

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on
11..12..2018

Orders Pronounced on
20..02..2019

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.8468 of 2014 & M.P.No.2 of 2014

Writ Petition No.8469 of 2014 & M.P.No.2 of 2014
and

Writ Petition No.3850 of 2015 & M.P.No.2 of 2015
& W.M.P.No.6641 of 2018

W.P.No.8468 of 2014

1.K.Selvaraj

2.R.Subbaraj

Rep. by his Power Agent
Mr.K.Selvaraj

... Petitioners

-Versus-

1.The State Government of Tamil Nadu
Rep. by Principal Secretary to Government,
Highways and Minor Ports Department,
Fort St. George,
Chennai 600009.

2.The District Revenue Officer (LA),
Chennai Outer Ring Road,
Chennai Metropolitan Development Authority,
Koyambedu,
Chennai 600092.

3.The Special Tahsildar (LA),
Chennai Outer Ring Road,
Poonamallee at Nazarathpettai.

4.Tamil Nadu Road Development Company Ltd.,
Rep. by its Managing Director,
Sindur Pantheon Plaza, II Floor,
346, Pantheon Road,
Egmore,
Chennai 600008.

... Respondents

Prayer in W.P.No.8468 of 2014:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in G.O.Ms.No.189, Highways Minor Ports (HN2) dated 25.11.2013 pertaining to the petitioners land comprised in S.No.3/2A1 and 4/2A of Thookkanampattu Village, Poonamallee Taluk, Tiruvallur District. measuring an extent of 1690 square meters and to quash the same and for a further directions to the respondents to drop the entire acquisition proceedings as proposed by them.

W.P.No.8469 of 2014

- 1.K.Seeni Ammal
- 2.K.Jansi Rani

Both the petitioners are Rep. by their Power Agent,
Mr.K.Selvaraj

... Petitioners

-Versus-

- 1.The State of Government of Tamil Nadu
Rep. by Principal Secretary to Government,
Highways and Minor Ports Department,
Fort St. George,
Chennai 600009.
- 2.The District Revenue Officer (LA),
Chennai Outer Ring Road,
Chennai Metropolitan Development Authority,
Koyambedu,
Chennai 600092.
- 3.The Special Tahsildar (LA),
Chennai Outer Ring Road,
Poonamallee at Nazarathpettai.
- 4.Tamil Nadu Road Development Company Ltd.,
Rep. by its Managing Director,
Sindur Pantheon Plaza, II Floor,
346, Pantheon Road,
Egmore,
Chennai 600008.

... Respondents

Prayer in W.P.No.8469 of 2014:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in G.O.Ms.No.189, Highways Minor Ports (HN2)

dated 25.11.2013 pertaining to the petitioners land comprised in S.No.3/1A of Thookkanampattu Village, Poonamallee Taluk, Tiruvallur District. measuring an extent of 2290 square meters and to quash the same and for a further directions to the respondents to drop the entire acquisition proceedings as proposed by them.

W.P.No.3850 of 2015

- 1.Sanju Anto
- 2.Mrs.Mary Ann
- 3.Mrs.Anju Vijay
- 4.Mrs.Susan Anto
- 5.Anto Tharappen

- 6.Canan Valley Foundation
(Educational Trust),
Rep. by Managing Trustee
Mr.Anto Tharappen,
1/75, Poonamallee High Road,
Nerkundram, Chennai 600107.

... Petitioners

-Versus-

- 1.The State of Tamil Nadu,
Rep. by Principal Secretary to Government,
Highways & Minor Ports Department,
Fort St. George, Chennai 600009.
- 2.The Collector,
Tiruvallur, Tiruvallur District.
- 3.The Divisional Engineer (C & M),
The Highways Department,
Tiruvallur.
- 4.The District Revenue Officer,
(Land Acquisition),
Chennai Outer Ring Road,
CMDA, Koyambedu,
Chennai 600092.
- 5.The Special Tahsildar (Land Acquisition),
Chennai Outer Ring Road,
CMDA, Koyambedu,
Chennai 600092.

6.The Tamil Nadu Road Development Co. Ltd.,
Rep. by its Managing Director,
No.171, 2nd Floor,
Tamil Nadu Maritime Board Building,
South Kesava Perumal Puram,
Pasumpon Muthuramalingam Road,
Chennai 600028.

(6th respondent was impleaded as per order
dated 16.02.2018 in W.M.P.No.4122 of 2018)

... Respondents

Prayer in W.P.No.3850 of 2015:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in G.O.Ms.No.189, Highways Minor Ports (NH2) dated 25.11.2013 and notified in Tamil Nadu Government Gazette No.48, dated 11.12.2013, Part II - Section 2 at page Nos.794 and 795 pertaining to the land comprised in S.No.2/1A sub-divided as S.No.2/1A2 - an extent of 01510 - square meters; S.No.4/1 sub-divided as S.No.4/1B - extent of 00690 square meters, S.No.4/5B2A sub-divided as S.No.4/5B2A2 - an extent of 01620 square meters; S.No.4/5B2B (part) sub-divided as S.No.4/5B2B2 - an extent of 00860 square meters; and S.No.11/2A sub-divided as S.No.11/2A2 - an extent of 00010 square meters situated at Thookkanampattu Village, Poonamallee Taluk, Tiruvallur District and to quash the same as illegal and invalid, and for a consequential direction to the 2nd respondent to conduct an enquiry under sub-section (2) of Section 15 of the Tamil Nadu Highways Act, 2001 pursuant to the objections dated 11.06.2013 submitted by the petitioners jointly.

For Petitioner(s) : Mr.S.Navaneethakrishnan in
W.P.No.8468 & 8469 of 2014

: Mr.R.Thyagarajan, Senior
Counsel for Mr.V.Srinivasa
Babu for Petitioner in
W.P.No.3850 of 2015

For Respondent(s) Mr.S.R.Rajagopal, Addl.
Advocate General, Assisted
by Mr.C.Thirumaran, Spl.
G.P. for R1 to R3 in
W.P.Nos.8468 and 8469 of
2014 and R1 to R5 in
W.P.No.3850 of 2015 and

Mr.M.Sivavarathanan for R4
in W.P.No.8468 & 8469 of
2014 and R6 in W.P.No.3850
of 2015

COMMON ORDER

Challenge in all these writ petitions is to the Notification issued by the 1st respondent under Section 15(1) of the Tamil Nadu Highways Act, 2001 (hereinafter called as "the Act"] acquiring the lands belonging to the petitioner for constructing truck lay byes as a part of development of Chennai Outer Ring Road Phase-I along the periphery of Chennai Metropolitan Area in Kancheepuram and Tiruvallur District as proposed by the Chennai Metropolitan Development Authority.

2. The common case of the petitioners in all these writ petition, in brief, is as follows:- The petitioners are the owners of the respective lands referred to above which are situated at Thookkanampattu Village, Poonamallee Taluk, Tiruvallur District. The Chennai Metropolitan Development Authority [in short, "the CMDA"] as a part of its Second Master Plan has proposed to develop the Outer Ring Road [ORR] along the periphery of Chennai Metropolitan Area in Kancheepuram and Tiruvallur District of Tamil Nadu. The Outer Ring Road connects NH-45 (GST Road) at Vandalur and NH-4 (GWT Road) at Nazarathpet and NH-205 at Nemilichery. The above said outer ring road intersects 5 major roads namely, NH-45, NH-4, NH-205, NH5 and Thiruvottiur - Ponneri - Panchetti Road. An administrative sanction was obtained for the acquisition of additional private lands and transfer of Government poramboke lands in Tiruvallur District for the construction of bus byes, truck lay byes, junction improvements and wayside amenities and also interchanges in Chennai Outer Ring Road, Phase-I. Thereafter, a notification under Section 15(2) of the Act was issued on 29.05.2013, calling upon the respective land owners to give their objections, if any, for acquisition of the lands for providing truck lay bye with a total extent of 9140 square feet of lands and the enquiry was fixed on 18.06.2013. In the mean time, all the petitioners had submitted their objections stating that already a major portion of their lands were acquired for the formation of outer ring and after such acquisition, the remaining portion of the lands have been classified as primary residential zone in the Second Master Plan. Constructing truck lay bye is a commercial activity which is not permissible under the primary residential zone. That apart, if hazardous and dangerous explosives laden commercial vehicles and LPG tankers which are highly inflammable are allowed to be parked near the residential zone, the same would disturb the peaceful atmosphere in the primary

residential zone. Further, according to the petitioner, along the very same ring road already truck terminus are planned at 10 places and a truck yard is situated hardly within 6 kms from the land which are proposed to be acquired and as such there is no necessity to provide another truck lay bye by acquiring the petitioners' lands. That apart, if the truck lay bye is permitted, there is likelihood of dumping and spitting of wastes and plastic materials which would certainly lead to an environmental pollution in the locality.

3. It is the further case of the petitioners that after the receipt of their objections, the Land Acquisition Officer did not conduct any enquiry and no order has been passed on their objections as contemplated under Section 15(3) of the Act r/w Rule 5 of the Tamil Nadu Highways Rules, 2003 [hereinafter referred to as "the Rules"]. According to the petitioners, after the receipt of their objection and remarks from the requisitioning body, an enquiry should be conducted and the Land Acquisition Officer should record the statement of the petitioner and thereafter only, the Land Acquisition Officer is expected to submit his report to the Government for passing appropriate orders under Section 15(3) of the Act. But, no such enquiry was conducted by the Land Acquisition Officer. Even though the notices were issued under Section 15(2) of the Act calling for objections from the petitioners stating that the lands are sought to be acquired for providing truck lay bye, in the notification issued under Section 15(1) of the Act, a different reason was set forth as the lands were sought to be acquired for the construction of interchanges at NH-4 in Chennai Outer Ring Road at Thookkanampattu which is totally a different purpose than what was mentioned in the notice under Section 15(2) of the Act. The petitioners were not provided with any opportunity to raise their objections for the above purpose. That apart, no publication of Section 15(2) notice was effected in the widely circulated local daily and the entire acquisition proceedings was initiated as the mandatory requirements under the Act were not followed. According to the petitioner, notice under Section 15(2) of the Act was issued without fixing the highway line boundary and building line and control line, as contemplated under Section 8 of the Act, and the procedure contemplated under Section 8(1) of the Act, which is a condition precedent for invoking Section 15(2) of the Act, has not been followed and without fixing the highway boundary line, building line and control line, acquisition proceedings cannot be initiated and as such, the petitioner contended that the entire acquisition proceedings are liable to be quashed in its entirety.

4. The 2nd respondent in W.P.No.8468 and 8469 of 2014 and the 4th respondent in W.P.No.3850 of 2015 namely, District

Revenue Officer, Land Acquisition, Chennai Outer Ring Road filed a detailed counter affidavit for himself and on behalf of the other respondents wherein he inter alia contended that the Government of Tamil Nadu contemplated to enhance the traffic capacity and safety and efficient transshipment of goods as well as passengers traffic and heavy traffic in City Road. Therefore, the Government has decided to form an Outer Ring Road connecting the Southern, Western, Northern parts of Chennai City. The Chennai Metropolitan Development Authority as part of its Master plan has proposed the development of Outer Ring Road along the periphery of Chennai Metropolitan Area in Kancheepuram and Tiruvallur District of Tamil Nadu, with the objective of relieving congestions within the city and also for catalyzing even dispersal of urban growth. The Chennai Outer Ring Road Phase-I, connecting NH-45 at Vandalur and NH-205 at Nemilichery and the same intersects three major road namely, NH-45 (GST road), NH-4 (GWT Road - Chennai - Bangalore High Road) and NH-205 (Chennai Tiruvallur High Road, for a total length of 29.650 kms. After obtaining administrative sanction from the Government, construction agreements were entered into with the private concessionaire for development of work. The above said project envisages construction of 6 lane divided carriage road with service road for a length of 29.650 kms, 3 interchanges, 2 road over bridges, 3 fly overs, 3 major bridges, 2 minor bridges, 11 vehicular under passes, 15 pedestrian under passes, 25 junction improvements, 50 bus bays, 2 truck lay by and 2 wayside amenities.

5. The CMDA had acquired the requires lands for the project and handed over the same to the concessionaire. For the formation of the project road and for the construction of interchanges, bus bays, truck lay by, junction improvements, wayside amenities, etcetera, additional lands are required and hence, the private lands involved in the alignment required for providing the above facilities are sought to be acquired. Necessary administrative sanction was also obtained in G.O.Ms.No.199, Highways and Minor Ports (NH-2) Department, dated 04.12.2012 for acquisition of private lands and transfer of government lands required for providing project facilities under the provisions of the Tamil Nadu Highways Act, 2001 and Rules framed thereunder. Thereafter, a notice under Section 15 (2) of the Act was published in two daily news papers and also in the locality as required under Rule 5 of the Rules. An enquiry under Section 15(2) was also conducted on 18.06.2013 after having issued notice to the land owners calling for their objections, if any. All these petitioners appeared for enquiry and raised their objections and based on the objections of the petitioners remarks were called for from the requisitioning body and on receipt of the same, the Land Acquisition Officer forwarded the objections of the petitioners and the remarks

received from the requisitioning body to the Government. The government upon considering the objections of the petitioners and the remarks of the requisitioning body coupled with the report of the Land Acquisition Officer had decided to acquire the private lands including the lands in question for the purpose of providing the project facilities and had issued a notification under Section 15(1) of the Act in G.O.Ms.No.189, Highways and Minor Ports (NH-2) Department, dated 25.11.2013 and the same was published in the Government Gazette dated 11.12.2013.

6. The provisions in section 8 of the Act would come into play only after the land acquisition process is completed and the procedure contemplated under sub-section (1) of Section 8 of the Act is not a condition precedent for initiating proceedings under Section 15 of the Act. The entire procedures contemplated under the Act have been scrupulously followed and the objections of the petitioners were also duly considered and there is no violation of any procedures as contended by the petitioner. The writ petitions are liable only to be dismissed.

7. The learned senior counsel for the petitioners in W.P.No.3850 of 2015 would strenuously contend that before initiating a proceeding for acquiring any land for the construction of any Highways in the State, the authorities have to fix highways boundary, building line and control line as contemplated under Section 8 of the Act which is a condition precedent to invoke the provision under Section 15 of the Act for acquiring the lands. Without fixing highways boundary and building line and control line, the respondents cannot blindly acquire the lands. The learned senior counsel appearing for the petitioners placed reliance heavily upon a judgement of this court in R.Moorthy v. State of Tamil Nadu, 2014 (2) CWC 763 in support of his contention.

8. The said issue is no more res integra and it has been consistently held by this court that Section 8 of the Act, which falls under Chapter III of the Act, dealing with restriction of ribbon development and it has nothing to do with the acquisition of land, which falls under Chapter IV of the Act, it is an independent one, which deals with acquisition of property and also for payment of compensation. The compliance of Section 8 of the Act is not a sine qua non for initiating land acquisition proceedings. In R.Kumar v. State of Tamil Nadu, reported in CDJ 2006 MHC 2003 : LNIND 2006 MAD 1743 (W.P.Nos.18050 & 18051 of 2005 dated 09.08.2006) a learned single Judge of this court had taken such a view. The relevant portion of the above said judgement reads as follows:-

"Chapter IV relates to acquisition of property which contains Sections 15 to

25. Under the said chapter, if the Government are satisfied that any land is required for the purpose of any highway or for construction of bridges, culverts, causeways or other structures thereon or for any purpose incidental or ancillary thereto, in furtherance of the objects of this Act, they may acquire such land by publishing in the Tamil Nadu Government Gazzette after entertaining objections from the owners or the interested persons of the land and the land so acquired shall vest with the Government free from all encumbrance. Any land acquired in this Act, the Government may use or cause to be used such land for the purpose of this Act. Every owner or person interested in any land required under this Act shall be entitled to receive and be paid an amount. If any person is aggrieved by the decision of the Collector in determining the amount may within 60 days from the date of such decision seek for reference to civil Court as defined in the Land Acquisition Act, 1894. The said Chapter also deals with apportionment of the amount, payment of amount, investment of amount by depositing in Court, payment of interest and power of entry. Thus, the chapter IV is an independent one for acquisition of property and also for payment of compensation amount to the land owners and therefore the contentions of the petitioners that notification under Section 8 is sine qua non for initiating acquisition proceedings is untenable, hence the said ground is rejected."

9. When the above said judgement was taken up on appeal, a Division Bench of this Court in R.Kumar v. State of Tamil Nadu, 2006 (4) CTC 640 while affirming the view taken by the learned single Judge has held in para 22 as follows:-

"22. The Further argument that the authority under TNTCP Act will have to decide the road boundaries and also the road with does not merit any acceptance. We hold that the present road in question, viz., OMR Road presently called as IT Corridor, completely comes within the

jurisdiction of the authorities under the Tamil Nadu Highways Act and any development of the said road including the fixation of the boundary and the width of the road have to be decided by the authorities under this Act. In this context, we may refer to Section 8(4)(a) of the Highways Act, which reads as follows:

"(4). Notwithstanding anything contained in sub-sections (1), (2) and (3), the Government may, in consultation with the State Highways Authority, having regard to the situation or the requirements of any highway or the condition of the area through which such highway passes -
(a) fix different building line and control line for such highway"

Hence, we hold that once it is a Highway, Highways authorities can fix different building line and control line for such highway."

10. In Jayaraman v. State of Tamil Nadu, (2014) 4 MLJ 685, another learned single judge of this court had taken the similar view.

11. Relying upon the judgement of the Division Bench in R.Kumar's case cited supra, yet another learned single Judge of this Court in M/s.Ceedeeyes Standard Towers Private Limited v. The District Collector of Chennai and others, W.P.No.26794 of 2004 dated 14.09.2016 has held that notification issued under Section 8 of the Act is not sine qua non for initiating proceedings under Section 15 of the Act and at para 13 of the judgement, this court has held as follows:-

13. Further, the learned Additional Advocate General sought to impress upon the Court with the above factual submissions and submitted that the impugned proceedings is only a show cause notice and the petitioner can raise all the objections by submitting a

reply. Further, it is submitted that the 1st respondent is not required to comply with the procedure under Section 8 of the Act before proceeding under Section 15[2] of the Act and the stand taken by the writ petitioner in this regard is unsustainable and the respondents are supported by the decision of the Hon'ble Division Bench of this Court in the case of R.Kumar and Others Vs State of Tamil Nadu [2007] 2 MLJ 384 and the decision in Jayaraman and Other Vs State of Tamil Nadu [2014] 4 MLJ 685. It is submitted that in Jayaraman's case, the Court has taken great pains to examine the entire scheme of the Act and also thoroughly explained the ratio laid down by the Hon'ble Division Bench in R.Kumar's case and has held that notification under Section 8 of the Act is not a sine qua non for initiating acquisition proceedings under Section 15 of the Act. It is submitted that in R.Moorthy's case, this Court has not distinguished the decision in R.Kumar's case and Jayaraman's case and therefore, the law which has been laid down in R.Kumar's case and Jayaraman's case will hold the field, since the decision in Jayaraman's case was rendered following the decision of the Hon'ble Division Bench and by applying the same, the contentions raised in the Writ Petition are liable to be out rightly rejected.

12. It is pertinent to note that the judgment in R.Moorthy v. State of Tamil Nadu, 2014 (2) CWC 763, which was relied upon by the learned counsel for the petitioners herein, was considered in M/s.Ceedeeyes Standard Towers Pvt Ltd's case, cited supra, wherein, the learned Judge while distinguishing R.Moorthy's case, cited supra, has held as follows:-

21. On a reading of the above, it is evidently clear that the Court did not distinguish the decision in Jayaraman. But the observation is that the decision cannot be applied to the facts of the case relating to R.Moorthy. The reason that can be culled out from reading of the above mentioned paragraphs and other relevant paragraphs of the order is that the Court was of the firm opinion that the minimum extent of land alone has to be acquired, viewed from the point of

view of the land owner as well as the requisitioning body. This appears to have weighed in the minds of the Court as there are observations in paragraph No.151 to the effect that it is always favourable, if minimum extent is required. Thus, the decision in R.Moorthy cannot be taken as a decision which has distinguished Jayaraman. It is to be noted that Jayarman was rendered by referring to and relying upon a Hon'ble Division Bench Judgment in R.Kumar. Therefore, cogent reasoning was required to distinguish the decision of the Hon'ble Division Bench as well as in Jayaraman."

Thus, the contention of the learned senior counsel for the petitioner does not hold good.

13. Nextlly, the learned senior counsel for the petitioners would submit that no proper enquiry was conducted by the Land Acquisition Officer as contemplated under Section 15(2) of the Act read with Rule 5 of the Rules and no orders have been passed by the 1st respondent Government on the objections submitted by the petitioners, as such the 1st respondent has violated the mandatory requirement of Section 15(3) of the Act.

14. Per contra, the learned Additional Advocate General appearing for the respondents would contend that, after the receipt of the objections from the land owners, the same were communicated to requisitioning body and after obtaining the remarks from the requisitioning body on the objections, the Land Acquisition Officer had submitted a proposal to the 1st respondent to enable them to pass suitable orders as contemplated under Section 15(3) of the Act. Thereupon, the Government, after having considered the objections of the lands owners and the remarks of the requisitioning body, rejected the objections of the petitioners and on being satisfied that the lands were required for the intended project improvements and amenities, the Government had issued a notification under Section 15(1) of the Act.

15. The learned Additional Advocate General would further contend that the Government need not give a detailed reason and it would be sufficient if the records shows that there was an application of mind on the part of the Government before issuing the notification under Section 15(1) of the Act. Whereas, according to the learned Additional Advocate General, the Government had, in the instant case, applied its mind and thereafter issued notification under Section 15(1) of the Act and the same was published the same in the Government Gazette.

The learned Additional Advocate General in support of his contention placed reliance heavily upon a Full-Bench judgement of this court in reported in 2006 (4) CTC 609 (R.Pari v. The Special Tahsildar, Adi Dravidar Welfare, Devakkottai). The relevant portion of the aforesaid judgement reads as follows:-

"42. However, it is necessary to enter a small caveat. The observation made by the Division bench or the judge regarding requirement to indicate reason while passing the order has to be understood in the context of non-application of mind. Even though in a given case the order which is communicated to the land owner does not indicate any reason why the objection has been rejected, if the application of mind is reflected in the file even by way of nothings and endorsements, the ultimate decision to acquire the land cannot be said to be vitiated merely because the order which is communicated to the land owner/objector does not contain any detailed reasons. The requirement is that the materials on record, that is to say the relevant file, should indicate application of mind to the relevant facts and circumstances and not passing of a formal reasoned order as is required in judicial or quasi-judicial proceedings. The function obviously being administrative in nature, it is futile to expect furnishing of detailed reasons in the order which is communicated to the person. It is necessary to enter such caveat lest it may be construed that in every case, where the order of rejection communicated to the land owner does not contain the reasons, the proceeding stands vitiated. Ultimately the court is required to find out in each case whether there has been application of mind. Therefore, the brief reasons, which are contemplated, can be given either in the file in the shape of nothings, endorsements, etc., or even can be reflected in the order. But, mere non-reflection of reasons in the order communicated or in the notice published in the Gazette, would not be sufficient to hold that there has been non-application of mind and the question as to whether there has been application of mind or non-

application is required to be considered on the basis of the return filed and. the relevant file to be produced before the Court.

16. From the perusal of the records produced by the respondents before this court , it could be seen that the Government had considered the objections of the petitioners and the remarks received from the requisitioning body on the objections and the proposal submitted by the land acquisition officer was approved, only thereafter, a notification under Section 15(1) of the Act came to be issued and published in the Government Official Gazette. Thus, the contention of the learned senior counsel for the petitioners that no orders were passed on the objections of the petitioners cannot at all be countenanced.

17. So far as the contention of the learned senior counsel for the petitioners that enquiry was not conducted properly as contemplated under Section 15(2) of Act read with rule 5 of the Rules is concerned, it could be further seen from the records that enquiry under Section 15(2) of the Act was conducted on 18.06.2013 and in the enquiry, one Mr.K.Selvaraj, the 1st petitioner in W.P.No.8468 of 2014 for himself and on behalf of the other petitioner in W.P.No.8468 of 2019 and the petitioners in W.P.No.8469 of 2018 and submitted their objections and also requested that their earlier objections submitted through their counsel could be treated as their objections. Similarly, on behalf of the petitioners in W.P.No.3850 of 2015, one Mr.Anto Tharappen and Mr.Sanju Anto, who are petitioners 5 and 1 respectively, had appeared and submitted their objections and also requested the land acquisition officer to consider their objections dated 11.06.2013 submitted earlier through their counsel. Their statements were also recorded by the land acquisition officer during enquiry. Before that, their objections were submitted to the requisitioning body to offer their remarks and the requisitioning body had also submitted their remarks. Thereafter, the land acquisition officer had submitted his enquiry report to the Government. Hence, the contention of the learned senior counsel for the petitioners that enquiry was not conducted in a proper manner cannot also be countenanced.

18. Coming to the penultimate contention, according to the learned senior counsel for the petitioners, already a portion of lands belonging to petitioners were acquired for the purpose of forming Outer Ring Road and after the acquisition, the area forming part of the remaining portions of the lands belonging to the petitioners comprised in the very same survey numbers have been declared as primary residential zone and as such the

lands in question cannot be used for the purpose of constructing truck lay bye which is nothing but a commercial activity and the same cannot be permitted. Therefore, the learned senior counsel contended that entire acquisition proceedings is liable to be quashed. In support of his contention, the learned senior counsel for the petitioner had taken this court through the Second Master Plan for Chennai Metropolitan Area and the Development Regulations.

19. From a perusal of the regulations, it could be seen that as per Development Regulations, even in primary residential zone, transport depots, bus terminus and railway stations are permitted to be established with the sanction of the CMDA and as the respondents only proposed to construct truck lay bye which is a part of a highway project and it cannot be said as a commercial activity.

20. The learned senior counsel for the petitioners would lastly contend that the lands in question were sought to be acquired for the purpose of construction of truck lay bye which has got nothing to do with the Highways and as such no land can be acquired under the Tamil Nadu Highways Act. This argument also cannot be countenanced for the simple reason that providing the facility of truck lay bye is only a part and parcel of the project road amenities and it is one of the facilities provided for the users of the outer ring road Phase-I and from any angle it cannot be said that it was for a different purpose.

21. For the foregoing discussions, this court does not find any merit in the arguments advanced by the learned senior counsel for the petitioners and the writ petitions deserves only to be dismissed.

22. In the result, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

kmk
To

1.The Principal Secretary to Government, Highways & Minor Ports
Department, Fort St. George, Chennai 600009.

- 2.The Collector, Tiruvallur, Tiruvallur District.
 - 3.The Divisional Engineer (C & M), The Highways Department, Tiruvallur.
 - 4.The District Revenue Officer, (Land Acquisition), Chennai Outer Ring Road, CMDA, Koyambedu, Chennai 600092.
 - 5.The Special Tahsildar (Land Acquisition), Chennai Outer Ring Road,Poonamallee at Nazarathpettai.
 - 6.The Managing Director, Tamil Nadu Road Development Co. Ltd., Sindur Pantheon Plaza, II Floor, 346, Pantheon Road, Egmore,Chennai 600008.
 - 7.The District Revenue Officer (LA), Chennai Outer Ring Road, Chennai Metropolitan Development Authority, Koyambedu,Chennai 600092.
 - 8.The Special Tahsildar (LA), Chennai Outer Ring Road, CMDA Koyambedu,Chennai 600092.
- +1cc to Mr.V.Srinivasa Babu , Advocate SR.No. 15327
- +1cc to Mr.M.Sivavarathanan, Advocate SR.No. 15285
- +1cc to Mr.S.Navaneethakrishnan , Advocate SR.No. 16387 (11/03/2019)

Writ Petition
Nos.8468 & 8469 of 2014
and
3850 of 2015

A.SK (25/02/2019)

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