other place without any payment, even as an interim measure, would cast much hardship to them to the extent of even affecting their livelihood and daily sustenance. Therefore, the

appellants, while submitting that they will abide by the order of this Court and vacate, however, pray that they may be granted some time for relocation and that the Government may be directed to pay atleast some interim compensation for the purpose of relocation and sustenance.

4. The records of the proceedings in the present case reveals that the acquisition proceedings have been adjudicated by the Division Bench of this Court in the earlier round of litigation, which order has been confirmed by the Supreme Court by dismissing the SLP. Therefore, the issue is longer res integra, as the same having reached finality before the Supreme Court. It cannot be said that possession has not been taken as symbolic possession has already been taken in view of the deposit of the award passed by the Land Acquisition Officer, though in actuality, the appellants have not vacated the premises in view of the indulgence shown by this Court in these appeals. Therefore, at this present point of time, if at all some indulgence could be granted to the appellants, it could be only by way of extension of time to vacate and hand over physical possession to the respondents and for further direction regarding payment of just and fair compensation to the appellants.

5. It is brought to the notice of the Court by the learned Addl. Advocate General appearing for the respondents that one of the persons, whose property was also acquired, has filed an appeal to the Reference Court against the award passed by the Land Acquisition Officer in LAOP No.47/2015.

6. It is submitted by the learned counsel for the appellants that though the lands were sought to be acquired as early as 2007 vide the notification, however, award has been passed only in 2010 fixing the land value as in the year 2010, under the old Act and the compensation, therefore, is very low at this point of time and, therefore, submitted that the value as in the year 2015 may be taken for the purpose of computing the compensation and that the compensation may be calculated under the new Act. However, learned Addl. Advocate General appearing for the respondents submitted that the award amount has already been deposited by the respondents and that the compensation has been awarded under the old Act, since the acquisition pertains to the year 2007 and, therefore, the new Act is not applicable. Further, it is the submission of the learned Addl. Advocate General that if at all the appellants seek for enhanced compensation, the same should be agitated by way of filing an appeal to the Reference Court and not by way of this writ petition, which effectively is the third round of litigation on the same point.

7. Heard the learned counsel appearing for the appellants and the learned Addl. Advocate General appearing for the respondents.

8. It is not in dispute that vide the notification issued in the year 2007, the lands of the appellants were sought to be acquired for the purpose of expansion of Outer Ring Road. Fixing the value of the lands as of the year 2007, the award was passed in the year 2010 and the award amount was deposited in the Court in the year 2014. The above facts are not in dispute.

9. While it is the stand of the appellants that the value as of the year 2015 be fixed for the purpose of calculating the compensation, the same is countered by the learned Addl. Advocate General appearing for the respondents, who submits that appeal may be filed by the aggrieved persons before the Reference Court for the purpose of enhancement of compensation.

10. As is evident from the records, this is the third round of litigation and due to the above, the project of Outer Ring Road is getting delayed and, thereby, the burden on the exchequer in completion of the project also increases. It is the duty of the Government as well as the public to amicably settle the issue at the earliest in the interest of the larger section of the community. The award amount has already been deposited in Court deposit.

11. In the peculiar facts and circumstances of the case, and taking a humanitarian approach keeping in mind the predicament to which the appellants have been put in their advanced age, while this Court is not inclined to touch upon the merits of the issue, the matter being *res integra*, however, this Court, in exercise of its extraordinary powers under the writ jurisdiction, is inclined to issue the following directions :-

"i) The appellants are hereby permitted to withdraw the amounts that have been deposited to their credit insofar as acquisition relating to their lands is concerned in the award passed by the Land Acquisition Officer, without prejudice to their rights to file appeal before the Reference Court for enhancement of compensation in accordance with law.

ii) The appellants are further granted liberty to file appeal before the Reference Court within thirty days from today claiming enhancement of compensation, if so advised. On such appeals being filed, any delay in filing the said appeals shall not be put against the appellants by the Reference Court, since the matter was sub

judice before the higher forum.

iii) While considering the appeals for enhancement of compensation, the Reference Court is directed to take the guideline value as on 1st January, 2014, for the purpose of fixing the market value of the land and for arriving at a just and fair compensation.

iv) On filing of appeals for enhancement of compensation, the Reference Court shall deal with the same and pass orders thereon as expeditiously as possible in accordance with law.

v) As a last chance, the appellants are granted time till 31st July, 2017 to vacate the premises and hand over vacant possession to the respondents, who shall take physical possession of the lands in accordance with law."

12. With the above observations and directions, these appeals stand disposed of. In the circumstances of the case, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsm

To

1.The Secretary,
Government of Tamil Nadu
Housing and Urban Development Department,
Fort St. George, Chennai - 9.

2.The Member Secretary,
The Chennai Metropolitan Development Authority,
No.8, Gandhi Irwin Road, Egmore,
Chennai - 8.

3.The District Collector,
Thiruvallore District,
Thiruvallore.

4.The Special Thasildar (LA),
Unit-IV, Outer Ring Road,
CMDA, No.8, Gandhi Irwin Road,
Egmore, Chennai - 8.

5.The Thasildar,
Poonamallee Taluk, Poonamallee.

6.The Tamil Nadu Road Development Corporation,
No.171, 2nd Floor,
Tamil Nadu Maritime Board Building,
South Kesava Perumal Puram,
Raja Annamalaipuram, Chennai-28.

+3cc to Mr.C.Johnson, Advocate, S.R.No.36411,41983,
+2cc to Mr.M.Sivavarathanan, Advocate, S.R.No.26041,41527
+1cc to the Government Pleader, S.R.No.41558

W.A.Nos.36 to 42 & 249 of 2016

TM(CO)
RS (22/06/2017)



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