



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2021

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.14644, 14645, 15011 to 15016, 15032 to 15041
and 15043 to 15045 of 2012

M.P.Nos.1 & 2 (20 Nos) 4 & 4 of 2012
and

W.M.P.Nos. 23002 to 23018 of 2016

Sugunammal	...Petitioner in WP.No.14644/2012
K.P.Boopalan	...Petitioner in WP.No.14645/2012
Kanthammal	...Petitioner in WP.No.15011/2012
Visala	...Petitioner in WP.No.15012/2012
R.Balamurugan	...Petitioner in WP.No.15013/2012
B.K.Sundaram	...Petitioner in WP.No.15014/2012
Govinda Chetty	...Petitioner in WP.No.15015/2012
Paradesi Chetty	...Petitioner in WP.No.15016/2012
Geetha	...Petitioner in WP.No.15032/2012
Lalithammal	...Petitioner in WP.No.15033/2012
D.Nagarajan	...Petitioner in WP.No.15034/2012
Govindaraj	...Petitioner in WP.No.15035/2012
R.Valliammal	...Petitioner in WP.No.15036/2012
Neelammal	...Petitioner in WP.No.15037/2012
C.Ramamoorthy	...Petitioner in WP.No.15038/2012
V.Baby	...Petitioner in WP.No.15039/2012
S.Pratheeba	...Petitioner in WP.No.15040/2012
M.Vinayaka Naicker	...Petitioner in WP.No.15041/2012
S.Pushparani	...Petitioner in WP.No.15043/2012
S.Venkatesan	...Petitioner in WP.No.15044/2012
D.Lakshmipathi Naidu	...Petitioner in WP.No.15045/2012

-Vs-

1. The Principal Secretary to Government,
Government of Tamilnadu,
Energy C-1, Department,
Fort St.George, Chennai - 9.



2. The District Collector,
Vellore District , Vellore.

3. The Revenue Divisional Officer,
Vellore.

4. The Tahsildar,
Katpadi,
Vellore District.

5. Power Grid Corporation of India Ltd.,
Rep.by its Deputy General Manager,
A.Surendiran,
No.2 (Old No.160) I Lane,
Bharathi Nagar, North Usman Road,
T.Nagar, Chennai - 600 017.

(R5 implied as per order dated 14.06.2012 in
M.P.No.3 of 2012 in W.P.No.14644 ,14645 of 2012)

...Respondents in WP.No.14644 &14645/2012

1. The Principal Secretary to Government,
Government of Tamilnadu,
Energy C-1, Department,
Fort St.George, Chennai - 9.

2. The District Collector,
Vellore District , Vellore.

3. The Revenue Divisional Officer,
Vellore.

4. The Tahsildar,
Katpadi, Vellore District.

5. The Chairman & Managing Director,
Power Grid Corporation of India Limited,
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi - 110 016.

...Respondents in WP.No.15011 to 15016/2012,
15032 to 15041, 15043, 15044 & 15045/2012

Prayer in WP No.14644 of 2012:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011, No.11 (2)/EGY/404 (c)/2011, quash the same in respect of the petitioner land measuring an extent of 0.19.0 hectares in S.No.84/1A2 and a land an extent of 0.08.0 hectares in



S.No.84/1B1, Elayanallur Village, Katpadi Taluk, Vellore District.

Prayer in WP No.14645 of 2012:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011, No.11 (2)/EGY/404 (c)/2011, quash the same in respect of the petitioner land measuring an extent of 0.05.5 hectares in S.No.143/1C1 and 1.22.0 hectares in S.No.144/2A, Elayanallur Village, Katpadi Taluk, Vellore District.

Prayer in WP No.15011 of 2012:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011 and quash the same in respect of the petitioner land measuring an extent of 0.63.0 hectares of land in S.No.127/6, Elayanallur Village, Katpadi Taluk, Vellore District.

Prayer in WP No.15012 of 2012:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011 and quash the same in respect of the petitioner land measuring an extent of 0.98.0 hectares of land in S.No.144/1A situate at Elayanallur Village, Katpadi Taluk, Vellore District.

Prayer in WP No.15013 of 2012:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011 and quash the same in respect of the petitioner land measuring an extent of 0.47.0 hectares of land in S.No.85/4 situate at Elayanallur Village, Katpadi Taluk, Vellore District.

Prayer in WP No.15014 of 2012:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011 and quash the same in respect of the petitioner land measuring an extent of 2.85.0 hectares of land in S.No.129/1 situate at Elayanallur Village, Katpadi Taluk, Vellore District.



Prayer in WP No.15015 of 2012:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011 and quash the same in respect of the petitioner land measuring an extent of 0.24.5 hectares of land in S.No.124/2B, 0.09.5 hectares in S.No.125/1, 0.05.5 hectares in S.No.219/1 and 0.25.0 hectares in 235/1B, situate at Elayanallur Village, Katpadi Taluk, Vellore District.

Prayer in WP No.15016 of 2012:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011 and quash the same in respect of the petitioner land measuring an extent of 0.16.5 hectares of land in S.No.84/1A4, 0.17.5 hectares in S.No.84/1A10, 0.28.5 hectares in S.No.84/1B4 and 0.30.5 hectares in 84/1B5, situate at Elayanallur Village, Katpadi Taluk, Vellore District.

Prayer in WP No.15032 of 2012:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011 and quash the same in respect of the petitioner land measuring an extent of 1.49 cents comprised in S.No.84/1B2, situate at kuppiredy Thangal, Elayanallur Village, Katpadi Taluk, Vellore District.

Prayer in WP No.15033 of 2012:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011 and quash the same in respect of the petitioner land measuring an extent of 0.79.0 cents comprised in S.No.145/1A, Elayanallur Village, Katpadi Taluk, Vellore District.

Prayer in WP No.15034 of 2012:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011 and quash the same in respect of the petitioner land in S.No.126/3, 219/1A, 235/1A measuring an extent of 1.44.5 hectares so for the petitioners in concerned situated at Elayanallur Village, Katpadi Taluk, Vellore District.



Prayer in WP No.15035 of 2012:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011 and quash the same in respect of the petitioner land measuring an extent of 0.01.0 hectares of land in S.No.91/18A2, 0.11.5 hectares in S.No.91/18B, 0.03.0 hectares in S.No.91/19B2, 0.40.0 hectares in 91/19C, 0.05.0 hectares in S.No.91/19D, 0.34.0 hectares in S.No.93/2B, 0.30.0 hectares in S.No.93/3A, 0.02.05 hectares in S.No.93/4 and 0.26.0 hectares in S.No.93/6 , Elayanallur Village, Katpadi Taluk, Vellore District.

Prayer in WP No.15036 of 2012:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011 and quash the same in respect of the petitioner land measuring an extent of 0.31.0 hectares of land in S.No.127/1, 0.45½ acres out of 0.38.0 hectares in S.No.85/2 situate at kuppiredy, Elayanallur Village, Katpadi Taluk, Vellore District.

Prayer in WP No.15037 of 2012:

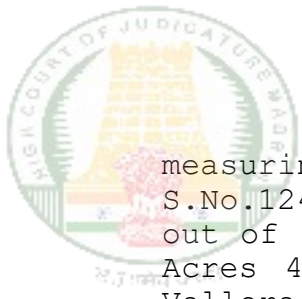
Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011 and quash the same in respect of the lands belonging to the petitioner son, measuring an extent of 0.10 hectares in S.No.131/1B1, 4.85.0 hectares of land in S.No.129/1, situated at Elayanallur Village, Katpadi Taluk, Vellore District.

Prayer in WP No.15038 of 2012:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011 and quash the same in respect of the lands belonging to the petitioner, measuring an extent of 0.37.0 hectares of land in S.No.85/2, 0.89.0 hectares in S.No.85/5, 0.18.0 hectares of land in S.No.127/7, situated at Elayanallur Village, Katpadi Taluk, Vellore District.

Prayer in WP No.15039 of 2012:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011 and quash the same in respect of the lands belonging to the petitioner,



measuring an extent of 93 ½ cents out of 0.94.5 hectares in S.No.124/1, 0.26.5 hectares in S.No.124/2A, 89 ½ cents of land out of 0.72.5 hectares in S.No.127/3B, totally to an extent of 2 Acres 49 cents situated at Elayanallur Village, Katpadi Taluk, Vellore District

Prayer in WP No.15040 of 2012:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011 and quash the same in respect of the lands belonging to the petitioner, measuring an extent of 1 Acres 39 ½ cents out of 0.94.5 hectares in S.No.124/1, 89½ cents of land out of 0.72.5 hectares in S.No.237/3B, totally an extent of 2 Acres 29 cents situated at Elayanallur Village, Katpadi Taluk, Vellore District

Prayer in WP No.15041 of 2012:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011 and quash the same in respect of the lands belonging to the petitioner, measuring an extent of 1.19.0 hectares in S.No.84/1B2, situated at Elayanallur Village Katpadi Taluk, Vellore District

Prayer in WP No.15043 of 2012:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011 and quash the same in respect of the lands belonging to the petitioner, measuring an extent of 0.69.5 hectares in S.No.84/1A5, situated at Elayanallur Village Katpadi Taluk, Vellore District

Prayer in WP No.15044 of 2012:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011 and quash the same in respect of the lands belonging to the petitioner, measuring an extent of 1.83.5 hectares in S.No.126/4, situated at Elayanallur Village Katpadi Taluk, Vellore District

Prayer in WP No.15045 of 2012:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011 and quash the same in respect of the lands belonging to the petitioner,



measuring an extent of 0.46.5 hectares in S.No.84/3B, 0.90.5 hectares of land in S.No.85/3B, situated at Elayanallur Village, Katpadi Taluk, Vellore District

WEB COPY

For Petitioner : Mr.M.Devaraj
(in all WPs)

For R1 to R4 : Mr.A.Selvendran
Special Government Pleader
(in all WPs)

For R5 : Mr.T.Thyagarajan (Senior Counsel)
for V.Kalyanaraman
(in all WPs)

COMMON ORDER

The writ petition is filed to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011, No.11(2)/EGY/404(c)/2011 and to quash the same in respect of the petitioner's land measuring to an extent of 0.19.0 hectares in S.No.84/1A2 and a land measuring to an extent of 0.08.0 hectares in S.No.84/1B1, Elayanallur Village, Katpadi Taluk, Vellore District.

2. It is submitted that the Government of India by the communication dated 20.10.2009 accorded prior approval for supplementary transmission system associated with Vallur Thermal Power Station for establishment of Tiruvalam 765/400 KV Sub-Station to facilitate import of power to Southern Region especially to Tamil Nadu. In pursuance thereto, the Tamil Nadu Electricity Board identified lands measuring to an extent of 150 acres at Elayanallur Village for establishment of 765/400 KV Sub-Station by the fifth respondent and 400/230 KV by the Tamil Nadu Electricity Board. In this regard, on 27.03.2010 the Tamil Nadu Electricity Board addressed a letter to the second respondent herein requesting to acquire the land either by private negotiation or through acquisition. Accordingly, the fifth respondent vide letter dated 19.05.2010 requested the second respondent to initiate acquisition proceedings invoking Section 17 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act' for short).

3. It is further submitted that on 28.08.2010, the fourth respondent conducted a public meeting and taking into consideration the urgency of the significant project in question, opted to initiate land acquisition process individually without informing to the Tamil Nadu Electricity



Board. The Commissioner, Land Administration called upon the second respondent to send proposals for draft notification under Section 4(1) and draft declaration under Section 6 of the Act.

4. It is further submitted that on 30.08.2011, the first respondent accorded administrative sanction under Section 17(1) of the Act by issuing G.O.Ms.No.70, Energy (C-1) Department for acquiring lands measuring to an extent of 105.92 acres for establishment of 765/400 KV Power Grid Station. The first respondent had issued notification under Section 4(1) of the Act intending to acquire the land belong to the petitioners and other land invoking urgency provision of Section 17(1) of the Act and dispensing with the 5-A enquiry under the said Act. The said notification was published in Tamil Nadu Gazette Extraordinary in G.O.Ms.No.72, Energy (C-1) Department, dated 07.09.2011. The declaration under Section 6 of the Act was issued under G.O.(Ms). No.77 Energy (C-1) Department dated 22.09.2011. The declaration under Section 6 of the Act was followed by an errata issued by the first respondent on 22.02.2012 altering the extent of land and including the trees, well, pumpset etc., which has been left over in the earlier notification.

5. It is further submitted that the third respondent had issued certain notices for determining the compensation. According to the petitioners, no proper enquiry was conducted in determining the proper value. However, the third respondent passed an award dated 29.03.2012 thereby determined the compensation. On receipt of the said proceedings of the third respondent, the petitioners came to understand about the acquisition process.

6. Learned counsel for the petitioners submitted that all the petitioners challenged G.O.Ms.No.77, Energy (C-1) Department, dated 22.09.2011 and declaration under Section 6 of the Act on the ground that as per Section 17 of the Act, the enquiry under Section 5-A of the Act can be dispensed in the cases as provided under the said section and Section 17(2) enumerates the cases in which the urgency provisions can be invoked and the possession of the land taken immediately and as per sub-section (b) immediate possession is necessary for library or any educational institution, for construction of any building for common use of the inhabitants of such village, or godown for any society or any dwelling house for the poor, or any irrigation tank drainage channel or well, or any road. The present acquisition is not for the above enumerated purpose. Therefore, the invocation of Section 17(4) in the present case is without jurisdiction of the first respondent. He further submitted that the first respondent failed to publish the notice under Sections 4(1) and 6 of the Act which are mandatory by law



and the same would prejudice to the petitioners.

7. Learned Senior Counsel appearing for the fifth respondent submitted that the entire procedure are duly followed and he has produced the records to prove the same. In fact, the entire project has been completed and now 765/400 KV Power Grid Station is functioning in the lands which are acquired. The notification under Section 4(1) of the Act was published in the Government Gazette No.309 dated 07.09.2011 and the same was published in local dailies viz., Malai Murasu and Namadhu MGR on 09.09.2011 and 10.09.2011. Thereafter, the declaration under Section 6 of the Act was published in the Tamil Nadu Government Gazette No.358 dated 22.09.2011 and the same was published in two vernacular dailies viz., Dhina Thanthi and Malai Murasu dated 30.10.2011. Thereafter, on 03.11.2011 Form A notice under Section 4(1) of the Act was displayed in the offices of the National Highways and Revenue offices.

8. He further submitted that the land acquisition proposals approved by the Principal Secretary and Commissioner of Land Administration on 02.02.2012. On 06.03.2012, direction under Section 7 of the Act was issued to the Land Acquisition Officer and Revenue Divisional Officer, Vellore. On 08.03.2012, the Public Notice under Section 9(1) of the Act was issued by the Land Acquisition Officer. Therefore, the Land Acquisition Officer called upon the land owners including all the petitioners for enquiry to be held on 26.03.2012 as contemplated Section 9(2) of the Act. On 12.03.2012, the values of the tree and structure were duly approved by the Commissioner of Land Administration. On 26.03.2012, all the petitioners and other land owners appeared for enquiry before the Land Acquisition Officer. On 29.03.2012, all the petitioners including other land owners were duly issued letter to collect 80% of the compensation. On 30.03.2012, the compensation award amount has been disbursed to the respective land owners. Thereafter, the subject property had been taken over on 25.05.2012 and the Land Acquisition Officer handed over the possession of lands measuring to an extent of 105.92 acres to the fifth respondent/corporation. Thereafter, the fifth respondent has taken possession of the entire extent of the land of the petitioners and now, the entire project has been completed and it is functioning.

9. Therefore, all the writ petitions fail and devoid of merits and they are liable to be dismissed. Accordingly, the Writ Petitions are dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Dm

23.11.2021



For Being Mentioned

The above case was listed on 03.12.2021 under the Caption for "Being Mentioned" in the presence of Mr.M.Devaraj, Counsel for the Petitioner and Mr.A.Selvendran, Counsel for the Respondents 1 to 4, and Mr.T.Thyagarajan, (Senior Counsel) for Mr.V.Kalyanaraman for the 5th Respondent this court made the following order:

These Writ Petitions have been listed before this Court under the caption "For being mentioned", at the instance of the learned counsel appearing for the petitioners.

2.The learned Counsel appearing for the petitioners in all the Writ Petitions wants to submit some citations and requested that his submission may be incorporated in the order dated 24.11.2021, passed in W.P.No.14644 of 2012 etc.

3.In view of the request made by the learned counsel for the petitioners, the entire order in W.P.No.14644 of 2012 dated 23.11.2021, shall read as follows:

"The Writ Petition is filed to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent in G.O.Ms.No.77, Energy (C-1) Department dated 22.09.2011, No.11(2)/EGY/404(c)/2011 and to quash the same in respect of the petitioners' land measuring to an extent of 0.19.0 hectares in S.No.84/1A2 and a land measuring to an extent of 0.08.0 hectares in S.No.84/1B1, Elayanallur Village, Katpadi Taluk, Vellore District.

2.The Government of India by the communication dated 20.10.2009 accorded prior approval for supplementary transmission system associated with Vallur Termal Power Station for establishment of Tiruvalam 765/400 KV Sub-Station to facilitate import of power to Southern Region especially to Tamil Nadu. In pursuance thereto, the Tamil Nadu Electricity Board identified lands measuring to an extent of 150 acres at Elayanallur Village for establishment of 765/400 KV Sub-Station by the fifth respondent and 400/230 KV by the Tamil Nadu Electricity Board. In this regard, on 27.03.2010 the Tamil Nadu Electricity Board addressed a letter to the second respondent herein requesting to acquire the land either by private negotiation or through acquisition. Accordingly, the fifth respondent vide letter dated 19.05.2010 requested the second respondent to initiate acquisition proceedings invoking Section 17 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act' for short).

3.On 28.08.2010, the fourth respondent conducted a public meeting and taking into consideration the urgency of the



significant project in question, opted to initiate land acquisition process individually without informing to the Tamil Nadu Electricity Board. The Commissioner, Land Administration called upon the second respondent to send proposals for draft notification under Section 4(1) and draft declaration under Section 6 of the Act. On 30.08.2011, the first respondent accorded administrative sanction under Section 17(1) of the Act by issuing G.O.Ms.No.70, Energy (C-1) Department for acquiring lands measuring to an extent of 105.92 acres for establishment of 765/400 KV Power Grid Station. The first respondent had issued notification under Section 4(1) of the Act intending to acquire the land belong to the petitioners and other land invoking urgency provision of Section 17(1) of the Act and dispensing with the 5-A enquiry under the said Act. The said notification was published in Tamil Nadu Gazette Extraordinary in G.O.Ms.No.72, Energy (C-1) Department, dated 07.09.2011. The declaration under Section 6 of the Act was issued under G.O. (Ms). No.77 Energy (C-1) Department dated 22.09.2011. The declaration under Section 6 of the Act was followed by an errata issued by the first respondent on 22.02.2012 altering the extent of land and including the trees, well, pumpset etc., which has been left over in the earlier notification.

4.The third respondent had issued certain notices for determining the compensation. According to the petitioners, no proper enquiry was conducted in determining the proper value. However, the third respondent passed an award dated 29.03.2012 thereby determined the compensation. On receipt of the said proceedings of the third respondent, the petitioners came to understand about the acquisition proceedings.

5.The learned counsel for the petitioners submitted that all the petitioners challenged G.O. Ms. No.77, Energy (C-1) Department, dated 22.09.2011 and declaration under Section 6 of the Act on the ground that as per Section 17 of the Act, the enquiry under Section 5-A of the Act can be dispensed in the cases as provided under the said section and Section 17(2) enumerates the cases in which the urgency provisions can be invoked and the possession of the land taken immediately and as per sub-section (b) immediate possession is necessary for library or any educational institution, for construction of any building for common use of the inhabitants of such village, or godown for any society or any dwelling house for the poor, or any irrigation tank drainage channel or well, or any road. The present acquisition is not for the above enumerated purpose. Therefore, the invocation of Section 17(4) in the present case is without jurisdiction of the first respondent. He further submitted that the first respondent failed to publish the notice under Sections 4(1) and 6 of the Act which are mandatory by law and the same would prejudice to the petitioners.



5.1.The learned counsel appearing for the petitioners further submitted that when the provision under Section 17(2) of the Act invoked, the first respondent must be satisfied that the acquisition of land is very urgent to invoke the emergency provision. There must be material before the first respondent to invoke the emergency provision. The requisition has been made on 19.05.2010 and the administrative sanction accorded on 30.08.2011. Only after one year, the emergency provision was invoked, followed by the declaration under Section 22.09.2011. Further the compensation was determined unilaterally on 23.09.2012. It would clearly show that the right of the petitioners under Section 5(A) of the Act is arbitrarily deprived and the entire acquisition proceeding is liable to be set aside.

5.2.He vehemently contended that though emergency provision was invoked by the first respondent, there was no real and substantive urgency warranting invocation of urgency clause, much less urgency warranting dispensing with enquiry under Section 5(A) of the Act. The dispensing with the enquiry as contemplated under Section 5(A) of the Act is only directory in nature and the owners of the land may dispense with enquiry under Section 5(A) of the Act, even as per the provisions.

5.3.In support of his contention, he relied upon the judgement reported in 2011 (5) SCC 553 in the case of Radhyshyam & ors Vs. State of Uttar Pradesh & ors., in which the Hon'ble Supreme Court of India held that the property of a citizen cannot be acquired by the State or its agencies without complying with the mandate provisions under Sections 4, 5A and 6 of the Act. A public purpose, however, laudable it because the same have the effect of depriving the owner of his right to property without being heard. Only in a case of real urgency, the State can invoke the urgency provisions and dispense with the requirement of hearing the land owners or other interested person. The urgency clause can be invoked only for the purpose of acquisition cannot brook the delay of even a few weeks or months. Therefore, before excluding the application of Section 5 (A) of the Act, the authority concerned must be fully satisfied that time of few weeks or months likely to be taken in conducting inquiry under Section 5(A) of the Act will in all probability, frustrate the public purpose for which the land is proposed to be acquired. Further held that if planned industrial development of the district is treated as public purpose within the meaning of Section 4 of the Act, there was no urgency which could justify the exercise of power by the State Government under Sections 17(1) and 17(4) of the Act. Therefore, time required for ensuring compliance with the provisions contained in Section 5(A) of the Act, cannot by any stretch of imagination, be portrayed as delay which will frustrate the



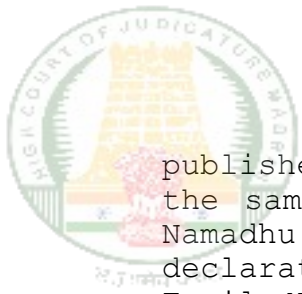
purpose of acquisition.

5.4.He also relied upon the judgement reported in 2011 (4) MLJ 78 in the case of S.Muthuvenkataseshan Vs. State of Tamil Nadu & ors., in which this Court held that the emergency provision contained in Section 17 of the Act can be invoked if only the emergency is one of grave. In the said case, the project was originally proposed in the year 1999, whereas the notification was issued only in the year 2001 i.e., after two years. Thus, the Government itself allowed the proposal to be kept pending for two years. The right to own property, though not a fundamental right, is now a constitutional right under Article 300A of the Constitution of India and the same cannot be deprived without following due process of law.

5.5.The learned counsel appearing for the petitioners also relied upon another judgment reported in 2011 (4) SCC 769 in the case of Dev Sharan & ors Vs. State of Uttar Pradesh & ors., in which the Hon'ble Supreme Court of India held that the concept of public purpose on this broad horizon must also be read into the provisions of emergency power under Section 17 of the Act, with the consequential dispensation of right of hearing under Section 5(A) of the Act. The Courts must examine these questions very carefully when little Indians lose their small property in the name of mindless acquisition at the instance of the State.

5.6.He also relied upon the judgment reported in 2012 (12) SCC 675 in the case of Bharat Sewak Samaj Vs. Lieutenant Governor and ors., in which the Hon'ble Supreme Court of India held that the authority must have subjective satisfaction of the need for invoking urgency clause under Section 17 of the Act keeping in mind the nature of the public purpose, real urgency that the situated demands and the time facts., i.e., whether taking possession of the property can wait for a minimum period within which the objections could be received from the landowners and the inquiry under Section 5(A) of the Act could be completed. Therefore, the learned counsel appearing for the petitioners in all the Writ Petition submitted that though entire project has been completed and the sub-station is functioning there on, the entire land acquisition proceedings lapsed and the respondent ought to have initiated the proceedings afresh and liable to pay compensation under the new Act.

6.Per contra, the learned Senior Counsel appearing for the fifth respondent submitted that the entire procedure are duly followed and he has also produced the records to prove the same. In fact, the entire project has been completed and now 765/400 KV Power Grid Station is functioning in the lands which were acquired. The notification under Section 4(1) of the Act was



published in the Government Gazette No.309 dated 07.09.2011 and the same was published in local dailies viz., Malai Murasu and Namadhu MGR on 09.09.2011 and 10.09.2011. Thereafter, the declaration under Section 6 of the Act was published in the Tamil Nadu Government Gazette No.358 dated 22.09.2011 and the same was published in two vernacular dailies viz., Dhina Thanthi and Malai Murasu dated 30.10.2011. Thereafter, on 03.11.2011 Form A notice under Section 4(1) of the Act was displayed in the offices of the National Highways and Revenue offices.

6.1.He further submitted that the land acquisition proposals approved by the Principal Secretary and Commissioner of Land Administration on 02.02.2012. On 06.03.2012, direction under Section 7 of the Act was issued to the Land Acquisition Officer and Revenue Divisional Officer, Vellore. On 08.03.2012, the Public Notice under Section 9(1) of the Act was issued by the Land Acquisition Officer. Therefore, the Land Acquisition Officer called upon the land owners including all the petitioners for enquiry to be held on 26.03.2012 as contemplated Section 9(2) of the Act. On 12.03.2012, the values of the tree and structure were duly approved by the Commissioner of Land Administration. On 26.03.2012, all the petitioners and other land owners appeared for enquiry before the Land Acquisition Officer. On 29.03.2012, all the petitioners including other land owners were duly issued letter to collect 80% of the compensation. On 30.03.2012, the compensation award amount has been disbursed to the respective land owners. Thereafter, the subject property had been taken over on 25.05.2012 and the Land Acquisition Officer handed over the possession of lands measuring to an extent of 105.92 acres to the fifth respondent/corporation. Thereafter, the fifth respondent has taken possession of the entire extent of the land of the petitioners and now, the entire project has been completed and it is functioning.

7.Heard Mr.Devaraj, learned counsel appearing for the petitioners, Mr.A.Selvendran, learned Government Pleader appearing for the respondents 1 to 4 and Mr.T.Thyagarajan, learned Senior Counsel appearing for the fifth respondent in all the Writ petitions.

8.In order to facilitate import of power to southern region, especially to Tamil Nadu, the Ministry of Power, Government of India by the communication dated 20.10.2009 accorded prior approval for supplementary transmission system associated with Vallur Thermal Power Station for establishment of Tiruvalam 765/400 kv sub-station. In pursuant thereto, the Tamil Nadu Electricity Board identified lands to an extent of 150 acres at Elayanallur Village for the establishment of 765/400 KV sub-station by the fifth respondent and 400/230 KV by

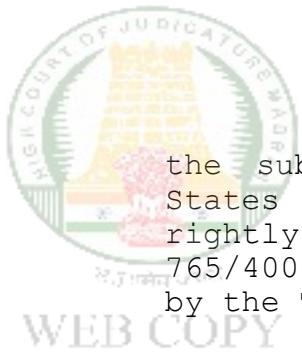


the Tamil Nadu Electricity Board. The Tamil Nadu Electricity Board addressed a letter to the second respondent herein on 27.03.2010, requesting to acquire the land either by private negotiation or through acquisition. On 19.05.2010, the fifth respondent addressed a letter to the second respondent to initiate acquisition proceedings by invoking Section 17 of the Act.

9. On 28.08.2010, the fourth respondent convened a public meeting at Elayanallur Village to appraise the public the importance of the project. Taking into consideration of the urgency of the project, the fifth respondent has initiated land acquisition process individually without reference to the Tamil Nadu Electricity Board. In that regard, on 07.09.2010, the fifth respondent addressed a letter to the second respondent to invoke urgency clause under Section 17 of the Act, for the land to be acquired. On 06.12.2010, the Assistant Commissioner of Land Reforms, Villupuram issued "no objection certificate" on the basis of Form 36 submitted under Section 37 of the Tamil Nadu Reforms (Fixation of Ceiling on Land) Act, 1961. On 31.12.2010, the proposal has been forwarded by the second respondent to the first respondent through the Commissioner, Land Administration. The Revenue Secretary vide his letter dated 10.03.2011, called the Energy Secretary, Commissioner of Land Administration, Commissioner of Land Reforms and the fifth respondent for a joint meeting with the Chief Secretary, Government of Tamil Nadu regarding land acquisition for the proposed sub-station. On 17.03.2011, the said meeting was convened and thereby called upon the second respondent to send proposal for draft notification under Section 4(1) of the Act and draft declaration under Section 6 of the Act.

10. Thereafter, on 30.08.2011, the first respondent accorded administrative sanction under Section 17(1) of the Act, by G.O.Ms.No.70 Energy (C-1) Department, for acquiring land measuring 105.92 acres for establishment of 765/200 KV Power Grid station to fulfillment of conditions mentioned therein. The first respondent issue notification under Section 4(1) of the Act under the urgency provision of Section 17(1) of the Act in G.O.Ms.No.72 Energy (C-1) Department dated 07.09.2011 and declaration under 6 of the Act was issued in G.O.Ms.No.77 Energy (C-1) Department, dated 22.09.2011.

11. Now the entire project has been completed and from 31.03.2014 onwards, 765/400 KV power station is functioning. After completion of all requirements as contemplated under the Act, on 31.07.2012 the award was passed and the entire compensation award amount has been deposited on 23.06.2014 and the land acquisition proceedings are pending before the Sub Court, Vellore. He further submitted that the establishment of



the sub station to facilitate the power demand of southern States particularly Tamil Nadu and as such, the respondents rightly invoked the emergency clause for the establishment of 765/400 KV sub-station, by the fifth respondent and 400/230 KV by the Tamil Nadu Electricity Board.

12.As stated supra, on 19.05.2010, the first respondent initiated acquisition proceedings by invoking Section 17 of the Act. On 30.08.2011, the first respondent accorded sanction to acquire the land under Section 17(1) of the Act. Immediately on 07.09.2011, notification under Section 4(1) of the Act was issued and the same was published in the public gazette. Therefore, there is absolutely no delay for invoking the provisions under Section 17(1) of the Act.

13.That apart, the similar project established by invoking Section 17 of the Act, was challenged before this Court in W.P.No.35069 of 2012 and this Court by an order dated 02.08.2013, after considering all the points raised by the learned counsel appearing for the petitioners dismissed that Writ Petition, and the same was also confirmed by the Hon'ble Division Bench of this Court in W.A.No.1737 of 2013 dated 07.11.2013. The Hon'ble Division Bench of this Court held in that case that neither pre-acquisition delay not post-acquisition delay and invocation of urgency clause requires decision at various levels by various authorities and considering the said fact, the period of one year taken to arrive at such a decision cannot be said to be a delay at all. In the case on hand, the original records produced by the respondents has substantiate the stand taken by the first respondent. Hence, the above judgements cited by the learned counsel appearing for the petitioners do not help the case of the petitioners. Therefore, all the Writ Petitions fail and devoid of merits and they are liable to be dismissed.

14.Accordingly, all the Writ Petitions are dismissed. Consequently, the connected Miscellaneous Petitions are closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rts/dm



To

1. The Principal Secretary to Government,
Government of Tamilnadu,
Energy C-1, Department,
Fort St. George,
Chennai - 9.
2. The District Collector,
Vellore District,
Vellore.
3. The Revenue Divisional Officer,
Vellore.
4. The Tahsildar,
Katpadi, Vellore District.
5. The Deputy General Manager,
Power Gird Corporation of India Ltd.,
No.2 (Old No.160) I Lane
Bharathi Nagar, North Usman Road,
T.Nagar, Chennai - 600017.
6. The Chairman cum Managing Director,
Power Gird Corporation of India Ltd.,
B-9, Qutab Institutional, Katwaria,
Sarai, New Delhi - 110 016.

+1cc to M/s.M.Devaraj, Advocate, S.R.No.61140

+1cc to the Special Government Pleader, S.R.No.61549, 61550&61545

W.P.No.14644 of 2012 etc. batch

RP(CO)
RGA(10/01/2022)