

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2019

CORAM

THE HON'BLE MR. JUSTICE M. DHANDAPANI

W.P. NOS. 26041 & 26042 OF 2001

AND

W.M.P. NOS. 40016, 40019 OF 2018, 15831 & 15833 OF 2019

S.Pappa ... Petitioner in W.P. 26041/2001

P.Selvaraj ... Petitioner in W.P. 26042/2001

- Vs -

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

2.The Chairman,
Madras Port Trust,
Chennai - 1.

3.The District Collector,
Tiruvallur District,
Tiruvallur.

4.The Special Tahsildar,
(Land Acquisition) II,
Aromatic Complex, M.R.L.,
Saidapet, Chennai - 15.

5.The Land Acquisition Officer,
(Miscellaneous),
Saidapet, Chennai - 15.

...Respondents 1 to 5 in both
the Petitioners

6.Ennore Port Limited,
P.T. Lee Chengalvaraya Naicker Maaligai (1st floor),
No.23, Rajaji Salai,
Chennai - 600 001.

Rep. By its General Manager (Finance)
& Secretary Mr. M.Gunasekaran. ...6th Respondents in
WP.No.26042/2001

R6-Impleaded as per order of this Court dt.24.10.2008 in WP.No.1456/2008.

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for all the relevant records relating to the impugned proceedings in Na.Ka.No.341/92/Aa dated 30.07.2001 passed by the Spl. Tahsildar (Land Acqn)-II, Aromatic Complex, MRL, Saidapet Chennai - 15, the 4th Respondent herein and the Proceedings in RC.No.341/92 dated 12.11.2001 issued by the Land Acquisition Officer, Spl. Tahsildar (L.A.) Unit-II, Aromatic Complex, MRL, Saidapet, Chennai - 15, the 5th Respondent herein and the notification issued under Section 4(1) of the Act in G.O.Ms.No.19, Transport Department dated 25.01.1996 and published in Tamil Nadu Government Gazette Part II, Sec.2 Supplement issue No. 6A dated 14.02.1996 and the declaration issued under Section 6 of the Act in G.O.Ms.238, Highways (HF2) dated 10.12.2001 and published in Government Gazette Extraordinary Part II, Section 2 dated 10.12.2001 and to quash the same in respect of petitioner's land in S.No.755 measuring 0.09.0 hectare, S.No.756-1, measuring 0.13.0 hectare, S.No.756-2, measuring 0.07.5 hectare, S.No.756-3, measuring 0.05.0 hectare, S.No.756-4 measuring 0.16.0 hectare, S.No.756-5, measuring 0.10.0 hectare, S.No.756-6A measuring 0.17.0 hectare, S.No.756-7, measuring 0.20.0 hectare, S.No.757, measuring 0.04.0 hectare, S.No.758-1, measuring 0.13.5 hectare, S.No.758-2, measuring 0.03.0 hectare, S.No.761, measuring 0.09.5 hectare, S.No.762-2, measuring 0.05.5 hectare, S.No.801, measuring 0.044.5 hectare, S.No.802, measuring 0.45.5 hectare, S.No.803, measuring 0.09.0 hectare, S.No.804-1, measuring 0.18.0 hectare, S.No.804-2, measuring 0.25.0 hectare, S.No.805, measuring 0.32.5 hectare, situated at No. 144, Vallur Village, Ponneri Taluk, Tiruvallur District.

(Prayer Amended as per order of this Court dt.25.4.13 in WPMP.668 & 671/10)

For Petitioners: Mr.N.R.Chandran, SC, for
for Mr. S.Thangavel

For Respondents: Mr. A.L.Somayaji, SC, for
Mr.Krishna Ravindran for R-6
Mr.Elumalai, GA for RR-1 & 3 to 5
Mr. M.M.Shanmugam for R-2

COMMON ORDER

These petitions have been filed for issuance of a Writ of Certiorarified Mandamus to call for and quash the proceedings of the respondents relating to the notification u/s 4 (1) and the Declaration u/s 6 of the Land Acquisition Act insofar as the

acquisition of the lands of the petitioners for the purpose of construction of quarters for the employees of the 6th respondent.

2. The petitioners are husband and wife and they had purchased the properties vide different Registered Sale Deeds dated 31.12.1992, 12.07.1993, 15.12.1993, 03.08.1994, 05.09.1994 and 30.03.1995. The case of the petitioners is that prior to their purchase, the seller was cultivating in the said property and subsequent to the purchase, the petitioners have also been carrying on the cultivation. However, all of a sudden a proposal was initiated by the 2nd respondent through the 3rd respondent, for acquisition of lands, including the the abovesaid lands of the petitioners for the purpose of construction of staff quarters for the employees of Port Trust. The said notification u/s 4 (1) as published on 14.2.96 and the Declaration u/s 6 of the Land Acquisition Act was published on the last day of the prescribed limitation period, i.e., on 11.4.97.

3. Aggrieved by the act of the respondents, W.P. Nos.5784/97 was filed by the petitioner herein and many other aggrieved persons, whose lands were sought to be acquired, also filed writ petitions, challenging the said acquisition proceedings. This Court, vide its order dated 19.12.2000 allowed the petitions filed by the petitioners herein and quashed the Declaration published u/s 6 of the Land Acquisition Act on the ground that the opportunity of hearing contemplated u/s 5-A has not been complied with procedurally with liberty to the respondents to proceed afresh from the stage of Section 4 (1) Notification.

4. Subsequent to the said order, the land acquisition officer issued notice for enquiry u/s 5-A on 30.7.01 fixing the enquiry on 28.8.01. The petitioners filed their objections and after obtaining the remarks on the said objections, by proceedings dated 12.11.01, the Special Tahsildar (LA) overruled the objections and made the recommendation to the Government for issuing fresh Declaration u/s 6 of the Act. Challenging the said proceedings, the present writ petitions have been filed on 10.12.2001.

5. Mr. N.R.Chandran, learned senior counsel appearing for the petitioners submitted that the first round of litigation challenging the notification u/s 4 (1) and the Declaration u/s 6 had ended in favour of the petitioners with this Court setting aside the Declaration u/s 6 on the ground that the mandatory procedure u/s 5-A of the Act has not been complied with. It is the submission of the learned senior counsel for the petitioners that the Declaration u/s 6, which was initially, published on 11.04.97, was published on the last day of the prescribed

limitation period, i.e., one year from the date of issuance of Section 4 (1) Notification. It is the submission of the learned senior counsel that the period of limitation for issuance of Section 6 Declaration had ended on 11.4.97 and subsequent to the quashment of the Section 6 Declaration, no fresh limitation period enures to the respondent to proceed with the issuance of Section 6 Declaration. To drive home the above point, learned senior counsel placed reliance on the decision of the Constitution Bench of the Hon'ble Supreme Court in Padma Sundara Rao (Decd.) & Ors. - Vs - State of T.N. & Ors. (AIR 2002 SC 1334).

6. In fine, it is the submission of the learned senior counsel that the period of limitation having come to an end on 11.4.97, the day on which the previous Section 6 Declaration was issued only to be set aside by this Court, no further period enures in favour of the State Government to issue another Declaration u/s 6 in view of the ratio laid down by the Apex Court in the decision cited supra and, therefore, these writ petitions deserve to be allowed.

7. Countering the said submissions, Mr.A.L.Somayaji, learned senior counsel appearing for the 6th respondent submitted that the challenge to the land acquisition has been negated in a full fledged judicial process upto the highest court of the land and, therefore, the present petition at the instance of one of the land owners is impermissible. It is the further submission of the learned senior counsel that the petitioner has come to court with unclean hands and has filed the petition only on the date when the subsequent declaration u/s 6 has been issued and the delay on the part of the petitioners is detrimental to their case.

8. It is the further submission of the learned senior counsel that the subsequent declaration which was published on 10.12.2001 was only on the basis of the order passed by this Court, wherein this Court had permitted the respondents to continue with the acquisition proceedings from the stage of Section 4 (1) Notification. The subsequent declaration u/s 6 having been published only on the basis of the order passed by this court, the question of limitation raised by the petitioners cannot subsist. It is the submission of the learned senior counsel that quashing the acquisition proceedings at this stage would be very much detrimental to the acquisition body as also the other respondents.

9. Learned senior counsel for the 6th respondent, in the alternative, contended that even if there is non-compliance with the legal requirements as mandated under the statute, quashing of the acquisition proceedings is not warranted and in lieu of

quashing the proceedings, the owners of the lands, the petitioners herein, could very well be compensated with damages on the monetary front. In this context, learned senior counsel placed reliance on the decision of the Hon'ble Apex Court in *Ramniklal N.Bhutta & Anr. - Vs - State of Maharashtra & ors.* (1997) 1 SCC 134.

10. Learned Government Advocate appearing for respondents 1 and 3 to 5 while adopted the submissions advanced by the learned counsel appearing on behalf of the 6th respondent, also in the same breath admitted the submissions advanced by the learned senior counsel for the petitioners, but, however, would vehemently submit that the decision of the Hon'ble Supreme Court in *Padma Sundara Rao's case* (supra), though lays down the ratio as to the quantification of the period of limitation for issuing the declaration u/s 6 of the Land Acquisition Act, however, vociferously submitted that the said ratio would not stand in the way of the respondents in acting as a deterrent to proceed with the subsequent Declaration u/s 6 for the simple reason that the said declaration was only in pursuant to the orders of this Court. Therefore, the question of limitation raised by the respondent cannot be pressed into service, as the same is only on the orders of this Court.

11. It is the further submission of the learned Government Advocate appearing for respondents 1 and 3 to 5 that the prolonged litigation by the petitioners and the other persons, whose lands were acquired had only caused the delay in issuing the declaration u/s 6. It is the submission of the learned Government Advocate that pursuant to the proceedings of the 4th respondent dated 12.11.01, declaration u/s 6 was published on 10.12.01, the day on which the present petitions were filed. In fine, it is submitted on behalf of the respondents that the publication of the Declaration u/s 6 being at the instance of this Court, the plea of limitation raised by the petitioners does not merit acceptance and the same deserves to be dismissed.

12. This Court heard the submissions of the learned senior counsel appearing for the petitioners, the learned senior counsel appearing for the 6th respondent and the learned Government Advocate appearing for respondents 1 and 3 to 5 and also perused the materials available on record, including the various rounds of litigation and the orders passed thereon and also the decisions relied on by the learned counsel appearing on either side in support of their contentions.

13. The earlier round of litigation between the parties to the lis is not in dispute and so also the fact that the Declaration u/s 6 issued insofar as the petitioners herein are concerned was set aside by this Court for reasons shown in the

order dated 19.12.00, passed in W.P. No.5784/1997, etc. (Batch). It further transpires from the materials available on record that the respondents have not challenged the order passed in W.P. Nos.5784/97, etc., (batch), though certain persons, whose petitions were dismissed had unsuccessfully filed appeal before this Court. Therefore, the respondents have accepted the finding rendered by this Court insofar as the petitioners are concerned, vide the above order dated 19.12.00, passed in W.P.No.5784/97, etc., (batch).

14. A perusal of the order passed in W.P. No.5784/97, etc. (batch), categorically reveals that there is an undeniable fact that the Declaration u/s 6 in pursuance to the Notification dated 12.04.96 issued u/s 4 (1) of the Land Acquisition Act was published on 11.04.97, i.e., on the last day of the period of limitation prescribed. It is the contention of the learned counsel for the respondents that the order was passed on 19.12.00 and the subsequent declaration u/s 6 was published on 12.12.01, i.e., within a period of one year as mandated under the Act. The publication of declaration u/s 6 has been made within a period of 359 days from the date of pronouncement of the order and, therefore, for all intent and purposes, the respondents have followed the prescription prescribed under the Act and, therefore, the acquisition is valid.

15. Though such is the contention raised on behalf of the respondents, however, the same is sought to be countered with by the learned senior counsel for the petitioners, who brought to the notice of this Court the Constitution Bench decision in Padma Sundara Rao (Decd.) & Ors. - Vs - State of T.N. & Ors. (AIR 2002 SC 1334), wherein the Hon'ble Supreme Court had held that after quashing of the Declaration u/s 6, no fresh period of one year is available to the State Government to issue another declaration u/s 6. A perusal of the said decision reveals that the Supreme Court has also gone on to hold that the above judgment will operate prospectively and not retrospectively and to the extent where awards have been made and compensations have been paid, the said cases shall not be reopened. The relevant portion of the decision of the Hon'ble Supreme Court is quoted hereunder :-

"11. It may be pointed out that the stipulation regarding the urgency in terms of Section 5-A of the Act has no role to play when the period of limitation under Section 6 is reckoned. The purpose for providing the period of limitation seems to be the avoidance of inconvenience to a person whose land is sought to be acquired. Compensation gets pegged from the date of notification under Section 4(1). Section 11 provides that the valuation of the land has to

be done on the date of publication of notification under Section 4(1). Section 23 deals with matters to be considered in determining the compensation. It provides that the market value of the land is to be fixed with reference to the date of publication of the notification under Section 4(1) of the Act. The prescription of time-limit in that background is, therefore, peremptory in nature. In *Ram Chand v. Union of India* [(1994) 1 SCC 44] it was held by this Court that though no period was prescribed, action within a reasonable time was warranted. The said case related to a dispute which arose before prescription of specific periods. After the quashing of declaration, the same became non est and was effaced. It is fairly conceded by learned counsel for the respondents that there is no bar on issuing a fresh declaration after following the due procedure. It is, however, contended that in case a fresh notification is to be issued, the market value has to be determined on the basis of the fresh notification under Section 4(1) of the Act and it may be a costly affair for the State. Even if it is so, the interest of the person whose land is sought to be acquired, cannot be lost sight of. He is to be compensated for acquisition of his land. If the acquisition sought to be made is done in an illogical, illegal or irregular manner, he cannot be made to suffer on that count.

12. The rival pleas regarding rewriting of statute and *casus omissus* need careful consideration. It is well-settled principle in law that the court cannot read anything into a statutory provision which is plain and unambiguous. A statute is an edict of the legislature. The language employed in a statute is the determinative factor of legislative intent. The first and primary rule of construction is that the intention of the legislation must be found in the words used by the legislature itself. The question is not what may be supposed and has been intended but what has been said. "Statutes should be construed, not as theorems of Euclid", Judge Learned Hand said, "but words must be construed with some imagination of the purposes which lie behind them". (See *Lenigh Valley Coal Co .v. Yensavage* [218 FR 547] .) The view was reiterated in *Union*

of India v. Filip Tiago De Gama of Vedem Vasco De Gama[(1990) 1 SCC 277 : AIR 1990 SC 981] .

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14. While interpreting a provision the court only interprets the law and cannot legislate it. If a provision of law is misused and subjected to the abuse of process of law, it is for the legislature to amend, modify or repeal it, if deemed necessary. (See Rishabh Agro Industries Ltd. v. P.N.B. Capital Services Ltd. [(2000) 5 SCC 515]) The legislative casus omissus cannot be supplied by judicial interpretative process. Language of Section 6(1) is plain and unambiguous. There is no scope for reading something into it, as was done in Narasimhaiah case [(1996) 3 SCC 88]. In Nanjudaiah case [(1996) 10 SCC 619] the period was further stretched to have the time period run from date of service of the High Court's order. Such a view cannot be reconciled with the language of Section 6(1). If the view is accepted it would mean that a case can be covered by not only clause (i) and/or clause (ii) of the proviso to Section 6(1), but also by a non-prescribed period. Same can never be the legislative intent.

15. Two principles of construction – one relating to casus omissus and the other in regard to reading the statute as a whole – appear to be well settled. Under the first principle a casus omissus cannot be supplied by the court except in the case of clear necessity and when reason for it is found in the four corners of the statute itself but at the same time a casus omissus should not be readily inferred and for that purpose all the parts of a statute or section must be construed together and every clause of a section should be construed with reference to the context and other clauses thereof so that the construction to be put on a particular provision makes a consistent enactment of the whole statute. This would be more so if literal construction of a particular clause leads to manifestly absurd or anomalous results which could not have been intended by the legislature. "An intention to produce an unreasonable result", said Danckwerts, L.J., in Artemiou v. Procopiou [(1966) 1 QB 878 : (1965) 3 All ER 539 : (1965) 3 WLR 1011 (CA)] (at All ER p. 544-I), "is not

to be imputed to a statute if there is some other construction available". Where to apply words literally would "defeat the obvious intention of the legislation and produce a wholly unreasonable result", we must "do some violence to the words" and so achieve that obvious intention and produce a rational construction. [Per Lord Reid in *Luke v. IRC* [1963 AC 557 : (1963) 1 All ER 655 : (1963) 2 WLR 559 (HL)] where at AC p. 577 he also observed: (All ER p. 664-I) "This is not a new problem, though our standard of drafting is such that it rarely emerges."]

16. The plea relating to applicability of the stare decisis principles is clearly unacceptable. The decision in *K. Chinnathambi Gounder* [AIR 1980 Mad 251 : (1980) 2 MLJ 269 (FB)] was rendered on 22-6-1979 i.e. much prior to the amendment by the 1984 Act. If the legislature intended to give a new lease of life in those cases where the declaration under Section 6 is quashed, there is no reason why it could not have done so by specifically providing for it. The fact that the legislature specifically provided for periods covered by orders of stay or injunction clearly shows that no other period was intended to be excluded and that there is no scope for providing any other period of limitation. The maxim *actus curiae neminem gravabit* highlighted by the Full Bench of the Madras High Court has no application to the fact situation of this case."

(Emphasis Supplied)

16. However, countering the said submission, it is the contention of the learned counsel for the respondents that even if there are infirmities and deficiencies in the publication of Declaration u/s 6, this Court, considering the larger public interest involved, can very well grant compensation instead of quashing the entire acquisition proceedings. In support of the said plea, reliance is placed on the decision of the Hon'ble Supreme Court in *Ramniklal N. Bhutta's case* (supra), the relevant portion of which is quoted hereunder :-

"Whatever may have been the practices in the past, a time has come where the Courts should keep the larger public interest in mind while exercising their power of granting stay / injunction. The power under Article 226 is discretionary. It will be exercised only in furtherance of interests of justice and the

public interest coalesce. They are very often one and the same. Even in a civil suit, granting of injunction or other similar orders, more particularly of an interlocutory nature, is equally discretionary. The Courts have to weigh the public interest vis-a-vis the private interest while exercising the power under Article 226 - indeed any of their discretionary powers. It may even be open to the High Court to direct, in case it finds finally that the acquisition was vitiated on account of non-compliance with some legal requirement that the persons interested shall also be entitled to a particular amount of damages to be awarded as a lump sum or calculated at a certain percentage of compensation payable. There are many ways of affording appropriate relief and redressing a wrong; quashing the acquisition proceedings is not the only mode of redress. To wit, it is ultimately a matter of balancing the competing interest. Beyond this, it is neither possible nor advisable to say. We hope and trust that these considerations will be duly borne in mind by the Courts while dealing with challenges to acquisition proceedings."

(Emphasis Supplied)

17. True it is that it is the duty of the Court to weigh the private interest vis-a-vis the public interest involved in the issue and perform a balancing act even if the acquisition is vitiated on account of non-compliance of certain procedural or legal requirement, and in such cases, the same can very well be compensated by awarding damages to the persons concerned in the acquisition. In grant of relief under Article 226 of the Constitution, the Court is vested with power to grant appropriate relief for redressing a wrong and quashing the acquisition proceedings is not the only mode of redressing the grievance of the petitioners. This Court is oblivious of the said fact and is in respectful agreement with the ratio laid down by the Hon'ble Apex Court with regard to performing a balancing act while weighing private interest vis-a-vis public interest.

18. However, the moot question that befalls before this Court is whether a mandatory procedural requirement, not complied with as per the statute and as per the law laid down by the Hon'ble Supreme Court could be given a go-by to be termed as a mere non-compliance of procedural/legal requirement while performing the balancing act of private interest vis-a-vis public interest. The Hon'ble Supreme Court has categorically

held that subsequent to the quashment of the publication u/s 6 of the Land Acquisition Act no fresh period of one year is available to the State Government to issue another declaration u/s 6. A rider is also attached therewith that the said decision would operate prospectively and where award has been made and compensation has been paid, the same shall not be reopened.

19. In the case on hand, the initial Section 4 (1) Notification was issued on 14.2.1996 and within a period of one year, i.e., on the last day of the limitation period, on 11.4.1997, declaration u/s 6 of the Act was issued, which was challenged before this Court by the petitioners as well as other land owners in W.P. Nos.5784/97, etc. (Batch), wherein this Court, by order dated 19.12.2000 allowed the petitions filed by the petitioners and certain other persons, and dismissed the petitions filed by some of the other petitioners therein. The learned single Judge, while allowing the petitions filed by the petitioners herein, held that the mandatory requirement of Notice u/s 5-A of the Land Acquisition Act has not been complied with as per the procedure prescribed and, while allowed the petitions, however, permitted the respondents to proceed with the acquisition proceedings from the stage of Section 4 (1) Notification. In pursuant to the said order, insofar as the petitioners are concerned, no appeal was preferred by the respondents and, thereby, the order of the learned single Judge attained finality. Subsequent to the said order, enquiry notice u/s 5-A of the Act was issued on 30.7.01 to which the petitioners filed their objections on 16.8.01. After obtaining the remarks to the objections from the requisitioning body, further enquiry, as contemplated under Rule 3 (b) was held on 8.11.01 and, thereafter, by proceeding dated 12.11.2001, the 4th respondent overruled the objections raised by the petitioners and made recommendation to the Government for issuing declaration u/s 6 of the Act. Pursuant to the same, while the Government issued the declaration u/s 6 on 10.12.01, the petitioners herein, filed the present petitions on the very same day. It is to be pointed out at this juncture that the declaration u/s 6 was issued 359 days after the order passed by the learned single Judge, which fact is not disputed by the respondents.

20. A perusal of the materials available on record reveal that subsequent Declaration u/s 6 was published on 10.12.01, on which day, the above writ petitions were filed, the writ petitions were admitted by this Court on 27.12.01 and interim order of stay was granted, initially for a period of four weeks on 27.12.01 only to be continued on 28.1.02 periodically culminating in making of the order of stay absolute on 17.9.03. Therefore, it is clear from the above that an order of stay was

in operation against the respondents and any Declaration that was published would be bound by the order of stay. The subsequent declaration u/s 6 came to be passed on 10.12.01, almost after a period of 359 days from the date of the order in the earlier round of litigation, insofar as these petitioners are concerned, which reached finality, not having been challenged. In essence, once the declaration u/s 6 stands set aside, any award, even if passed against the petitioners, stood set aside.

21. It is not the case of the respondents that subsequent to the publication of declaration u/s 6 of the Land Acquisition Act on 10.12.01, and before the passing of the order of stay by this Court, award was passed and the amount was paid to the petitioners herein. Therefore, there was no award in the eye of law nor any amount by way of compensation was paid to the petitioners. That being the case, the rider clause attached to the order passed by the Hon'ble Apex Court in cases where compensation has already been paid by passing of an award, shall not be reopened, would not stand attracted to the present acquisition proceedings.

22. Settled on the above score that the decision in Padma Sundar Rao case (supra) would operate in prospectivity, there being no amount paid as compensation pursuant to passing of any award, the ratio laid down by the Hon'ble Apex Court relating to the period of limitation available to the State Government to issue a declaration would stand squarely attracted to the case of the petitioners herein.

23. It is an uncontroverted fact that pursuant to the Notification u/s 4 (1), the initial Declaration u/s 6 was issued on the last day of the period of limitation, thereby, meaning that the limitation period stood exhausted even at the time of publication of initial Declaration and, therefore, there was no left over period for the State Government to publish a subsequent Declaration u/s 6. In the case on hand, the subsequent declaration u/s 6, even according to the respondents, was published only on 10.12.201, i.e., after a period of 359 days from the date of the proceedings of the 4th respondent overruling the objections raised by the petitioners and, no compensation having been paid on the basis of any award passed, the ratio laid down by the Hon'ble Apex Court squarely stands attracted to the case and enures to the benefit of the petitioners.

24. No doubt the Supreme Court has cautioned that a time has come where the Courts should keep the larger public interest in mind while exercising power of granting injunction and that for non-compliance with the legal requirement, the Courts shall not

always resort to quashment of the acquisition, but can very well award damages, however, the said view of the Supreme Court only relates to minor procedural irregularities in the legal requirement and not for infraction of the mandatory requirements prescribed in the statute. The Court, under the guise of exercising its power under Article 226 of Constitution of India, if resorts to diluting all the legal safeguards made available to the citizens under the relevant statutes, such an action would not only be an arbitrary exercise of power, but would be wholly against the constitutional scheme of dispensing justice.

25. True it is that public interest supercedes private interest and the Courts are bound to give more weightage to public interest over private interest. But that would not give a legal sanctity to the illegal and irregular acts of the statutory authorities in exercise of their powers, which is not in consonance with the statutory requirements, which are mandatory in nature and taking a view in deference to the mandatory statutory requirements would be nothing but axing the rights of the citizen, which are enshrined constitutional guarantees as envisaged under the relevant statutes.

26. On an overall analysis of the materials, to which this court has adverted to above, this court is of the considered opinion that the act of the respondents is in utter disregard to the mandatory procedures prescribed under the Land Acquisition Act, and is also clearly hit by the decision of the Hon'ble Apex court in Padma Sundara Rao's case (supra) and, therefore, this Court has no hesitation to hold that the non-compliance of the mandatory procedure coupled with the ratio laid down in Padma Sundara Rao's case (supra), clearly warrants quashment of the declaration u/s 6 of the Land Acquisition Act. Consequent upon the quashment of the Declaration u/s 6, allowing the respondents to proceed once again from the stage of Section 4 (1) Notification would be nothing but an empty formality, as the limitation period between the issuance of 4 (1) Notification and the Declaration u/s 6 has come to an end even during the first round of litigation. In such view of the matter, this court deems it fit and proper to quash the Notification u/s 4 (1) issued on 14.2.96, as allowing the said Notification u/s 4 (1) to continue would not be in the interest of one and all and would be a fruitless exercise.

27. In the above circumstances and for the reasons aforesaid, while this Court quashes the Notification u/s 4 (1) and the Declaration u/s 6 of the Land Acquisition Act insofar as the lands of the petitioners as detailed above, however, in the interest of justice, grants liberty to the respondents to proceed with the acquisition of the lands, if so advised, by initiating land acquisition proceedings afresh by issuing a

fresh Notification u/s 4 (1) of the Land Acquisition Act and proceed thereafter in accordance with law. Accordingly, these writ petitions are allowed with the aforesaid observations and directions. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

To Sub Assistant Registrar

1.The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai - 9.

2.The Chairman,
Madras Port Trust,
Chennai - 1.

3.The District Collector,
Tiruvallur District,
Tiruvallur.

4.The Special Tahsildar,
(Land Acquisition) II,
Aromatic Complex, M.R.L.,
Saidapet,
Chennai - 15.

5.The Land Acquisition Officer,
(Miscellaneous),
Saidapet,
Chennai - 15.

+2 cc's to Mr.S.Thangavel, Advocate,sr.97408

+1 cc to Government Pleader,sr.97060.

Mp(co)
krd 5/8

W.P. NOS. 26041 & 26042 OF 2001