

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18-01-2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. Nos.24649, 20680, 20681, 20682, 20683, 20684, 29194, 29195,
29196, 29197, 29198, 29199, 29200, 29201, 29641, 29656, 29657,
29835, 30018 and 30620 of 2005

And

W.P.M.P.Nos.22566, 22568, 22570, 22572, 22574, 26967, 31922,
31924, 31926, 31928, 31930, 31932, 31934, 31936, 32473, 32494,
32496, 32697, 32905 of 2005 and WVMP Nos.11, 12 of 2011, 20, 21,
22, 23, 24, 50, 67 of 2010, 77, 78, 79, 80, 81, 82 of 2009

- 1.N.RAMANUJAM ... PETITIONER in WP No.24649 of 2005
- 2.USHA ... PETITIONER in WP No.20680 of 2005
- 3.E.BALAJI ... PETITIONER in WP No.20681 of 2005
- 4.G.RAJALAKSHMI ... PETITIONER in WP No.20682 of 2005
- 5.N.BABU ... PETITIONER in WP No.20683 of 2005
- 6.S.SARASWATHI ... PETITIONER in WP No.20684 of 2005
- 7.M.VENKATESAN ... PETITIONER in WP No.29194 of 2005
- 8.V.RAJESWARI ... PETITIONER in WP No.29195 of 2005
- 9.RAJASULOCHANA ... PETITIONER in WP No.29196 of 2005
- 10.G.DEVANANDAN ... PETITIONER in WP No.29197 of 2005

11.K.ARUMUGA MUDALIAR (DECEASED)

12.K.A.KOTHANDAN

13.A.YOGANANDAM

14.A.ANNAMALAI

(P2 TO P4 ARE SUBSTITUTED AS LRS
OF THE DECEASED P1 VIDE ORDER DATED 18.01.2019
MADE IN WP.MP.173 OF 2010.

... PETITIONER in WP No.29198 of 2005

15.JAYAMMAL ALIAS JAYALAKSHMI

... PETITIONER in WP No.29199 of 2005

16.S.LATHA

... PETITIONER in WP No.29200 of 2005

17.E.CHANDRAN

... PETITIONER in WP No.29201 of 2005

18.N.RAMESH

... PETITIONER in WP No.29641 of 2005

19.N.GOPALSAMY

20.PRABAVATHI

21.VIJAYA

22.LAKSHMI

23.SRINIVASAN

... PETITIONER in WP No.29656 of 2005

24.M.DAYALAN

25.INDIRANI

26.LALITHA

27.M.RAVI

28.M.NANDAGOPAL S/O.MANAVALA NAIDU

2 TO 5 REP.BY THEIR POWER OF ATTORNEY M.DAYALAN
THE FIRST PETITIONER.

... PETITIONER in WP No.29657 of 2005

29.E.GUNASUNDARI

... PETITIONER in WP No.29835 of 2005

30.K.M.DAMODARAN

... PETITIONER in WP No.30018 of 2005

31.K.LOGANATHAN

32.K.KUMAR

33.K.PERUMAL

34.VENKATESAN

... PETITIONER in WP No.30620 of 2005

WEB COPY

vs

1. The State of Tamil Nadu,
Represented by its Secretary,
Housing and Urban Development Department,
Fort St. George,
Chennai-600 009.

.. R1 in all WP's

2. The (Land Acquisition) and
Special Tahsildar, Unit 2,
Tamil Nadu Housing Board Scheme,
Nandanam, Chennai-600 035.

.. 2nd Respondent in WP.24649, 29194 to 29201,
29641, 29656, 29657, 29835,
30018 and 30620 of 2005
.. R3 in WP.20680 to 20684 of 2005

3. The District Collector,
Thiruvallur District,
Thiruvallur.

... R2 in WP.20680 to 20684 of 2005

Impleaded as per order dated 30.01.2014 made in
WP.MP.478 to 482 of 2011 in WP.20680 to 20684 of 2005 and
Order dated 18.01.2019 in WP.MP.514 to 519 of 2010 in
173 of 2010 and 519 of 2010 in WP.No.29194 to 29199
of 2005 and Order dated 30.01.2014 in WP.MP.523 of 2010
in WP.29641 of 2005 and order dated 18.01.2019 in
WP.MP.467 of 2011 in WP.29656 of 2005 and order
dated 18.01.2019 in WP.MP.468 of 2011 in WP.29657 of 2005
and order dated 29.01.2014 in WP.MP.520 of 2010 in
WP.29835 of 2005 and order dated 30.01.2014 in
WP.MP.469 of 2010 in WP.30018 of 2005 and order dated
18.01.2019 in WP.MP.484 of 2011 in WP.30620 of 2005

4. The Tamil Nadu Housing Board,
Rep.by its Executive Engineer
and Administrative Officer,
Mygappair Division,
Tamil Nadu Housing Board,
Chennai-101

.. R3 in WP.29194 to 29199 of 2005, 29641,
29656, 29657, 29835 and 30018 of 2005

.. R4 in WP.20680 of 2005 to 20684 of 2005

Prayer:-

WP No.24649 of 2005:-

writ of certiorari, calling for the records of the first
respondent in G.O.Ms.No.219 Housing and Urban Development (LAI)
published on 20.8.2003 and quash the same with respect to the
petitioners property viz., wet lands situate in survey No.72/2
and 73/1b perumal Agaram, Block II, Ambattur Taluk, thiruvallur
district to an extent of 0.05.5 Hectares

WP No.20680 of 2005:-

Writ of Certiorari, calling for the records in G.O.Ms.No.258, Housing and Urban Development Department dated 10.10.2003 issued by the 2nd Respondent and quash with respect to the petitioner property namely Wet Lands in Survey No.20/1 20/3, 26/3 measuring 3454 sq.fts. in Perumalagaram Village, Block III, Ambattur Taluk, Tiruvallur District.

WP No.20681 of 2005:-

Writ of Certiorari, calling for the records in G.O.Ms.No.258, Housing and Urban Development Department dated 10.10.2003 issued by the 2nd Respondent and quash with respect to the petitioner property namely Wet Lands in Survey No.20/1 20/3, 26/3 measuring 2068 sq.fts. in Perumalagaram Village, Block III, Ambattur Taluk, Tiruvallur District.

WP No.20682 of 2005:-

Writ of Certiorari, calling for the records in G.O.Ms.No.258, Housing and Urban Development Department dated 10.10.2003 issued by the 2nd Respondent and quash with respect to the petitioner property namely Wet Lands in Survey No.20/1 20/3, 26/3 measuring 2484 sq.fts. in Perumalagaram Village, Block III, Ambattur Taluk, Tiruvallur District.

WP No.20683 of 2005:-

Writ of Certiorari, calling for the records in G.O.Ms.No.258, Housing and Urban Development Department dated 10.10.2003 issued by the 2nd Respondent and quash with respect to the petitioner property namely Wet Lands in Survey No.20/1 20/3, 26/3 measuring 2484 sq.fts. in Perumalagaram Village, Block III, Ambattur Taluk, Tiruvallur District.

WP No.20684 of 2005:-

Writ of Certiorari, calling for the records in G.O.Ms.No.258, Housing and Urban Development Department dated 10.10.2003 issued by the 2nd Respondent and quash with respect to the petitioner property namely Wet Lands in Survey No.20/1 20/3, 26/3 measuring 2484 sq.fts. in Perumalagaram Village, Block III, Ambattur Taluk, Tiruvallur District.

WP No.29194 of 2005:-

writ of certiorari, calling for the record of the first respondent in g.O.Ms.258, Housing Urban Development L.A.1(2) dated 10th October 2003 and quash the same with respect to petitioners lands situate in S.No.18/1A, 32/1A, 32/1B to an extent of 0.40.0 hectares, 0.06.5 hectares and 0.24.5 hectares in Perumalagaram Village Block-3, Ambattur Taluk, Thiruvallur District

WP No.29195 of 2005:-

writ of certiorari, calling for the record of the first respondent in g.O.Ms.258, Housing Urban Development L.A.1(2) dated 10th October 2003 and quash the same with respect to petitioners lands situate in S.No.20/10 in Perumalagaram Village Block-3, Ambattur Taluk, Thiruvallur District to an extent of 0.02.0

WP No.29196 of 2005:-

writ of certiorari, calling for the record of the first respondent in g.O.Ms.258, Housing Urban Development L.A.1(2) dated 10th October 2003 and quash the same with respect to petitioners lands situate in S.No.17/1A to an extent of 0.26.5. and s.No.17/1C to an extent of 0.02.0 hectares in Perumalagaram Village Block-3, Ambattur Taluk, Thiruvallur District

WP No.29197 of 2005:-

writ of certiorari, calling for the record of the first respondent in G.O.Ms.258, Housing Urban Development L.A.1(2) dated 10th October 2003 and quash the same with respect to petitioners lands situate in S.No.20/12 in Perumalagaram Village Block-3, Ambattur Taluk, Thiruvallur District to an extent of 0.01.0 Hectare

WP No.29198 of 2005:-

writ of certiorari, calling for the record of the first respondent in g.O.Ms.258, Housing Urban Development L.A.1(2) dated 10th October 2003 and quash the same with respect to petitioners lands situate in S.No.20/14 in Perumalagaram Village Block-3, Ambattur Taluk, Thiruvallur District to an extent of 0.03.0 Hectare

WP No.29199 of 2005:-

writ of certiorari, calling for the record of the first respondent in g.O.Ms.258, Housing Urban Development L.A.1(2) dated 10th October 2003 and quash the same with respect to petitioners lands situate in S.No.31/2 in Perumalagaram Village Block-3, Ambattur Taluk, Thiruvallur District to an extent of 0.28.5 Hectares

WP No.29200 of 2005:-

writ of certiorari, calling for the record of the first respondent in g.O.Ms.258, Housing Urban Development L.A.1(2) dated 10th October 2003 and quash the same with respect to petitioners lands situate in S.No.20-15 in Perumalagaram Village Block-3, Ambattur Taluk, Thiruvallur District to an extent of 0.01.5 Hectares

WP No.29201 of 2005:-

writ of certiorari, calling for the record of the first respondent in G.O.Ms.258, Housing Urban Development L.A.1(2) dated 10th October 2003 and quash the same with respect to petitioners lands situate in S.No.20/3B in Perumalagaram Village Block-3, Ambattur Taluk, Thiruvallur District to an extent of 0.01.0 hector

WP.No.29641 of 2005:-

calling for the records of the first respondent in G.O.Ms.219 Housing Urban Development (L.A.1) dated 20.8.2003 and quash the same with respect to the property of the petitioner namely lands situated in S.No.65/1B, 72/1 and 73/1A for an extent of 0.49-5 hectares o.16-5 hectares and 0.14.5 hectares respectively in Perumalagaram Village, Block-II, Ambattur Taluk, Thiruvallur District.

WP.No.29656 of 2005:-

Calling for the records of the first respondent in G.O.Ms.No. 258, Housing Urban Development L.A. 1(2) 10th October 2003 and quash the same with respect to the land of the petitioners situate in S.No.7/4A in Perumalagaram Village, Block -3, Ambattur Taluk, Thiruvallur District, to an extent of 0.07.5 hectares.

WP.No.29657 of 2005:-

Calling for the record of the first respondent in G.O.Ms.258, Housing and Urban Development L.A.1(2) dated 10th October 2003 and quash the same with respect to the lands of the petitioners situate in S.No.7/2, 7/4B, 9/1A1 and 9/1B1 in Perumalagaram Village, Block -3, Ambattur Taluk, Thiruvallur District, to an extent of 0.24.5 hectares, 0.16.0 hectares, 0.06.5 and 0.05.5 hectares.

WP.No.29835 of 2005:-

calling for the records of the first respondent in G.O.Ms.No. 258, Housing Urban Development L.A.1(2) dated 10th October 2003 and quash the same with respect to the lands of the petitioner, situate in S.No. 20/1(part) in Perumalgaram Village Block-3, Ambattur Taluk, Thiruvallur dist, to an extent of 288 sq.ft

WP No.30018 of 2005:-

calling for the record of the first respondent in G.O.Ms.258, Housing Urban Development L.A.1(2) dated 10th October 2003 and quash the same with respect to the lands of the petitioner situate in S.No. 20/1 part to an extent of 3081 sq.ft., situate in perumalagaram Village, Block-3, Ambattur Taluk, Thiruvallur Dist, to an extent of 0.02.0 Hectare

WP.No.30620 of 2005:-

calling for the records of the first respondent in G.O.Ms.219 Housing Urban Development (L.A.1) dated 20.8.2003 and quash the same with respect to the property of the petitioner namely lands situated in S.No. 54/1A, 64/3 and 64/5 for an extent of 0.23.6 hectares, 0.09.0 hectares and 0.03.5 hectares resp. in Perumalagaram Village, Block-II, Ambattur Taluk, Thiruvallur Dist

For Petitioner in WP 24649/05,
WPs 29194to29201/05,
WPs 29641,29656,29657,
29835,30018/05 : Mr.S.Balasubramanian

For P-1 in WP 30620/05 : M/s.Ma.P.Thangavel,
B.Devagi Thangavel,
R.Jayaprakash

For P-2to4 in WP 30620/05 : M/s.G.Ilamurugu,
A.Balamurugan

For Petitioner in WPs 20680 to
20684/05 : Mr.K.Elango

For R-1 in WP 24649/05, R-1& : Mr.M.Elumalai,
R-2 in WPs 20680 to 20684, Government Advocate.
WPs 29194to29201/05,
R-1 in WPs 29641,29656,
29657,29835,30018 and
30620/05

For R-2 in WP 24649/05,R-3&
R-4 in WPs 20680 to 20684,
R-2&R-3 in WPs 29194to29201/05
R-2&R-3 in WPs 29641,29656,
29657, 29835,30018 and 30620/05 : Mr.B.Vivekavan

COMMON ORDER

Writs of Certiorari are filed questioning the validity of G.O.Ms.No.219, Housing and Urban Development, dated 20.8.2003 in respect of the acquisition proceedings initiated by the respondents.

2. The impugned G.O.Ms.No.219, dated 20.8.2003, is the notification issued under Section 6 of the land Acquisition Act, 1894 (Central Act 1 of 1894).

3. The learned counsel, appearing on behalf of the writ petitioners, states that the second respondent issued a notice seeking objections for the acquisition of the wet lands situated in Survey No.72/2 and 73/1B, Perumal Agaram, Block II, Ambattur Taluk, Thiruvallur District. The notice was addressed to the father of the writ petitioners, who died intestate on 3.8.1990, leaving behind the legal heirs.

4. After the demise of the father of the writ petitioners, the writ petitioners along with the other legal heirs entered into a registered Partition Deed in respect of the landed properties, which were under acquisition proceedings. The lands proposed to be acquired had been allotted to the writ petitioners and separate pattas were issued in favour of the writ petitioners.

5. The learned counsel for the writ petitioners states that the second respondent had not taken any steps to amend Section 4(1) Notification of the Land Acquisition Act and not followed the procedures contemplated. The notice was issued against a dead person and therefore, the entire acquisition proceedings are declared as null and void.

6. It is contended that the first respondent failed to note that Section 4(1) Notification of the Land Acquisition Act, in the name of the writ petitioners were not mentioned and without amending the Notification, the acquisition proceedings cannot be proceeded with by the respondents. Section 6 Notification issued beyond one year period from the date of Section 4(1) Notification, is liable to be scrapped. Section 6 Notification was issued on 20.8.2003. Section 4(1) Notification was issued on 22.7.2002. Further, it is stated that Section 4(1) Notification had not been published in two Tamil Dailies having wide circular in that local area.

7. The paper publication was effected in the newspaper 'Veduthalai' and 'Dr. Namathu MGR' and both the newspapers were not having wide circular in that locality. This apart, the Tamil Nadu Housing Board had not considered the objections raised by the writ petitioners and the respondents also had not considered the legal grounds raised by the writ petitioners in their objections. Thus, the writ petitioners are constrained to move the present writ petitions.

8. The learned counsel for the writ petitioners solicited the attention of this Court with reference to the orders issued by the Government in G.O.Ms.No.20, Housing and Urban Development, dated 17.1.2006, wherein a portion of the land sought to be acquired had been withdrawn. When a portion of the land had been withdrawn from the acquisition proceedings,

the very purpose and object of the Scheme is defeated and therefore, the entire acquisition proceedings are liable to be dropped.

9. It is mainly contended that the Government thought fit to drop acquisition proceedings in respect of the particular portion of the land and therefore, the very purpose of the Scheme is defeated and accordingly, the remaining acquisition proceedings are also directed to be dropped in the present writ petitions.

10. On behalf of the writ petitioners, it is further stated that this Court earlier considered the very same grounds raised by some other writ petitioners in WP Nos.32 to 36 of 2005 and 23428 of 2003 dated 15.11.2009. This Court earlier considered the ground that the procedures followed for issuance of Section 4(1) Notification and Section 6 Notification were improper and further, the notice issued on the death person cannot be construed as a valid procedure and accordingly, the entire land acquisition proceedings are to be dropped.

11. Relying on the said order of this Court, the learned counsel for the writ petitioners states that the present writ petitioners are also similarly placed and the facts and circumstances are also akin to that of the earlier case decided by this Court on 15.11.2009 in WP Nos.32 to 36 of 2005 and 23428 of 2003. In this view of the matter, the present writ petitions are to be allowed.

12. The learned counsel, appearing on behalf of the Tamil Nadu Housing Board, strenuously opposed the contentions raised on behalf of the writ petitioners, by stating that undoubtedly, the Government issued G.O.Ms.No.20 dated 17.1.2006, dropping acquisition proceedings in respect of the portion of the land. However, the project has been already divided as Block No.I, Block No.II and Block No.III. A Scheme was formulated by developing a Neighbourhood Scheme by the Tamil Nadu Housing Board and dropping of a portion of the acquisition proceedings by the Government would not confer any right on the writ petitioner to claim that the entire acquisition proceedings are to be dropped.

13. The lands were found to be required by the Tamil Nadu Housing Board for implementation of a Housing Scheme for general public. The original land owner/interested persons as per Section 4(1) Notification vide Award No.20 dated 20.9.2002, are elaborated as under:-

Sl.No.	Survey No.	Extent in Acres	Original land owner/interested person	Writ Petitions
1	26/3	0.08	1.Tchno Educational Trust	WP No.20680 of 2005. Not covered in present LA Proceedings.
2	26/3	0.08	1.Techno Educational Trust	WP No.20681 of 2005. Not covered in present LA Proceedings.
3	20/1pt	0.06	1.Tchno Educational Trust	WP No.20682 of 2005
4	20/1	0.57	1.Tchno Educational Trust	WP No.20683 of 2005
5	20/1	0.06	1.Tchno Educational Trust	WP No.20684 of 2005
6	7/1A2 7/1B2	0.37	1.K.Loganathan, S/o.Krishnasamy Naidu 2.K.Kumar, S/o.Krishnasamy Naidu 3.K.Perumal, S/o.Krishnasamy Naidu 4.K.Venkatesan, S/o.Krishnasamy Naidu	WP No.29656 of 2005
7	20/1	0.01	1.Tchno Educational Trust	WP No.29835 of 2005
8	26/3	0.07	1.Tchno Educational Trust	WP No.30018 of 2005. Not covered in present LA Proceedings.
9	18/1A 32/1A 32/1B	1.75	1.Venkateshan	WP No.29194 of 2005
10	20/10	0.05	Rajeswari	WP No.29195 of 2005
11	17/1A 17/1C	0.70	Sulochana	WP No.29196 of 2005
12	20/12	0.02	G.Devanandan	WP No.29197 of 2005
13	20/14	0.07	Arumugha Mudaliyar	WP No.29198 of 2005

Sl.No.	Survey No.	Extent in Acres	Original land owner/interested person	Writ Petitions
14	31/2	0.70	Jayammal @ Jayalakshmi	WP No.29199 of 2005
15	7/2 7/4B 9/1A 9/1B1	1.29	Padmavathyammal	WP No.29657 of 2005
16	20/15	0.04	S.Latha	WP No.29200 of 2005
17	20/3B	0.03	E.Chandran	WP No.29201 of 2005

14. The original land owners/interested persons as per Award No.02 of 2005 dated 19.8.2005, are narrated as under:-

Sl.No.	Survey No.	Extent in Acres	Original land owner/interested person	Writ Petitions
1	26/3	0.08	1.L.Usha	WP No.20680 of 2005. Not covered in present LA Proceedings.
2	26/3	0.08	1.E.Balaji	WP No.20681 of 2005. Not covered in present LA Proceedings.
3	20/1pt	0.06	G.Rajalakshmi	WP No.20682 of 2005
4	20/1	0.57	1.N.Babu	WP No.20683 of 2005
5	20/1	0.06	S.Saraswathy	WP No.20684 of 2005
6	7/1A2 7/1B2	0.37	1.N.Dhanalakshmi	WP No.29656 of 2005
7	20/1	0.01	E.Gunasundari	WP No.29835 of 2005
8	26/3	0.07	K.M.Dhamodharan	WP No.30018 of 2005. Not covered in present LA Proceedings.
9	18/1A 32/1A 32/1B	1.75	1.Venkateshan	WP No.29194 of 2005
10	20/10	0.05	Rajeswari	WP No.29195 of 2005
11	17/1A 17/1C	0.70	Sulochana	WP No.29196 of 2005

Sl.No.	Survey No.	Extent in Acres	Original land owner/interested person	Writ Petitions
12	20/12	0.02	G.Devanandan	WP No.29197 of 2005
13	20/14	0.07	Arumugha Mudaliyar	WP No.29198 of 2005
14	31/2	0.70	Jayammal @ Jayalakshmi	WP No.29199 of 2005
15	7/2 7/4B 9/1A 9/1B1	1.29	Padmavathyammal	WP No.29657 of 2005
16	20/15	0.04	S.Latha	WP No.29200 of 2005
17	20/3B	0.03	E.Chandran	WP No.29201 of 2005

15. Pursuant to the requisition made by the Managing Director, Tamil Nadu Housing Board, Nandanam, Chennai-35, the Executive Engineer and Administrative Officer, Special Division I, Thirumangalam in his Letter No.SD1/SS/3596B/71 dated 31.7.2000 had sent requisition for the acquisition of private lands to an extent of 24.50.0 Hectares or 60.54 acres in Perumalagaram Village, Ambattur Taluk, Thiruvallur District for the formation of Ambattur Neighbourhood Scheme by the Tamil Nadu Housing Board. An extent of 21.76.5 Hectares (53.75 acres) of wet lands are covered by the Land Acquisition and hence proposal for according prior permission to acquire the wet land was submitted to the Government and the Government had given permission to to acquire these wet lands for the purpose of setting up of Ambattur Neighbourhood Scheme by the Tamil Nadu Housing Board in G.O.Ms.No.460, Housing and Urban Development Department, dated 18.8.2005.

16. The entire extent of 24.50.0 Hectares of private patta lands (60.54 acres) under acquisition in 66, permalagaram Village, Ambattur Taluk was split up into 3 blocks for the sake of convenience by the Tamil Nadu Housing Board as under:-

Block	Wet		Dry		Total	
	Hectares	Acres	Hectares	Acre	Hectares	Acres
Block I	4.78.0	11.81	3.71.5	9.18	8.49.5	20.99
Block II	7.51.5	18.57	-	-	7.51.5	18.57
Block III	8.30.5	20.52	0.18.5	0.46	8.49.0	20.98
Total	20.60.0	50.90	3.90.0	9.64	24.50.0	60.54

17. It is contended that Section 4(1) Notification was published in Tamil Dailies on 15.9.2002 and Gazettee vide Award No.20 dated 20.9.2002 and the locality publication was made on 16.10.2002. The enquiry under Section 5-A of the Land Acquisition Act was conducted by the Special Tahsildar Unit-II, Tamil Nadu Housing Board Scheme, Nandanam, Chennai-35. After observing the formalities, Section 5-A enquiry was conducted on 25.11.2002. The land owners and interested persons appeared for enquiry on the dates fixed and filed their written objections and furnished their respective statements before the Land Acquisition Officer.

18. The objections raised by the interested persons/land owners were tabulated and communicated to the Requisitioning Body, i.e., the Managing Director, Tamil Nadu Housing Board, Nandanam, Chennai-35 in his reference LA 3(7)/71351/2002 dated 24.2.2003 had opined to overrule the objection raised by the land owners and the lands are compacted and comprehensive blocks and essential required for Tamil Nadu Housing Board Schemes. The said decision taken was communicated to all the land owners on 24.2.2003. The Draft Declaration under Section 6 of the Land Acquisition Act for an extent of 7.51.5 Hectares was approved by the Government in G.O.Ms.No.258, LA(1), Housing and Urban Development Department, dated 10.10.2003 and published in Tamil Nadu Government Gazette Part II, Section 2 Extraordinary No.285 dated 14.10.2003 and the same was published in two Tamil Dailies, namely, 'Dr.Namathu MGR' and 'Dhina Boomi' on 16.10.2003 and 5.11.2003 respectively. The Draft Direction under Section 7 of the Land Acquisition Act was approved by the District Collector, Thiruvallur on 21.6.2004 in RC.A1/2856/02.

19. After observing the formalities under the Land Acquisition Act, some omissions were found in the District Gazette and paper publication, the Government in letter dated 24.1.2005 has decided to drop the acquisition proposal for an extent of 23.64 acres as in the above extent of 9.57.0 Hectares, an extent of 2.45.0 Hectares is covered in Block No.III. Accordingly, after deleting the withdrawn extent of 2.45.0 Hectares, Award was pronounced for an extent of 3.47.5 Hectares.

20. Notification under Sections 9(1) and 10 was published in the places as laid down under the Land Acquisition Act and the notice under Sections 9 (3) and 10 of the Land Acquisition Act was served to all the interested parties for award enquiry as laid down under the provisions of the Land Acquisition Act. The award was passed in vide Award No.03/2005 dated 20.10.2005. Accordingly, the lands were vested with the Government. The manner in which the acquisition proceedings were conducted are also narrated by the respondents in their counter-

affidavit. In nutshell, the dates and events of land acquisition proceedings for Block No.III, are narrated as under:-

Sl.No.	Description	Dates & Events
1	Name of the Scheme	Ambattur Neighbourhood Scheme
2	Name of Village	Perumalagaram
3	Date of 4(1) Notification	20.09.2002
4	Date of Local Publication	16.10.2002
5	Date of 5-A Enquiry	25.11.2002
6	Date of 6 Declaration	16.10.2003
7	Date of Award & No.	20.10.2005, 3/2005
8	Whether any compensation paid	Yes
9	Date of Deposit	Revenue Deposit on 13.9.2007 Civil Court Deposit on 21.11.2007

21. The learned counsel, appearing on behalf of the Tamil Nadu Housing Board, made a submission that the Project was proposed during the year 1995 and the acquisition proceedings commenced during the year 2002. The award was passed during the year 2005 and the award amount was deposited before the Competent Civil Court on 21.11.2007.

22. If at all, the writ petitioners are aggrieved, they are at liberty to approach the Competent Authorities or for enhancement of compensation. Contrarily, they are filing writ petitions after writ petitions only with an idea to protract and prolong the issue. The process of acquisition proceedings were concluded long back and possession was taken by the respondents. The original writ petitions were filed without even impleading Tamil Nadu Housing Board as a party respondent and only after knowing the fact about the filing of the writ petition, the Tamil Nadu Housing Board filed petition for impleadment. Therefore, the writ petitioners had not impleaded the necessary parties and even on that ground, the writ petitions are liable to be rejected.

23. When the writ petitioners are very well aware that the acquisition proceedings were commenced long back and concluded and the lands were under possession of the Tamil Nadu Housing Board, they have obtained interim orders, without even impleading the Tamil Nadu Housing Board as a party and the writ petitions are kept pending for the past about 13 years. The impleading petition filed during the year 2010 by the Tamil Nadu

Housing Board is also kept pending. Thus, the Tamil Nadu Housing Board had acted promptly in defending the case and the writ petitioners are filing the writ petitions one way or the other, challenging the Notifications issued under the provisions of the Land Acquisition Act.

24. It is contended by the learned counsel for the respondents that the award was passed during the year 2005 itself and the award amount was deposited before the Competent Civil Court on 21.11.2007. The writ petitioners have not challenged the award passed by the Competent Authority and even in the present writ petitions, the notifications alone are challenged and therefore, the writ petitions are not maintainable and liable to be dismissed.

25. The learned counsel for the writ petitioners per contra, contended that once the Notification is found to be not in accordance with the provisions of the Land Acquisition Act, the entire proceedings are to be scrapped. This apart, this Court has earlier considered all the grounds raised in the present writ petitions in WP Nos.32 to 36 of 2005 and 23428 of 2003 dated 15.11.2009.

26. The learned counsel for the writ petitioners relied on paragraph 13 of the judgment and said that this Court has considered the fact that the Notification was issued in the name of a dead person. In paragraphs 13 and 22 of the abovesaid judgment also it is categorically said by this Court that the publication, being in the official Gazette, there being no provision as to the District Gazette, the contention hence stands accepted. The publication in this case was in the Thiruvallur District Gazette dated 28.6.2002. The satisfaction recorded as to the acquisition required for a public purpose came from the Government of Tamil Nadu, the purpose being for the formation of Ambattur Neighbourhood Scheme. Relying on the orders passed, more specifically in paragraph 13, the learned counsel for the writ petitioners states that on the very same ground, the present writ petitions are also to be allowed.

27. The learned counsel for the respondents opposed the contentions of the learned counsel for the writ petitioners, by stating that the present writ petitions are filed challenging Section 6 Notification and after passing of the award and after depositing the award amount before the Competent Civil Court and the possession had been taken by the Tamil Nadu Housing Board, the present writ petitions deserve no merit consideration and liable to be dismissed.

28. With reference to the orders of the Hon'ble Single Judge of this Court dated 15.11.2009 in WP Nos.32 to 36 of 2005

and 23428 of 2003, the learned counsel for the respondents brought to the notice of this Court about the judgment of the Hon'ble Division Bench in the very same acquisition proceedings. The Hon'ble Division Bench of this Court in W.A. No.1048 of 2007 dated 22.1.2010 held as follows:-

"2. A learned Single Judge of this court, after hearing the learned counsel appearing on either side, dismissed the writ petition stating that the last publication of the Notification under section 4(1) of the Land Acquisition Act was issued on 18.10.2002 and therefore the Declaration under Section 6 of the Act made on 14.10.2003 was within time.

3. Challenging the said order, the appellant has filed the present writ appeal.

4. We heard the learned counsel appearing on either side and perused the entire materials available on record.

5. It is seen from the materials available on record that the main attack on the land acquisition proceedings by the appellant is that the Declaration has not been issued within one year from the date of publication of 4(1) Notification as is mandated under the Land Acquisition Act. But, the learned Single Judge, after going through the materials placed on record thoroughly, has arrived at the factual conclusion that the Declaration has been issued within one year from the date of publication of the Notification under section 4(1) of the Act. On re-appreciation of the entire materials placed on record, we are in total conformity with the finding of the learned Single Judge and we see no reason to interfere with the same. Consequently, the writ appeal fails and it is dismissed. No costs. Connected miscellaneous petition is closed."

29. Relying on the abovesaid judgment of the Hon'ble Division Bench, the learned counsel for the respondent states that the Division Bench held that there was no delay in issuing the Notification and the Notification and the procedures followed by the Competent Authorities under the provisions of the Land Acquisition Act is in accord with law and there is no infirmity.

30. That being the finding of the Hon'ble Division Bench of this Court, the very same ground now raised in the present writ petitions deserves no merit consideration. The present writ petitions also had raised the point that there is no delay in issuing the Notification. The notice was issued against the dead persons and the very purpose of the Scheme is defeated. To countenance all these grounds, it is contended that the land acquisition proceedings concluded long back and an award was passed in the year 2005 and the award amount had been deposited before the Civil Court on 21.11.2007 and thereafter, the possession also had been taken by the Tamil Nadu Housing Board. Certain encroachments made by the writ petitioners or any other person will not confer any right, seeking re-conveyance or to quash the land acquisition proceedings.

31. After completion of the land acquisition by following the procedures contemplated, after deposit of the award amount and taking possession, no person can claim any right over the property as the property vested with the Government and therefore, a mere possession, if at all, claimed by the writ petitioners is to be construed as an encroachment and the same would not confer any legal right, so as to seek quashing the entire land acquisition proceedings.

32. This Court is of a considered opinion that the Government thought fit to drop acquisition proceedings in respect of a portion of the land. However, the Government had decided to continue the land acquisition proceedings in respect of the remaining area and proceeded with the acquisition proceedings. The fact remains that Section 4(1) Notification was issued on 20.9.2002 and the publication was declared on 16.10.2002 and 5-A enquiry was conducted on 25.11.2002. Section 6 declaration was issued on 16.10.2003 and the award was passed on 20.10.2005 in Award No.3 of 2005. The compensation amount was deposited in revenue deposit on 13.9.2007 and the Civil Court deposit was made on 21.11.2003. This being the factum of the case, this Court is of an opinion that acquisition proceedings were concluded long back and the award was passed in the year 2007.

33. With reference to the orders of this Court, passed in the year 2009, this Court is of an opinion that the issuance of Notification under Sections 4(1) and 6 were directed by the Hon'ble Division Bench of this Court and an order was passed subsequent to the orders of the Hon'ble Single Judge. Thus, this Court is bound to follow the orders passed by the Hon'ble Division Bench of this Court in WA No.1048 of 2007 dated 22.1.2010.

34. In respect of the notice issued to the dead person, this Court would like to opine independently that the legal heirs of the deceased person participated in the enquiry proceedings and recorded their objections. In certain and some other writ petitions, it is stated that their names were not found in the Notification at all. In this regard, the learned Government Advocate as well as the learned counsel for the Tamil Nadu Housing Board contended that the names were published based on the revenue records and if the names are not changed in the revenue records, the same will not found in the Notification.

35. Practically, it would be possible for the authorities to follow the revenue records alone and certain private contracts or execution of Sale Deeds would not be within the purview and the knowledge of the respondents. In these cases, the respondents had strictly followed the revenue records and the names available in the revenue records with reference to the particular survey number, are published in the Notification and therefore, there is no infirmity in the acquisition proceedings.

36. If those persons, who have not effected change in the revenue records, cannot now claim that no notice had been issued at all. The respondents are not at all responsible for the act of not including their name in the Notification and the names available as per the revenue records were published and accordingly, the acquisition proceedings were concluded.

37. This Court is of an opinion that the projects are being delayed on account of the fact that the present writ petitions, which were filed during the year 2005, are kept pending for about 13 years and the interim stay granted also is continuing. Though the respondents had taken possession long back, they were unable to protect the properties from encroachments in view of the pending writ petitions.

38. During the pendency of these writ petitions, while the interim stay is in operation, the respondents would not able to evict the encroachers from the land. It happens where the writ petitions are filed and the interim orders are sometime used or abused by the parties concerned. Long pendency in such matters are also one of the reason for such confusions and it creates unnecessary complications for settling the issues at later point of time.

39. Admittedly, the interim stay was in force for the past 13 years. However, the award was passed under the Land Acquisition Act on 20.10.2005 itself. The Civil Court deposit was also made on 21.11.2007 itself. Even thereafter, some persons are continuing in possession illegally and without any

authority. Such possessions are to be construed as encroachments and therefore, the same would not confer any legal right on these persons. Once the proceedings under the land acquisition proceedings were concluded, award amount had been deposited and possession is taken, the persons concerned have no authority to continue in the acquired properties as the lands vested with the Government.

40. This being the legal principles to be followed, this Court is of an opinion that the Hon'ble Division Bench of this Court found that there was no delay in issuance of Notifications. All that provisions of the Land Acquisition Act and other grounds raised in respect of the Notification, cannot be now entertained after the conclusion of the entire land acquisition proceedings and after deposit of the award amount before the Civil Court. The possession also had been taken by the Tamil Nadu Housing Board for the purpose of developing a Neighbourhood Scheme and the remedial measures, at this point of time, taken for the encroachments, would not bind the Tamil Nadu Housing Board for the welfare of the public and it develops a Neighbourhood Scheme and in the interest of the general public at large.

41. This being the factum of the case, this Court has no hesitation in holding that the writ petitioners had not established any acceptable ground for the relief, as such, sought for in the present writ petitions and accordingly, all the writ petitions stand dismissed and the additional grounds raised by the writ petitioners were considered by this Court in these writ petitions. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

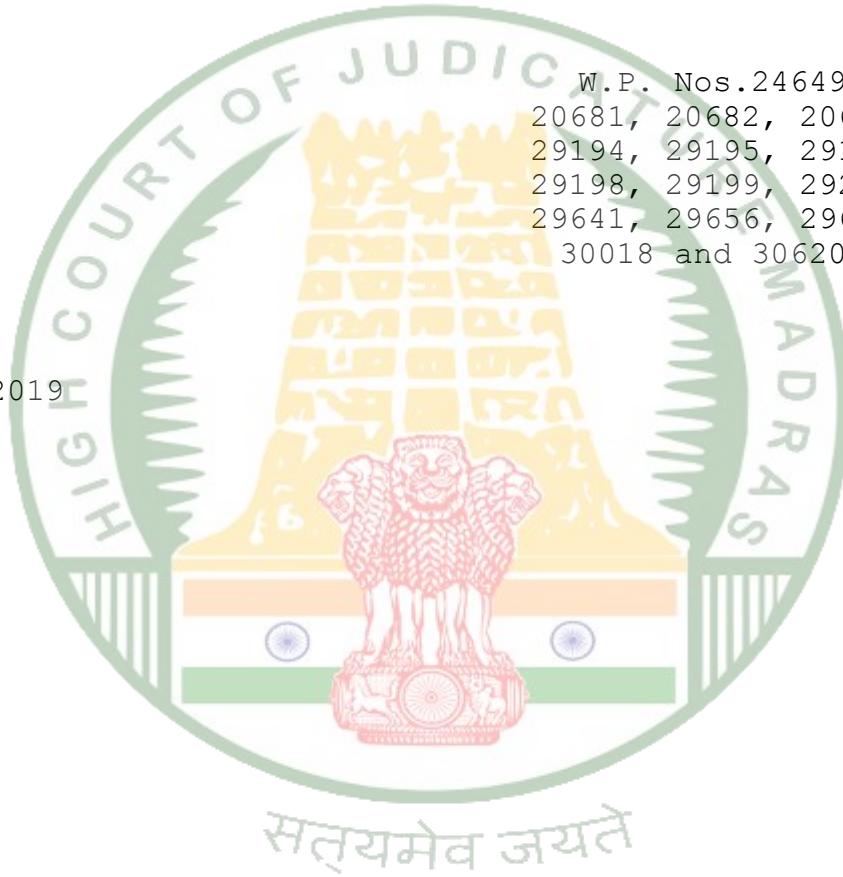
1. The Secretary to Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George, Chennai-9
2. The Land Acquisition and Special Tahsildar,
Unit 2, Tamil Nadu Housing Board Scheme,
Nandanam, Chennai-35.

3. The District Collector,
Thiruvallur District, Thiruvallur.
4. The Executive Engineer and Administrative Officer,
Tamil Nadu Housing Board,
Mogappair Division, Chennai-101.

+16cc to Mr.S.Balasubramanin, Advocate, S.R.No.3782
+1cc to Mr.B.Vivekavanam, Advocate, S.R.No.3885
+2cc to Mr.G.Ilamurugu, Advocate, S.R.No.5175 & 5152
+1cc to the Government Pleader, S.R.No.4584

W.P. Nos.24649, 20680,
20681, 20682, 20683, 20684,
29194, 29195, 29196, 29197,
29198, 29199, 29200, 29201,
29641, 29656, 29657, 29835,
30018 and 30620 of 2005

GJ(CO)
CS/11/04/2019



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