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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.08.2021

PRONOUNCED ON : 14.09.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.33868 of 2013 & M.P.No.2 of 2013 & M.P.No.1 of 2014

W.P.Nos.11801, 13176 to 13180 of 2014 & M.P.Nos.2,2,2,2,2,2 of
2014
& W.M.P.Nos.24766, 26126 to 26130 of 2016

W.P.Nos.37245 & 37246 of 2015 & M.P.Nos.2 & 2 of 2015
& W.M.P.Nos.6766 & 6767 of 2016

1. Dr.D.Anand
2. Dr.Gangha Anandh ...Petitioners in WP 33808/2013
1. A.DEVAKI
2. A.VINAYAKA MURTHY
3. A.GANAPATHY
4. A.AMMUKUTTY
5. A.LAKSHMI ...PETITIONER in WP No.11801 of 2014
1. N.SAGADEVAN ...PETITIONER in WP No.13176 of 2014
2. Ms.Chandra ...PETITIONER in WP No.13177 of 2014
3. Ms.Vijaya ...PETITIONER in WP No.13178 of 2014
4. Ms.Gowri ...PETITIONER in WP No.13179 of 2014
5. Ms.Meena ...PETITIONER in WP No.13180 of 2014
1. SOOSAIYA PETER EDUCATIONAL ...PETITIONER in WPNo.37245 of 2015
1. S. PETER ...PETITIONER in WP No.37246 of 2015

-Vs-

1. The Secretary to the Government
State of Tamil Nadu,
Department of Revenue,
Secretariat,
Chennai - 600 009.
2. The Secretary to the Government,
State of Tamilnadu
Highways and Minor Ports Department,
Secretariat, Chennai - 600 009.



3. The District Revenue Officer (L.A)
Chennai Outer Ring Road Project,
CMDA, Koyembedu,
Chennai - 600 092.
4. The State Highways Authority,
The Chief Engineer,
(The Tamil Nadu Highways)
Chepauk, Chennai - 600 005.
5. The Highways Authority,
The Divisional Engineer,
(The Tamil Nadu Highways)
Office of the Divisional Engineer,
Sriperumbudur Division,
Sriperumbudur Town and Taluk.
6. The District Collector
Kancheepuram,
Office of the Collector at
Kancheepuram.
Kancheepuram District.
7. The Thasildar Sriperumbudur Taluk,
Office of the Thasildar Sriperumbudur,
Sriperumbudur Town and Taluk,
Kancheepuram District.
8. The Tamil Nadu Road Development
Company Limited,
Raja Annamalaipuram,
Chennai - 600 028.

(R8 Suo-motu impleaded vide order
dated 22.03.2021 made in W.P.No.
33868 of 2013)

...Respondents

1. THE PRINCIPAL SECRETARY TO
THE GOVERNMENT REVENUE DEPARTMENT GOVT. OF
TAMILNADU FORT ST. GEORGE CHENNAI-600 009.
- 2 THE CHAIRMAN
CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY
THALAMUTHU NATARAJAN BUILDING EGMORE
CHENNAI-8.
- 3 THE DISTRICT COLLECTOR
TIRUVALLUR DISTRICT TIRUVALLUR.



4 THE SPECIAL TAHSILDAR
LAND ACQUISITION OUTER RING ROAD OUTER
RING PROJECT KOYAMBEDU CHENNAI-92.

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5 THE TAMIL NADU ROAD DEVELOPMENT
COMPANY LIMITED RAJA ANNAMALAIPURAM
CHENNAI-600028.
(R5 SUO-MOTU IMPEADED VIDE
ORDER DT 22/3/2021 MADE IN WP.11801/2014 BY
SSSRJ) ...RESPONDENT in WP No.11801 of 2014

1 THE SECRETARY
TO THE GOVERNMENT REVENUE DEPARTMENT
GOVERNMENT OF TAMILNADU FORT ST. GEORGE
CHENNAI-600 009.

2 THE DISTRICT COLLECTOR
THIRUVALLUR DISTRICT THIRUVALLUR.

3 THE DISTRICT REVENUE OFFICER
LAND ACQUISITION CHENNAI OUTER RING ROAD
PROJECT C.M.D.A. KOYAMBEDU CHENNAI-92.

4 THE SPECIAL TASILDHAR
LAND ACQUISITION OUTER RING PROJECT CMDA
KOYAMBEDU CHENNAI-92.

5 THE SPECIAL TAHSILDAR
(LA) CHENNAI OUTER RING ROAD PHASE-I
POONAMALLEE AT NAZARATHPETTAI (BESIDE
GOVERNMENT HIGH SCHOOL).

6 THE TAMIL NADU ROAD DEVELOPMENT
COMPANY LIMITED RAJA ANNAMALAIPURAM
CHENNAI-600028.
(R6 SUO-MOTU IMPEADED VIDE
ORDER DT 22/3/2021 MADE IN WP.13176/2014 BY
SSSRJ) ...RESPONDENT in WP No.13176 of 2014

1 THE SECRETARY
TO THE GOVERNMENT REVENUE DEPARTMENT
GOVERNMENT OF TAMILNADU FORT ST. GEORGE
CHENNAI-600 009.

2 THE DISTRICT COLLECTOR
THIRUVALLUR DISTRICT THIRUVALLUR.



3 THE DISTRICT REVENUE OFFICER
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POONAMALLEE AT NAZARATHPETTAI (BESIDE
GOVERNMENT HIGH SCHOOL).

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COMPANY LIMITED RAJA ANNAMALAIPURAM
CHENNAI-600028.
(R6 SUO-MOTU IMPEADED VIDE
ORDER DT 22/3/2021 MADE IN WP.13177/2014 BY
SSSRJ) ...RESPONDENTS in WP No.13177 of 2014

1 THE SECRETARY
TO THE GOVERNMENT REVENUE DEPARTMENT
GOVERNMENT OF TAMILNADU FORT ST. GEORGE
CHENNAI-600 009.

2 THE DISTRICT COLLECTOR
THIRUVALLUR DISTRICT THIRUVALLUR.

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LAND ACQUISITION CHENNAI OUTER RING ROAD
PROJECT C.M.D.A. KOYAMBEDU CHENNAI-92.

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KOYAMBEDU CHENNAI-92.

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(LA) CHENNAI OUTER RING ROAD PHASE-I
POONAMALLEE AT NAZARATHPETTAI (BESIDE
GOVERNMENT HIGH SCHOOL).

6 THE TAMIL NADU ROAD DEVELOPMENT
COMPANY LIMITED RAJA ANNAMALAIPURAM
CHENNAI-600028.
(R6 SUO-MOTU IMPEADED VIDE
ORDER DT 22/3/2021 MADE IN WP.13178/2014 BY
SSSRJ) ...RESPONDENT in WP No.13178 of 2014



- 1 THE SECRETARY
TO THE GOVERNMENT REVENUE DEPARTMENT
GOVERNMENT OF TAMILNADU FORT ST. GEORGE
CHENNAI-600 009.
- 2 THE DISTRICT COLLECTOR
THIRUVALLUR DISTRICT THIRUVALLUR.
- 3 THE DISTRICT REVENUE OFFICER
LAND ACQUISITION CHENNAI OUTER RING ROAD
PROJECT C.M.D.A. KOYAMBEDU CHENNAI-92.
- 4 THE SPECIAL TASILDHAR
LAND ACQUISITION OUTER RING PROJECT CMDA
KOYAMBEDU CHENNAI-92.
- 5 THE SPECIAL TAHSILDAR
(LA) CHENNAI OUTER RING ROAD POONAMALLEE
AT NAZARATHPETTAI (BESIDE GOVERNMENT HIGH
SCHOOL) .
- 6 THE TAMIL NADU ROAD DEVELOPMENT
COMPANY LIMITED RAJA ANNAMALAIPURAM
CHENNAI-600028.
(R6 SUO-MOTU IMPEADED VIDE
ORDER DT 22/3/2021 MADE IN WP.13179/2014 BY
SSSRJ) ...RESPONDENT in WP No.13179 of 2014

- 1 THE SECRETARY
TO THE GOVERNMENT REVENUE DEPARTMENT
GOVERNMENT OF TAMILNADU FORT ST. GEORGE
CHENNAI-600 009.
- 2 THE DISTRICT COLLECTOR
THIRUVALLUR DISTRICT THIRUVALLUR.
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KOYAMBEDU CHENNAI-92.
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(LA) CHENNAI OUTER RING ROAD POONAMALLEE
AT NAZARATHPETTAI (BESIDE GOVERNMENT HIGH
SCHOOL) .



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- 6 THE TAMIL NADU ROAD DEVELOPMENT
COMPANY LIMITED RAJA ANNAMALAIPURAM
CHENNAI-600028.
(R6 SUO-MOTU IMPEADED VIDE
ORDER DT 22/3/2021 MADE IN WP.13180/2014 BY
SSSRJ) ...RESPONDENT in WP No.13180 of 2014
- 1 THE GOVERNMENT OF TAMIL NADU
REP. BY ITS SECRETARY HIGHWAYS AND MINOR
PORTS DEPARTMENT FORT ST. GEORGE
CHENNAI - 600 009
- 2 THE DISTRICT REVENUE OFFICER
(LAND ACQUISITION) CHENNAI OUTER RING ROAD
PROJECT CHENNAI METROPOLITAN DEVELOPMENT
AUTHORITY KOYAMBEDU CHENNAI - 600 092
- 3 THE SPECIAL TASILDHAR
CHENNAI OUTER RING ROAD PROJECT THAMBARAM
(E) POONAMALLEE
- 4 THE TAMIL NADU ROAD DEVELOPM
ENT COMPANY LIMITED RAJA ANNAMALAIPURAM
CHENNAI-600028.
(R4 SUO-MOTU IMPEADED VIDE
ORDER DT 22/3/2021 MADE IN WP.37245/2015 BY
SSSRJ) ...RESPONDENT in WP No.37245 of 2015
- 1 THE GOVERNMENT OF TAMIL NADU
REP. BY ITS SECRETARY HIGHWAYS AND MINOR
PORTS DEPARTMENT FORT ST. GEORGE CHENNAI -
600 009
- 2 THE DISTRICT REVENUE OFFICER
(LAND ACQUISITION) CHENNAI OUTER RING ROAD
PROJECT CHENNAI METROPOLITAN DEVELOPMENT
AUTHORITY KOYAMBEDU CHENNAI - 600 092
- 3 THE SPECIAL TASILDHAR
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- 4 THE TAMIL NADU ROAD DEVELOPMENT
COMPANY LIMITED RAJA ANNAMALAIPURAM
CHENNAI-600028.
(R4 SUO-MOTU IMPEADED VIDE
ORDER DT 22/3/2021 MADE IN WP.37246/2015 BY
SSSRJ) ...RESPONDENT in WP No.37246 of 2015



Prayer in W.P.No.33868 of 2013:-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned notice issued by the third respondent bearing Rc.No.13/2013/ORR/Kancheepuram dated 12.09.2013, published in the English daily the New Indian Express dated 24.09.2013 under the provisions of Section 15(2) of the Tamil Nadu Highways Act, 2001 and quash the same and thereon forbear the respondents from any manner interfering with the possession and occupation of the lands belonging to the petitioners under the guise of land acquisition comprised in survey No.204/1 part, survey No.204/2A (part), survey No.205/2A, survey No.205/1A, land situated in 62, Malayambakkam Village, Sriperumbudur Taluk, Kancheepuram District.

WP No.11801 of 2014:-

To issue a writ of certiorarified calling for the records on the file of the first respondents relating to the Tamilnadu Government Gazette Notification issued under Section 15(1) under the said act was issued on 29.01.2014 in G.O.Ms.213, Highways and Minor Ports(HN2), 27th December 2013 pertaining to 10-00080 sq.mts dry lands in survey No.16/4A now sub divided as S.No.16/4A2 at Vaiyalanallur A Village, Poonamallee Tk, Thiruvallur Dt and section 16(2) of the State Highways Act 2001 as amended under Act 34 of 2012 issued by the fourth respondent dated 3.3.2014 in RC.No.7/2013/CORR/Tiruvallur pertaining to acquisition of 00080 sq.mts dry lands in survey No.16/4A now sub divided as S.No.16/4A2 at Vaiyalanallur A Village, Poonamallee Tk, Thiruvallur District.

WP No.13176 of 2014:-

To issue a writ of certiorarified calling for the records on the file of the first, second, third and fifth respondents relating to the notices ordered by the third respondent subsequently issued by the fourth respondent under section 15(2) of the Tamilnadu Highways Act 2001 (as the amended Act 34 of 2012) dated 31.5.2013 in N.K.No. 10/2013/Ve.V.Salai/Thiruvallur pertaining to Survey Nos.26/1B measuring an extent of 1350 sq.mtrs, S.No.26/5 measuring an extent of 2050 sq.mtrs and S.No.26/4 measuring an extent of 100 sq.mtrs in patta No.261 at 16, Karunakacheri Village, Poonamallee Taluk, Thiruvallur District, and Tamilnadu Government Gazette publication dated 29.1.2014 part II-Section-2 issued by the first respondent under section 15(1) of the state Highways Act 2001 (as amended under act 34 of 2012) and the notices issued by the fifth respondent in R.C.No.10/2013/CORR/Tiruvallur under sec 16(2) of the Tamilnadu Highways Act 2001 dated 21.02.2014 in Survey No.26/13, 26/5 and S.No.26/4 in Patta No.261 at No.16, Karunakacheri Village, Poonamallee Taluk, Thiruvallur District.



WP No.13177 of 2014:-

To issue a writ of certiorarified calling for the records on the file of the first, second, third and fifth respondents relating to the notices ordered by the third respondent subsequently issued by the fourth respondent under section 15(2) of the Tamilnadu Highways Act 2001 (Tamilnadu Act No.34 of 2012) dated 31.5.2013 in N.K.No. 10/2013/Ve.V. Salai/Thiruvallur pertaining to Survey Nos.26/5 measuring an extent of 2050 sq.mtrs, in patta No.261 at 10, Karunakacheri Village, Poonamallee Taluk, Thiruvallur District, and Tamilnadu Government Gazette publication dated 29.1.2014 part II-Section-2 issued by the first respondent under section 15(1) of the State Highways Act 2001 (Tamilnadu Act No.34 of 2012) and the notices issued by the fifth respondent in R.C.No.10/2013/CORR/Tiruvallur under sec 16(2) of the Tamilnadu Highways Act 2001 dated 21.02.2014 in S.No.26/5 and S.No.26/4 in Patta No.261 at No.16, Karunakacheri Village, Poonamallee Taluk, Thiruvallur District.

WP No.13178 of 2014:-

To issue a writ of certiorarified calling for the records on the file of the first, second, third and fifth respondents relating to the notices ordered by the third respondent under section 15(2) of the Tamilnadu Highways Act 2001 (as the amended Act 34 of 2012) dated 31.5.2013 in N.K.No. 10/2013/Ve.V.Salai/Thiruvallur pertaining to Survey Nos.26/5 in patta No.261 measuring an extent of 2050 sq.mtrs in patta No.261 at 16, Karunakacheri Village, Poonamallee Taluk, Thiruvallur District, and Tamilnadu Government Gazette publication dated 29.1.2014 part II-Section-2 issued by the first respondent under section 15(1) of the Highways Act 2001 (as amended under act 34 of 2012) and the notices issued by the fifth respondent in R.C.No.10/2013/CORR/Tiruvallur under sec 16 (2) of the Tamilnadu Highways Act 2001 dated 21.02.2014 in Survey No.26/5 and S.No.26/4 in Patta No.261 at No.16, Karunakacheri Village, Poonamallee Taluk, Thiruvallur District.

WP No.13179 of 2014:-

To issue a writ of certiorarified calling for the records on the file of the first, second, third and fifth respondents relating to the notices ordered by the third respondent subsequently issued by the fourth respondent under section 15(2) of the Tamilnadu Highways Act 2001 (Tamilnadu Act No.34 of 2012) dated 31.5.2013 in N.K.No. 10/2013/Ve.V.Salai/Thiruvallur pertaining to Survey Nos.26/5 and S.No.26/4 at 10, Karunakacheri Village, Poonamallee Taluk, Thiruvallur District, and Tamilnadu Government Gazette publication dated 29.1.2014 part II-Section-2 issued by the first respondent under section 15(1) of the State Highways Act 2001 (Tamilnadu Act 34 of 2012) and the notices issued by the fifth respondent in RC.No.10/2013/CORR/Thiruvallur



under sec 16(2) of the Tamilnadu Highways Act 2001 dated 21.02.2014 in Survey No.26/4 and S.No.26/5 at 10, Karunakacheri Village, Poonamallee Taluk, Thiruvallur District.

WP No.13180 of 2014:-

To issue a writ of certiorarified calling for the records on the file of the first, second, third and fifth respondents relating to the notices ordered by the third respondent under section 15(2) of the Tamilnadu Highways Act 2001(as the amended Act No.34 of 2012) dated 31.5.2013 in N.K.No. 10/2013/Ve.V.Salai/Thiruvallur pertaining to Survey Nos.26/5 in Patta No.261 measuring to an extent of 2050 sq.mtrs in patta No.261 at No.16, Karunakacheri Village, Poonamallee Taluk, Thiruvallur District, and Tamilnadu Government Gazette publication dated 29.1.2014 part II-Section-2 issued by the first respondent under section 15(1) of the State Highways Act 2001 (as amended under Act 34 of 2012) and the notices issued by the fifth respondent in R.C.No.10/2013/CORR/Thiruvallur under sec 16(2) of the Tamilnadu Highways Act 2001 dated 21.02.2014 in Survey No.26/5 measuring an extent of 2050 sq.mtrs and S.No.26/4 measuring an extent of 100 sq.mtrs in Patta No.261 at No.16, Karunakacheri Village, Poonamallee Taluk, Thiruvallur District.

WP No.37245 of 2015:-

To issue a writ of certiorarified calling for the records of the 1st Respondent in G.O.Ms.No. 93, Highways and Minor Ports (HF2) dated 19.8.2014 and G.O.Ms.No.152, Highways and Minor Ports (HF2) dated 11.12.2014 and the records of the 2nd Respondent in proceedings dated 14.10.2015 in Na.Ka.No.10/2013/O.R.R. Kanchipuram and 14.10.2015 in Na.Ka.No.10/2013/O.R.R. Kanchipuram, quash the same and consequently forbear the Respondents from invoking the provisions of the Tamil Nadu Highways Act, 2001 to acquire the property owned by the Petitioner in Survey Nos. 94/1B1, 335/1A at Kavanur Village, Sriperumbuthur Taluk, Kancheepuram Taluk.

WP No.37246 of 2015:-

To issue a writ of certiorarified calling for the records of the 1st Respondent in G.O.Ms.No. 93, Highways and Minor Ports (HF2) dated 19.8.2014 and G.O.Ms.No.152, Highways and Minor Ports (HF2) dated 11.12.2014 and the records of the 2nd Respondent in proceedings dated 14.10.2015 in Na.Ka.No.10/2013/O.R.R. Kanchipuram and 14.10.2015 in Na.Ka.No.10/2013/O.R.R. Kanchipuram, quash the same and consequently forbear the Respondents from invoking the provisions of the Tamil Nadu Highways Act, 2001 to acquire the property owned by the Petitioner in Survey Nos. 94/1A1, 334/2 at Kavanur Village, Sriperumbuthur Taluk, Kancheepuram Taluk.



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For Petitioners in
W.P.Nos.11801 & 13176
to 13180 of 2014 : Mr.David Tyagaraj
W.P.Nos.37245 & 37246 of 2015 : Mr.A.Jenasenan
W.P.No.33868 of 2013 : Mr.A.Palaniappan

For Respondents

For R1, R3 & R4 in W.P.No.11801 of 2014
For R1 to R5 in W.P.Nos.13176 to 13180 of 2014
For R1 & R3 in W.P.Nos.37245 & 37246 of 2015
For R1 to R7 in W.P.No.33868 of 2013 : Mr.Richardson Wilson
Government Advocate.
For R2 in W.P.Nos.37245 & 37246 of 2015 : Mrs.P.Veena Suresh
Standing Counsel
For R2 in W.P.No.11801 of 2014 : Mr.PS.Ganesh,
Standing Counsel
For R6 in W.P.Nos.13176 to 13180 of 2014
For R4 in W.P.Nos.37245 & 37246 of 2015
For R8 in W.P.No.33868 of 2013
For R5 in W.P.No.11801 of 2014 : Mr.M.Sivavarthanan
Standing Counsel.

COMMON ORDER

All the Writ Petitions have been filed challenging the acquisition proceedings initiated by the respondents under the provisions of Section 15(2) of the Tamil Nadu Highways Act, 2001 as amended under act 34 of 2012 (herein after called as "the Act"), and thereon forbear the respondents from any manner interfering with the possession and occupation of the land belonging to the petitioners, on various grounds.

2. The Government of Tamil Nadu have decided to form an outer ring road joining the southern, western and northern parts of Chennai city for a total length of 60.15 Kms road being constructed in two phase around the Chennai Metropolitan area in Tamil Nadu. The Chennai Metropolitan Development Authority acquired the lands for the first phase and took possession of lands to a length of 29.65 Kms from Vandalur Village in Kancheepuram District to Nemilichery village in Tiruvallur District crossing the National Highways road NH-45 at Vandalur, NH-4 at Nazarathpettai and NH-205 in Nemilichery village in



Tiruvalluvar District covering 15 villages in Kancheepuram and 14 villages in Tiruvallur District.

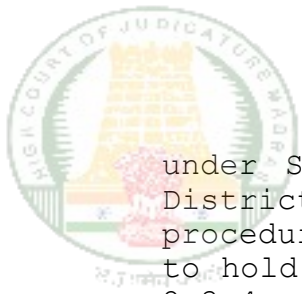
3. The Government of Tamil Nadu, by G.O.Ms.No.199, Highways and Minor Ports (HH-2) Department, dated 04.12.2012, have accorded Administrative Sanction for acquisition of private lands and transfer of Government lands required for providing project facilities such as interchanges, bus bays, truck lay byes, junction improvements and wayside amenities in Chennai outer ring road, phase-I under the provisions of the Act and the Tamil Nadu Highways Rules, 2003 (herein after called as "the Rules") framed thereunder and appointed the District Revenue Officer (LA), ORR, Chennai as Land Acquisition Officer to perform the functions of the Government/Collector. Accordingly, the Special Tahsildar, Land Acquisition published notice under Section 15(2) of the Act on 26.05.2013 and also in the locality on 29.05.2013 as required under Rule 5 of the Rules. The entire acquisition proceedings have been challenged under these Writ Petitions on various grounds.

4. The grounds raised by the petitioners by their respective counsels in all Writ Petitions as follows :-

W.P.No.11801 of 2014 :-

The learned counsel appearing for the petitioners in W.P.No.11801 of 2014 submitted that the notice issued by the fourth respondent to the petitioners' father under Section 15(2) of the Act is bad in law for the reason that the Act contemplates under Chapter III Section 8 speaks about the construction and development later under the same Section there should be an notification under the sub-section regarding a draft notification after getting objections from the petitioners. The Sub Clause 2 of Section 8 contemplates the benefits under a & b regarding acquisition and under Sub Clause 3 & 4 of Section 8 of the Act speaks about the details of preliminary notification and the proposed building lines and control line. Further, Sections 9 to 14 of the Act have not been followed by the respondents.

4.1. He further submitted that the Tamil Nadu Government Gazette notification under Section 15(1) of the Act was issued on 29.01.2014 in G.O.Ms.213, Highways and Minor Ports (NH2) dated 27.12.2013, only on a dead person namely Abaranju, who died on 08.03.1996. Therefore, the very notification issued in the dead person name and it is fatal to the acquisition proceedings. The subsequent notices under Sections 15(2) and 16 (2) of the Act also issued in the name of the dead person. There was no order passed by the competent authority under Rule 5(5) of the Rules and under Section 15(3) of the Act. The notices



under Section 15(2) and 16(2) of the Act contemplate that the District Collector has to hold the enquiry and there is no procedure contemplated to delegate powers to any other authority to hold the enquiry as contemplated under Sub clause 5 and Rules 2,3,4 of the Rules framed under the Act, or in the alternative, the Government should conduct the enquiry and pass orders. Therefore, the entire acquisition proceedings is improper and illegal.

W.P.Nos.37245 & 37246 of 2015:-

5. The learned counsel appearing for the petitioners in W.P.Nos.37245 & 37246 of 2015 submitted that the Land Acquisition Act, 1894 provided for the procedure to be followed during the acquisition of land. The State of Tamil Nadu enacted the Tamil Nadu Highways Act, 2001, since the acquisition and requisition of property falls within the concurrent list of the constitution and the State Act prescribed a procedure for acquisition repugnant to the one laid down in the 1894 Act. Thereafter the Central Act No.30 of 2013 enacted with a view to provide for a detailed procedure for the compulsory acquisition of land on payment of compensation including damages. It also repealed the earlier acquisition act of 1894 and as such, the provisions of the State Act, 2001 are repugnant and contrary to the provisions of the 2013, Central Act.

5.1. Admittedly, the Central Act No.30 of 2013 exempting certain acts including the Tamil Nadu Highways Act,2001 from the provisions of the Central Act, subject to the condition that the State Government shall issue notification within a period of one year directing that the provisions of the 2013 Central Act relating to determination of compensation and rehabilitation shall apply to all cases of land acquisition under the enactments mentioned in the fifth Schedule. The Tamil Nadu Amendment Act was deemed to come into force from 01.01.2014 and the issuance of notification mentioned above has not been complied with till date. Therefore, the Tamil Nadu Highways Act, 2001 has become unconstitutional and ultra vires, since the same is repugnant to the Central Act No.30 of 2013. The State Act violates the fundamental right to equality and non-discrimination guaranteed under Article 14, the right to live with dignity guaranteed under Article 21 and the right to property guaranteed under Article 300-A of the Constitution of India.

5.2. He further submitted that no notice under Section 15(2) of the Act was served upon the petitioner at any point of time, thereby giving opportunity to the petitioner to raise objections. The Act is unconstitutional for being violative of the rights guaranteed under Articles 14, 19, 21 and 300-A of the



Constitution of India and repugnant to the Central Act No.30 of 2013. Even assuming that the State Act is valid, the mandatory procedure contemplated under Section 15 of the Act has been violated and their right to raise objection was denied for the petitioner.

5.3. Insofar as the Writ Petition in W.P.No.37246 of 2015 is concerned, the petitioner received notice dated 04.09.2014 addressed to his vendor Srinivasa Chettiar from the Special Tasildhar under Section 16(2) of the Act, calling upon his vendor to surrender the possession of the land. The petitioner also received notice under Section 19(5) & (7) of the Act calling upon his vendor to attend the enquiry and submit evidence available for fixation of compensation for the land acquired. He further submitted that the petitioner purchased the property in the year 2003 itself and he mutated all the revenue records in his name in the year 2005. However, the notice was issued to the erstwhile owner of the subject property and as such the petitioner was not given effective opportunity of hearing to raise his objections.

W.P.No.33868 of 2013 :-

6. The learned counsel appearing for the petitioners in W.P.No.33868 of 2013 submitted that the respondents resorted to acquire lands in terms of the impugned notice issued under Section 15(2) of the Act is unfounded and unsustainable in law, since it doesn't come within the purview of the above said Act and the respondents ought to have invoked the provisions under the Land Acquisition Act, 1894. The impugned notice depicts the purpose of which the said lands acquired being required for the construction of bus bay and junction improvement. It is not for the purpose of forming the road or laying the road as contemplated by the Act. The purpose for which, the land acquired doesn't come within the meaning of the "highway" as provided under Section 2(12) of the Act.

6.1. He further submitted that the petitioners have purchased the subject properties comprised in survey Nos. 205/A, 204/1 and 204/2A to an extent of 0.27 cents in total, by the registered sale deed dated 14.02.2011 vide document No.1624 of 2011. The patta also transferred in favour of the petitioners in patta No.2180. The entire revenue records are mutated in their favour after purchase of the subject properties. The notice under Section 15(2) of the Act was served and published in Tamil news paper. In the impugned notice, serial No.17 pertains to survey No.304/1 (part) land which is sought to be acquired and the land owner name mentioned as Veeraraghavan Mudaliyar. Insofar as serial No.18 pertains to survey No.204/2A (part) land to an extent of 471 sq.mt and the land owners names are depicted



as Veeraraghava Mudaliyar and the petitioners herein. In respect of serial No.20 pertains to survey No.203/A (part) land to an extent of 52 sq.mt., is sought to be acquired from the land owners being depicted as Veeraraghava Mudaliyar and the petitioners herein. Therefore, aforesaid survey number does not belong to the petitioners and they were wrongly imputed as interested persons. In respect of serial No.22 pertains to the land comprised in survey No.205/1A belongs to the petitioners and their names were not depicted in the notice. Therefore, they were not served with notice and no opportunity was given in the enquiry in respect of the subject properties. The respondent never conducted any field inspection and without application of mind and without even looking to the sub division. The respondents have done only desk work and issued impugned notice under Section 15(2) of the Act.

W.P.Nos.13176 to 13180 of 2014 :-

7. The learned counsel appearing for the petitioners in W.P.Nos.13176 to 13180 of 2014 submitted that as per the rules contemplated under Rule 5 of the Act, in the locality by the village officer ie., the Thasildhar of the concerned taluk, should publish the substance of the proposed acquisition procedure. Therefore, the entire acquisition proceedings is violated and liable to be quashed. The Chapter III Section 8 speaks about the construction and development later, under the same section there should be notification under the sub-section regarding a draft notification after getting objections from the petitioners. The notice under Section 16(2) of the Act has been issued by the fifth respondent viz., the Special Tasildar (LA) and it cannot be sustained, since it ought to have been issued by the second respondent viz., the District Collector as such, it is not valid under law. The Act contemplates that once under Section 15(1) gazette publication is effected, as per section 16 of the Act, the land vest with the government. Whereas in the present cases, the possession and enjoyment of the subject properties are still with the petitioners. Therefore, there is a procedural lapses committed by the second respondent in the enquiry as contemplated under Sections 15(2), 15(3) and Rule 5 (2) of the Act.

8. In support of their contention, the learned counsel appearing for the petitioners in all Writ Petitions also relied upon the following judgments:-

(i) 1987 WLR 182 - Kadirvel Mudaliar Vs. State of Tamil Nadu & ors

(ii) 2004 (3) CTC 261 - K.V.Purushothma Naidu Vs. The District Collector & ors.



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(iii) 2006 (4) LW 463 - M/s.Sharp Toos rep. by Managing Partner Vs. State of Tamil Nadu

(iv) 2006 (4) CTC 609 - Pari Vs. The Special Tahsildar & ors

(v) 2010 (6) CTC 337 - R.Natarajan & ors Vs. The Union of India & ors

(vi) 2012 (3) CTC 102 - Kamal Trading Pvt. Ltd., Vs. State of West Bengal & ors.

(vii) 2012 (1) MLJ 808 - Raghbir Singh Schrawat Vs. State of Haryana & ors

(viii) 2013 (4) SCC 210 - Usha Stud Agricultural Farms Pvt Ltd., Vs State of Haryana & ors.

(ix) 2013 (8) SCC 99 - Women's Education Trust & ors Vs. State of Haryana & ors

(x) 2013 (9) SCC 338 - V.K.M.Kattha Industries Pvt. Ltd Vs. State of Haryana & ors

(xi) 2014 (2) CTC 331 - Vinod Kumar Vs. State of Haryana & ors

(xii) 2019 (15) SCC 2 - Vallabhbhai Chanabhai Ahir & ors Vs. Union of India

(xiii) 2016 (5) CTC 536 - K.G.Parthasarathy Vs. The State of Tamil Nadu & ors.

(xiv) 2020 (7) MLJ 128 - Ponnayal & ors Vs. The State of Tamil Nadu & ors

(xv) 2020 (8) MLJ 152 - Leninkumar & ors Vs. The State of Tamil Nadu & ors.

(xvi) 2000 (4) CTC 125 - Mis Asiya Mariyan Vs. The Secretary to Government of Tamil Nadu & anr

(xvii) 2003 (4) CTC 134 - V.Devaraj & ors Vs. State of Tamil Nadu & ors

(xviii) 2006 (3) MLJ 389 - Savithirammal Vs. State of Tamil Nadu & anr

(xix) Madras High Court Order dt. 11.08.2006 in W.A.No.223 of 2002

- Uma Vs. State of Tamil Nadu & anr.



(xx) 2016 (5) CTC 536 - K.G.Parthasarathy & anr Vs. The State of Tamil Nadu

With the above grounds, the petitioners challenged the impugned notification and prayed to allow all the Writ Petitions.

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9. Per contra, the learned Government Advocate and the learned Standing Counsel appearing for the respondents filed separate counter in all the Writ Petitions and raised the following objections:-

W.P.No.11801 of 2014:-

The respondents in W.P.No.11801 of 2014 filed counter and stated that the development of the project highways 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 law byes and 2 wayside amenities. The Government of Tamil Nadu have accorded administrative sanction for acquisition of private lands and transfer of government lands required for the above said project facilities in G.O.S.No.199, Highways and Minor Ports (NH-2) Department dated 04.12.2012.

9.1. Accordingly, the respondents initiated action for acquisition of lands and published notification as required under Section 15(2) of the Act in the news papers on 26.05.2013 and also in the locality on 29.05.2013 as required under Rule 5 of the Rules. The enquiry as required under Section 15(2) of the Act was also conducted on 19.06.2013 after issuing notice to the land owners/interested persons including the petitioners herein calling for objections if any from them. The petitioner also requested to appear for enquiry held on 19.06.2013. The second petitioner has appeared for enquiry and raised his objections as a large extent of land owned by him was already acquired and as such he requested to refrain from the acquisition. The objections raised by the petitioners have been sent to the requisitioning body viz., the Divisional Engineer to offer his remarks. After considering the objections, he recommended that the objections were not found acceptable for the reason that it is inevitable to acquire the land, since it is required for junction improvement. The government after considering the objections raised by the petitioners and the remarks of the requisitioning body, decided to acquire the subjection properties, by the Government Order in G.O.Ms. No.213, Highways and Minor Ports (NH-2) Department, dated 27.12.2013 and published the notification in the Tamil Nadu gazette dated 29.01.2014. After publication of notice under Section 15(1) of



the Act, the notice under Section 16(2) of the Act was issued to the land owners i.e., the petitioners herein on 03.03.2014 to surrender the subject land to the government.

9.2. It is further submitted that the subject land stands in the name of Abaranji viz., the father of the petitioners, who expired on 08.03.1996. After his demise, the petitioners failed to transfer the properties in their names viz., legal heirs of the deceased Abaranji. The fact of demise of the title hold was not brought to the notice of the respondents as such, the notice under Section 15(2) of the Act was issued in the name of Abaranji. The said notice was duly received by the petitioners and also appeared for the enquiry on 19.06.2013 and filed their objections. Therefore, the notice issued in the name of the dead person did not cause not prejudice to the petitioners.

9.3. The subject land is required for the construction of project facilities such as interchange, bus bay, truck lay bye, wayside amenities and junction improvements, as such the acquisition proceedings are initiated under Section provided in Chapter 4 of the Act and there is not violation of any rules. The grounds raised by the petitioners are under the Land Acquisition Act, 1894, whereas the acquisition proceedings are initiated under Section 15(2) of the Tamil Nadu Highways Act, 2001. Therefore, there are no provisions in the rules to inform the land owners before publication of the notification under Section 15(2) of the Act.

9.4. The State Government tabled a Bill to revive the operation of the Tamil Nadu Acquisition for Harijan Welfare Schemes Act 1978, the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 and the Tamil Nadu Highways Act, 2001 on the floor of the Legislative Assembly. It was passed and titled as Tamil Nadu Land Acquisition Law (Revival of Operation, Amendment and Validation) Act, 2019. It was sent for the assent of the President in terms of Article 254(2) of the Constitution of India and it was granted on 02.12.2019. It was applied retrospectively from 29.06.2013 with an object to validate the pending acquisition on and after that date under the State enactments. Therefore, all the acquisition proceedings are valid under the Validation Act and he prayed for dismissal of the Writ Petition.

W.P.Nos.37245 & 37246 of 2015 :-

10. The respondents in W.P.Nos.37245 & 37246 of 2015 filed counter and stated that the land acquisition proceedings in accordance with the provisions of the Act were initiated for acquisition of additional lands including the lands owned by the petitioner. The notification under Section 15(2) of the Act was

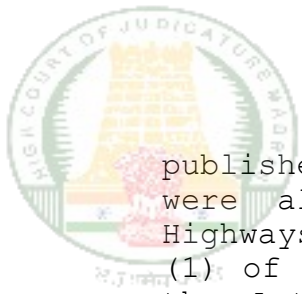


published and individual notice was issued to the petitioner on 26.09.2013 and it was duly served on 12.10.2013. The enquiry was conducted on 21.10.2013 and the petitioner failed to appear for the enquiry. However, the petitioner sent an objection petition dated 21.10.2013, which was received by the respondents on 21.10.2013. The remarks of the requisitioning body were received on 14.11.2013 and over ruled the above objections raised by the petitioner. The government duly considered the objections raised by the petitioner and the notification under Section 5(1) of the Act was approved and published in the government gazette notification on 31.12.2014. From the date of the such publication, the subject lands absolutely vested with the government with free from all encumbrances as contemplated under Section 16(2) of the Act. The Collector, Land Acquisition Officer, can direct any person who be in possession of the land to surrender or deliver possession thereof to the Collector or any other person duly authorized by him in this behalf within a period of 30 days from the service of the notice. Accordingly, the order was issued to the petitioner to surrender the land notified for acquisition. It was duly received on 23.09.2014 and on 19.01.2015 respectively. The respondents also served notice under Section 19(5) and 19(7) relates to determination of the compensation for the subject properties. Further the petitioner had sent a letter dated 04.02.2015 stating that he is not willing to hand over the land and requested to drop the acquisition proceedings. Therefore, the petitioner was duly served with notice under the Act, and all the procedures as contemplated under the Act are duly followed.

10.1. The State Government tabled a Bill to revive the operation of the Tamil Nadu Acquisition for Harijan Welfare Schemes Act 1978, the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 and the Tamil Nadu Highways Act, 2001 on the floor of the Legislative Assembly. It was passed and titled as Tamil Nadu Land Acquisition Law (Revival of Operation, Amendment and Validation) Act, 2019. It was sent for the assent of the President in terms of Article 254(2) of the Constitution of India and it was granted on 02.12.2019. It was applied retrospectively from 29.06.2013 with an object to validate the pending acquisition on and after that date under the State enactments. Therefore, all the acquisition proceedings are valid under the Validation Act and he prayed for dismissal of the Writ Petitions.

WP.No.33868 of 2013 :-

11. The respondents in WP.No.33868 of 2013 filed counter and submitted that after completing preliminary inspection by the Special Tahsildar (LA) and the District Revenue Officer (LA), the notification under Section 15(2) of the Act has been



published in two dailies on 24.09.2013. The local publication were also made in the office of the Divisional Engineer, Highways, Chengalpattu on 27.09.2013, as required under Rule 5 (1) of the Rules. The individual notices under Section 15(2) of the Act were issued to the land owners through the Village Administrative Officer. The notice under Section 15(2) of the Act, intended to the land owners were handed over to all the interested persons viz., the petitioner herein and to one Veeraraghava Mudaliar in person, since he is residing in the same village. He and other village Assistant approached the petitioners to serve the notice but the petitioners refused to receive the notice. Hence a copy of the notice was affixed in the petitioners' land by fixing a pole and placing the notices. The petitioners also attended the enquiry on 22.10.2013 and refused to give statement. Therefore, the contention of the petitioner is not true and the petitioners were duly served with notice and also they attended the enquiry. Therefore, there is no illegality whatsoever as alleged by the petitioners and the acquisition proceedings are in accordance with law and the Writ Petition is liable to be dismissed.

W.P.Nos.13176 to 13180 of 2014 :-

12. In W.P.Nos.13176 to 13180 of 2014, the respondents filed counter and submitted that for the construction of interchange, bus bays, truck lay bays, junction improvements, wayside amenities etc., the additional lands are required and hence the private lands involved adjacent to the Chennai outer ring road for providing the above facilities are required to be acquired. By the Government Order in G.O.Ms.No.199, Highways and Minor Ports (NH-2) Department, dated 04.12.2012 have accorded Administrative Sanction for acquisition of private lands and transfer of government lands required for providing project facilities. The government have also sanctioned funds to the tune of Rs.15 crores by the G.O.Ms.No.42, Highways and Minor Ports (ND-2) Department dated 26.03.2013. Accordingly, the respondent initiated action for acquisition of the subject lands owned by the petitioners and issued notice under Section 15(2) of the Act, and the same was published in the Tamil daily on 26.05.2013 and in the locality on 29.05.2013 as required under Rule 5 of the Rules. The enquiry was conducted on 20.06.2013 after issuance of notice to the petitioners. The petitioners had appeared for the enquiry on 20.06.2013 and raised his objection as the land proposed to be acquired is an ancestral property and already a portion of land has been acquired for formation of ORR. Except the subject land no other land is available for his own use. The objections have been sent to the requisitioning body to offer their remarks on the objection. On receipt of the same, it was found that the objections may be overruled. Thereafter, necessary proposals for approval of notification



under Section 15(1) of the Act has been sent to the Government along with objections and also remarks from the requisitioning body.

12.1. The Government after considering the objections and also remarks of the requisitioning body, decided to acquire the subject properties and passed orders in G.O.Ms.No.228, Highways and Minor Ports (NH-2) Department, dated 31.12.2013. The same was published in the Tamil Nadu Government Gazette on 29.01.2014. The reason for overruling the objections of the land owner need not be communicated to them, as there is no provisions in the Act. According to Section 16(1) of the Act, when a notice under Section 15(1) is published in the Tamil Nadu Government Gazette, the land to which the said notice shall on and from the date of such publication vest absolutely with the Government free from all encumbrances. Hence the notice under Section 16(2) of the Act has been served to the petitioners to surrender or deliver the possession of the subject properties. While pending the said notices, the present writ petitions have been filed and as such, all the proceedings and rules have been duly followed. In fact all the Writ Petitioners were dismissed and aggrieved by the same, the petitioners filed Writ Appeal in W.A.No.799 of 2014 and the Hon'ble Division Bench of this Court allowed the Writ Appeal and remanded back the matter to this Court for hearing the Writ Petition afresh and pass orders on merits and in accordance with law.

12.2. The contention of the petitioner in all Writ Petitioner is that the Chapter III of the Act relates to restriction of ribbon development and Chapter IV of the Act relates to acquisition of lands for the purpose of any highways or construction of bridges, culverts or other structures thereon for provision of project facilities etc. The provisions laid down in sub Sections 3 & 4 of Section 8 and Section 9,10,11,12,13 and 14 relates to the fixation of boundary, restriction of buildings, exemption for works in progress, setting back of buildings beyond buildings lines, regulation of diversion or right to access of highways, preparation of maps and powers of highways authorities and other officers. The acquisition of the subject land is being initiated as per the provisions laid down in Chapter IV of the Act and the rules made thereunder. Therefore, Chapter III need not be followed in these cases and there is no violation in the acquisition proceedings and prayed for dismissal of the Writ Petitions.

13. In support of their contention, the learned Government Advocate and the learned Standing counsel appearing for the respondents in all the Writ petitions relied upon the following judgments :-



(i) 2006 (4) CTC 640 - R.Kumar & ors Vs. State of Tamil Nadu

(ii) 2006 (4) CTC 757 - G.S.Gopalakrishnan & ors Vs. Government of Tamil Nadu

(iii) 2015 (3) LW 662 - Veeyel Enterprises Vs. State of Tamil Nadu

(iv) Madras High Court Order dated 20.02.2019 in W.P.No.3468 of 2014 batch - K.Selvaraj & anr Vs. State of Tamil Nadu & ors

(v) Supreme Court Order dated 29.06.2021 in W.P(C).No.1411 of 2020

- G.Mohan Rao & ors Vs State of Tamil Nadu & ors.

14. Heard Mr.A.Palaniappan, learned counsel appearing for the petitioners in W.P.No.33868 of 2013, Mr.David Tyagaraj, learned counsel appearing for the petitioners in W.P.No.11801 of 2014 & W.P.Nos.13176 to 13180 of 2014, Mr.A.Jenasenan, learned counsel appearing for the petitioners in W.P.Nos.37245 & 37246 of 2015, Mr.Richardson Wilson, learned Government Advocate, Ms.P.Veena Suresh, learned Standing Counsel, Mr.M.Sivavarthan, learned Standing Counsel appearing for the respondents in all the Writ Petitions.

15. The issues arise in these Writ Petitions are as follows :-

I. Whether the Tamil Nadu Highways Act, 2001 has become unconstitutional ultra virus, since the same is repugnant to the Central Act No.30 of 2013?

II. Whether the land owners are entitled to have a copy of reasons for overruling the objections?

III. Whether the acquisition is vitiated, if the notice served on the dead person?

IV. Whether notice under Section 15(2) of the Act was issued without fixing the highway boundary building line and control line as contemplated under Section 8 of the Act and the proceedings contemplated under Section 8(1) of the Act, is a condition precedent for notification Section 15(2) of the Act?

V. Whether the acquisition authorities followed the procedures as contemplated under Section 15(2) of the Act?

Issue No.I:-

16. The Land Acquisition Act, 1894 was in force throughout the country. After the Union Territories and States have been given concurrent power to legislate, the State of Tamil Nadu enacted three acquisition laws such as, Tamil Nadu Acquisition of Land for Harijan Welfare Scheme, 1978, Tamil Nadu Acquisition



of Land for Industrial Purpose Act, 1997, and Tamil Nadu Highways Act, 2001. Besides the Land Acquisition Act, 1984, there was a National Highways Act, 1956 and it was enacted to provide for the declaration of certain highways to be national highways. Therefore the State of Tamil Nadu obtained Presidential assent as per Article 254 of the Constitution of India to avoid repugnancy and accordingly, three State Acts prevailed in the State of Tamil Nadu.

16.1 While being so, the new Act viz., the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act No.30 of 2013) (hereinafter referred to as "the New Act") received assent of the President of India on 27.09.2013 and came into force with effect from 01.01.2014. It carried Section 105 to declare that this Act shall have no application to certain enactments made by the Parliament relating to land acquisition specified in the fourth Schedule. Therefore, the State of Tamil Nadu sought to protect and reserve its three State enactments from the operation of the New Act and the Tamil Nadu Amendment Act was effected to the New Act, thereby inserting Section 105A in the New Act. The said amendment Act received Presidential assent on 01.01.2015 and was applied retrospectively from 01.01.2014 onwards. The retrospective date has been chosen by the State legislature with the object to protect the acquisition under the three State enactments from being rendered void due to repugnancy after coming into effect of the New Act.

16.2. Therefore, the Amendment Act along with other two enactments viz., Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 and Tamil Nadu Highways Act, 2001, came to be challenged before this Court on two grounds that repugnancy with the New Act and violation of Article 14 of Constitution of India, due to manifest arbitrariness and discrimination in the operation of the State Acts. This Court found that the State enactments became repugnant to the New Act and thus void on 27.09.2013 itself. Therefore, subsequent enactments of Amendment Act with effect from 01.01.2014 would not go on to reactivate the three enactments. It could only be revived through re-enactments by the Legislative Assembly followed by fresh assent of the President in accordance with Article 254 of the Constitution of India. Therefore, the State Government made an attempt to revive the three enactments and tabled a Bill on the floor of the Legislative Assembly. It was titled as the Tamil Nadu Land Acquisition Laws (Revival of Operation, Amendment and Validation) Act 2019 (hereinafter referred to as "Validation Act") It was sent for the assent of the President in terms of Article 254(2) of the Constitution of India and it was granted on 02.12.2019. This Act was applied retrospectively from



26.09.2013 with an object to validate all pending acquisitions on and after that date under the State enactments.

16.3. The said Validation Act challenged before the Hon'ble Supreme Court of India in Writ Petition (C) No.1411 of 2020. In the said case, the Hon'ble Supreme Court of India framed the following issues:-

(i) Whether the State legislature had legislative competence to enact the 2019 Act, a retrospective validating Act?

(ii) Whether the State legislature transgressed the limits of its legislative competence having the effect of nullifying/overruling the judgment of the High Court by enacting the 2019 Act?

(iii) Whether the 1997 Act and 2001 Act again fall foul of Article 254 on account of being repugnant to the 2013 Act, owing to the date of retrospective commencement of the 2019 Act?"

And in the above case, the Hon'ble Supreme Court of India passed judgment on 29.06.2021, as follows :-

"46. We may now consider the argument that the 2019 Act does not remove the defects found by the High Court and thus, lacks determinative principle thereby making it arbitrary. The 2019 Act is a conscious attempt by the State legislature to bring four material aspects of land acquisition under the three State enactments at par with the 2013 Act i.e., compensation, rehabilitation, resettlement and infrastructure facilities. No doubt, certain features of the stated law made by the Parliament have been left out, but that debate does not fall for our consideration as the vires of 1997 Act and 2001 Act are already under consideration in the batch of SLPs, as already pointed above. To say that failure to import all provisions of the law made by the Parliament in the State enactments results into non removal of defects pointed by the High Court, is nothing but a palpable misreading of the judgment of the High Court.



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47. Whereas, the judgment of the High Court does not even point out the absence of compensation/rehabilitation/resettlement/infrastructure related provisions as a defect in the State enactments. It nowhere points out the exact provisions from the State enactments which are repugnant to the law made by the Parliament. The only defect pointed out by the High Court was the impermissibility of Section 105A (coming into effect from 01.01.2014), as a tool for reviving the State enactments once rendered repugnant (on 27.09.2013) due to law made by the Parliament. The State has since been advised to accept that defect pointed out by the High Court and has moved on from that thought process by devising a new legislative tool for validating the State enactments in line with Article 254(2). Had the legislature reenacted Section 105A even after the declaration of invalidity by the High Court, it would have been a case of non removal of defect pointed out by the High Court. In fact, that would have been declaratory overruling of the judgment of the Court by the legislature, which, as already discussed at length, is simply impermissible. The effect of the 2019 Act is to change the law retrospectively and not to overrule the judgment of the Court.

.....

54. The above understanding emanates from the basic concept of retrospectivity. The primary objective of retrospective application of a law is to alter an undesirable past circumstance and it is meant to apply to things which have already happened. In Halsbury's Laws of England, retrospectivity is defined as:

"921. Meaning of "retrospective". It has been said that "retrospective" is somewhat ambiguous and that a good deal of confusion has been caused by the fact that it is used in more senses than one. In general, however, the courts regard as retrospective any statute which operates on cases or facts coming into existence



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before its commencement in the sense that it affects, even if for the future only, the character or consequences of transactions previously entered into or of other past conduct. Thus a statute is not retrospective merely because it affects existing rights; or is it retrospective merely because a part of the requisites for its action is drawn from a time antecedent to its passing." (emphasis supplied)

The underlying purpose of retrospectivity, therefore, is to cure including validate certain transactions of the past by making a law in the present and not to compete with the laws existing in the past at that point of time. In this case, the objective was to save and validate past acquisitions under the three State enactments, which were valid until the commencement of the 2013 Act but stood quashed due to the High Court decision. This was also for altering the basis of the law in existence at that point of time and providing for benefits at par with the 2013 Act, so far as it was fit in the wisdom of the State legislature. No doubt, it may appear anomalous to operationalise the 2019 Act from 26.09.2013, a day prior to the making of the 2013 Act, but it does not make any impact on the validity thereof or its substance. The date has been chosen by the State legislature only by way of abundant caution and, in our view, rightly. It is obviously relevant to overcome the repugnancy corresponding to the commencement of the 2013 Act. Adopting any other interpretation would not only be unwarranted as per the constitutional scheme but would also strike at the very purpose of a retrospective reviving and validating enactment. More so, it would open a pandora's box of unforeseen conflicts."

16.4. In the light of the above discussion, the Hon'ble Supreme Court of India hold that the Tamil Nadu Land Acquisition Laws (Revival of Operation, Amendment and Validation) Act 2019, to be a legitimate legislative exercise and find it to be



consistent with and within the four corners of Article 254 of the Constitution of India and dismissed the Writ Petitions. Therefore, the Tamil Nadu Highways Act, 2001 validated retrospectively viz., from 27.09.2013 viz., the Presidential assent to the New Act, 2013, and the same was also upheld by the Hon'ble Supreme Court of India. Hence the action initiated by the respondents for acquisition of lands under the Tamil Nadu Highways Act, 2001 is valid and in accordance with law.

Issue No.II :-

17. Mr.David Tyagaraj, learned counsel appearing for the petitioners in W.P.Nos.11801, 13176 to 13180 of 2014 submitted that under the Act, the land owners are entitled to have a copy of reasons for overruling the objections and the said provisions could not be adopted in the said proceedings. The petitioners never received any copy of the enquiry report submitted by the enquiry committee and as such, the entire land acquisition proceedings are vitiated and liable to be set aside. In this regard, he relayed upon the judgment reported in 1987 WLR 182 in the case of Kadirvel Mudaliar Vs. State of Tamil Nadu & ors, which reads as follows :-

"6. In Balasubramaniam Vs. State of Tamil Nadu, Ramanujam, J., dealt with a case where the remarks of the requisitioning body were obtained after the enquiry under S.54 and the owner was not afforded as opportunity to make his representations over these remarks and the learned Judge held the rule to be mandatory and since there was a violation of the same, struck down the acquisition proceedings. The learned Judge took note of the pronouncement of the Supreme Court in State of Mysore Vs. V.K.Kangan and others to be the rule to be mandatory"

17.1. He also relied upon another judgment reported in 2006 (4) LW 463 in the case of M/s.Sharp Tools rep. by Managing Parter Vs. State of Tamil Nadu., which reads as follows :-

"10. Further, in our opinion, objections must be filed in writing within 30 days. Whereas objections in oral can be raised even at the time of enquiry. No doubt the Section, viz.. Section 5A(2) says, "after hearing all such objections" meaning thereby the objections raised by the objectors in writing, however, there is



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also a scope for an interpretation that "all such objections" includes the objections given in writing within 30 days and the objections made after 30 days either in writing or oral at the time of enquiry. Since the Section clarifies that... after making such further enquiry, if any, as he thinks necessary...", it is always advisable that the Collector must make such further enquiry. In our view, discretion is given to the Collector to make such further enquiry. A careful reading of Section 5A(2) clarifies the following.

(1) Objections under Sub-section (1) of Section 5(A) shall be made to the Collector in writing;

(2) The Collector shall give the Objectors an opportunity of hearing;

(3) The Collector shall, after hearing all such objections and after making such further enquiry, if any, as he thinks necessary, make a report to the appropriate Government containing his recommendations on the objections.

(4) The Collector shall enclose the record of the proceedings held by him.

(5) The decision of the Government will depend upon such recommendations."

17.2. He also relied upon the judgment reported in 2006 (4) CTC 609 in the case of *Pari Vs. The Special Tahsildar & Ors.*, as follows :-

11. In (*Abdul Hussain Tayabali etc., v. The State of Gujarat and Ors.*), while considering the question of necessity of a further enquiry by the State at the stage of taking an appropriate decision under Section 6 of the Central Act, it was observed.:

16. The last proposition of Mr. Sanghi was that even though an inquiry under Section 5-A may be an administrative inquiry, the State Government was bound to give an opportunity to be heard to the appellants after receiving the report thereunder and before making up its mind



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for the purpose of issuing Section 6 notification. It is not in dispute that during Section 5-A inquiry the appellants were heard and their objections were taken on record. Under Section 5-A, the Collector has to hear the objections of the owner, take them on record and then submit his report to the Government. The Section also requires him to send along with his report the entire record of his inquiry which would include the objections. The report has merely recommendatory value and is not binding on the Government. The record has to accompany the report as it is for the Government to form independently its satisfaction. Both are sent to enable the Government to form its satisfaction that the acquisition is necessary for a public purpose or for the Company. It is then that Section 6 notification which declares that particular land is needed for either of the two purposes is issued. The Government thus had before it not only the opinion of Master but also all that the appellants had to say by way of objections against the proposed acquisition. The appellants therefore had an opportunity of being heard. Neither Section 5-A nor any other provision of the Act lays down that a second opportunity has to be given before the issuance of Section 6 notification.

The said decision was followed in (Kalumiya Karimmiya v. The State of Gujarat and Ors.), wherein it was Observed:

6. ...Although ordinarily, there should be no difficulty in furnishing a copy of the report under Section 5-A to an objector, when he asks for the same, it is not a correct proposition that hearing under Section 5-A is invalid because of failure to furnish a copy of the report at the conclusion of the hearing under the said section. Unless there were weighty reasons, a report in a public enquiry like this, should be available to the persons who take part in the enquiry. But failure



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to furnish a copy of the report of such an enquiry cannot vitiate the enquiry if it is otherwise not open to any valid objection. Apart from this solitary ground, our attention has not been drawn to any infirmity in the hearing under Section 5-A. We are, therefore, unable to hold that the said enquiry under Section 5-A was invalid.

7. The matter would have been different if a second enquiry were essential under the law at the stage when the State Government was considering the report under Section 5-A for issuing its declaration under Section 6 of the Act. We are, however, clearly of opinion that there is no reason to hold that a second hearing by the State Government at that stage is necessary under Section 6 of the Act. (See *Abdul Husain v. State of Gujarat* . Since that is the position in law, failure to furnish a copy of the report under Section 5-A is innocuous...."

17.3. He relied upon the another judgment of the Hon'ble Supreme Court of India reported 2012 (3) CTC 102 in the case of *Kamal Trading Pvt. Ltd., Vs. State of West Bengal & ors*, as follows :-

"10. Section 5A(1) of the LA Act gives a right to any person interested in any land which has been notified under Section 4(1) as being needed or likely to be needed for a public purpose to raise objections to the acquisition of the said land. Sub-section (2) of Section 5A requires the Collector to give the objector an opportunity of being heard in person or by any person authorized by him in this behalf. After hearing the objections, the Collector can, if he thinks it necessary, make further inquiry. Thereafter, he has to make a report to the appropriate Government containing his recommendations on the objections together with the record of the proceedings held by him for the decision of the appropriate Government and the decision of the appropriate Government on the objections shall be final. It must be borne in mind that the proceedings under the LA



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Act are based on the principle of eminent domain and Section 5A is the only protection available to a person whose lands are sought to be acquired. It is a minimal safeguard afforded to him by law to protect himself from arbitrary acquisition by pointing out to the concerned authority, inter alia, that the important ingredient namely 'public purpose' is absent in the proposed acquisition or the acquisition is mala fide. The LA Act being an exproprietary legislation, its provisions will have to be strictly construed."

17.4. He relied upon yet another judgment reported in 2020 (7) MLJ 128 in the case of Ponnayal & ors Vs. The State of Tamil Nadu & ors, which reads as follows:-

"13. The Hon'ble Supreme Court in Mukesh Hans Case, referred supra, dealt with the importance of considering the objections of the land owner while conducting an enquiry under Section 5(A) of the Land Acquisition Act, 1894 and it was held that there was only a limited right given to the owner and therefore it should not be made an empty formality. The relevant portions in the judgement is extracted hereunder:

35. At this stage, it is relevant to notice that the limited right given to an owner/person interested under Section 5A of the Act to object to the acquisition proceedings is not an empty formality and is a substantive right, which can be taken away for good and valid reason and within the limitations prescribed under Section 17(4) of the Act. The object and importance of 5A inquiry was noticed by this Court in the case of Munshi Singh and Ors. v. Union of India reported in [1973] 1SCR973 where this Court held thus:-

7. "Section 5A embodies a very just and wholesome principle that a person whose property is being or is intended to be acquired should have a proper and reasonable opportunity of persuading the authorities concerned that acquisition of the property belonging to that person



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should not be made. The legislature has made complete provisions for the persons interested to file objections against the proposed acquisition and for the disposal of their objections. It is only in cases of urgency that special powers have been conferred on the appropriate Government to dispense with the provisions of Section 5A.”;

36. It is clear from the above observation of this Court that right of representation and hearing contemplated under Section 5A of the Act is a very valuable right of a person whose property is sought to be acquired and he should have appropriate and reasonable opportunity of persuading the authorities concerned that the acquisition of the property belonging to that person should not be made. Therefore, in our opinion, if the appropriate Government decides to take away this minimal right then its decision to do so must be based on materials on record to support the same and bearing in mind the object of Section 5A.”

17.5. All the above judgments are arising out of the provisions under Section 5(A) of the Land Acquisition Act, 1984. The objections raised by the objectors in written made to the Collector, and the Collector was given opportunity of hearing to the objectors. After hearing such objections and after making further enquiry, the Collector shall submit a report to the appropriate Government authority containing his recommendation on the objections. It is true that the objections to the acquisition proceedings is not an empty formality and that it is a substantive right. It is a right given to the land owner giving him a reasonable opportunity to persuade the authority concerned, against the acquisition of the property belonging to him. The provision under Section 5(A) of the Land Acquisition Act, 1984 is akin to Section 15(2) of the Tamil Nadu Highways Act, 2001 r/w. Rule 5(3) of the Rules, 2003. It clearly contemplates a person hearing.

17.6. Admittedly, in all the cases the petitioners were raised their objections and they were heard. Some of the petitioners failed to appear in the enquiry. After receipt of the objections and the remarks from the requisition body, the order was passed under Section 15(1) of the Act. Therefore, the above judgments are not helpful to the case of the petitioners.



In this regard, learned Government Advocate appearing for the respondents relied upon the judgment reported in 2015 (3) LW 662 in the case of Veeyel Enterprises Vs. State of Tamil Nadu, in which the Hon'ble Division Bench of this Court held as follows :-

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"19. Section 15(1) of the Act, 2001 authorises the Government to acquire the land by publishing a notice in the Tamil Nadu Government Gazette, specifying the description of such land and the particular purpose for which it is to be required. The land may be acquired under this section for the purpose of construction of any highway bridges, culverts, causeways or other structures thereon and also for other purpose incidental or ancillary thereto. Under sub section (2) of Section 15, the Government is mandated to issue show cause notice, calling upon the owner or any other person having interest in such land, specifying the time to show cause as to why the said land should not be acquired. It is also required that a public notice be given. Section 15(3) *ibid*, prescribes that only after considering the cause, if any, shown by the owner or other person having interest in such land, the Government should pass an order by publishing a notice under sub section (1) of Section 15.

20. Rule 5 of the Rules, 2003 framed therein provides for a mechanism for publication of the public notice. Under sub rule (1) of Rule 5, before publication of the notice under Section 15(1) of the Act, 2001, the Collector or the Special Deputy Collector (Land Acquisition), as the case may be, is obliged to call upon the owner or any other person having interest in the land to show cause as to why the land may not be required. It is further prescribed that a public notice to that effect shall be published in one English and one Tamil newspapers having circulation in the locality and also the said notice shall be displayed in the office of the Highways authorities of the division concerned, Village Administrative



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Officer of the village concerned and the Tahsildar of the Taluk concerned.

21. In the case on hand, a public notice was published in one English news paper Deccan Chronicle and in one Tamil newspaper Makkal Kuralon 28.5.2013, which was displayed in the locality, as aforestated, on 29.5.2013. Thereafter, the said notice in the form of show cause was issued to the land owner on 31.5.2013. Any other person having interest in the land, as aforestated, means a person, who is in occupation or in possession or having title or ownership either jointly or separately. Sub-rule (2) of Rule 5 of the Rules, 2003 sets out how to deal with the objection, if any, received from the person interested in the land. The person interested, including the owner, is required to file objections within the time prescribed in the public notice, not from the date of receipt of the personal notice, as pleaded by the appellants.

22. Rule 5(3) stipulates consideration of the objection by the Land Acquisition Officer on the fixed date for enquiry. Before the enquiry, the objection of the land owner or any other person interested in the land, is required to be supplied to the Highways Department to enable them to file a statement by way of answer to the objections and also to depute a representative, if necessary. The competent officer, who, in the case on hand appears to be the Land Acquisition Officer, is obliged to hear the objector or a person authorised by him in this behalf and the representative of Highways Department, if any and record any evidence produced in support of the objection. After conducting enquiry, the report has to be sent to the Government under sub-rule (4) of Rule 5 of Rules 2003 for consideration and passing orders under sub-section (3) of Section 15 of the Act, 2001."



17.7. The Hon'ble Division Bench of this Court held that the competent officer, in that case, appears to be the Land Acquisition Officer, is obliged to hear the objector or a person authorised by him in this behalf and the representative of the Highways Department, if any and record and evidence produced in support of the objections. After conducting enquiry, the report has to be sent to the Government under Sub-rule (4) of Rule 5 of the Rules, 2003 for consideration and passing orders under Sub-section (3) of Section 15 of the Act, 2001. But in the present cases, as stated supra all the petitioners were duly served with notice and they raised their objections and also appeared for the enquiry and thereafter passed order under Section 15(1) of the Act. Therefore, the respondents duly followed the procedure as contemplated under Section 15(2) and 15(1) of the Act.

Issue No.III :-

18. Mr.David Tyagaraj, learned counsel appearing for the petitioners in W.P.Nos.11801, 13176 to 13180 of 2014 further submitted that the notification under Section 15(2) of the Act issued in the name of the dead person and it is fatal to the entire acquisition proceedings. It is seen that the respondents issued notice under Section 15(2) of the Act and the same was published in Tamil newspapers on 26.05.2013. It was also published in the locality on 29.05.2013 as required under Rule 5 of the Tamil Nadu Highways Act, 2001. The notice was issued to land owners/interested persons including the petitioners. The petitioners were requested to appear for enquiry to be held on 19.06.2013. Accordingly, the second petitioner in W.P.No.11801 of 2014 had appeared for enquiry and raised his objection as a large extent of land in S.No.16/4A owned by him has already been acquired and requested to refrain from acquisition.

18.1. The objections raised by the petitioners have been sent to the requisitioning body to offer their remarks. The requisitioning body considered the objections raised by the petitioners and recommended that the objections were not found acceptable on the ground that it is inevitable to acquire the land referred to as it is required for junction improvement to the vehicular under pass provided to facilitate the vehicles crossing the project road on either side smoothly. After considering the objections and remarks of the requisition body, the Government have decided to acquire the lands.

18.2. Accordingly, the publication of notice under Section 15(1) of the Act was issued to the petitioners and also notice under Section 16(2) of the Act was issued to the petitioner on 03.03.2014. Though the notices were sent in the name of the dead person viz., Abaranji, all the petitioners in W.P.No.110801 of 2014 are being his legal heirs were duly served



notice and in fact, they also appeared in the enquiry conducted on 19.06.2014. Thereafter, they were duly served with notice and they were given opportunity to raise their objections. In this regard, the learned Government Advocate appearing for the respondents relied upon the judgment reported in 2006 (4) CTC 757 in the case of G.S.Gopalakrishnan & ors Vs. Government of Tamil Nadu., in which the Hon'ble Division Bench of this Court held as follows :-

"10. A Division Bench of this Court considered, in the case of Savithiriammal v. State of Tamil Nadu, the validity of a notification issued in the name of a dead person and held that "the notification issued in the name of a dead person is a nullity and the proceedings cannot be sustained based on the said notification". But in para-3 of the said judgment, the learned Judges recorded a finding that the factum of death of the original owner was brought to the notice of the authorities even during the enquiry under Section 5-A and that despite the same, the authorities did not carry out necessary changes in the Section 6 declaration also. In view of such a finding, the Bench quashed the entire proceedings and that too at the instance of the legal heir of the deceased owner. But in the case on hand, the property has changed several hands and the appellants purchased the plots much after the award enquiry was over. It is not the case of the appellants that anyone ever brought to the notice of the acquiring authorities, the fact that the original owner was dead. Under such circumstances it is difficult to comprehend as to how the authorities can be expected to know that the original owner was dead. We are entirely in agreement with the views expressed by the learned Judges in the aforesaid cases, especially in the light of their finding in those cases that the acquiring authorities had knowledge of the death of the owner of the lands.

11. It is true that as a general principle of law, proceedings against dead persons are null and void. But this principle is not without exception. Order



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22 of the Code of Civil Procedure which deals with the procedure to be followed in the case of death, marriage and insolvency of parties, carves out one such exception to the said principle under Sub-rule (4) of Rule 4, which reads as follows:

(4) The Court whenever it thinks fit, may exempt the plaintiff from the necessity of substituting the legal representatives of any such defendant who has failed to file a written statement or who, having filed it, has failed to appear and contest the suit at the hearing; and judgment may, in such case, be pronounced against the said defendant notwithstanding the death of such defendant and shall have the same force and effect as if it has been pronounced before death took place.

.....

14. In a case arising under the Bombay Land Requisition Act, 1948, in Smt. Lila Vati Bai v. State of Bombay [1957]1SCR721, the Constitution Bench of the Supreme Court had an occasion to consider whether an order of requisition issued under the said Act in the name of a dead person was enforceable or not. Over-ruling the contention of the petitioner that such a notice was unenforceable, the Apex Court held as follows:

13. The only other contention which remains to be dealt with is that the order impugned in this case is not enforceable because it was directed against the petitioner's husband, who was dead at the date of the order, besides the other two persons indicated in it who were not concerned with the premises. In our opinion, there is no substance in this contention either. An order like the one passed under Section 6(4)(a) of the Act is not in the nature of an order in judicial proceedings between the Government on the one hand and other parties named. If the proceedings were intended by the Act in the sense of judicial or quasi-judicial proceedings between named parties, it may



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have been legitimately argued that an order passed against a dead man is a complete nullity. But the order proceeds on the basis that the tenant had ceased to be in occupation of the premises in October 1952, apparently by reason of the fact that he had handed over possession of the premises to the so called "lodger" or "paying guest". Admittedly the petitioner's husband died after October 1952. The occupation by the said Narottamdas Dharamsey Patel was in the nature of an unauthorised occupation. The fact that the petitioner's husband was dead on the date of the order impugned has only this effect that in so far as it mentions his name as one of the persons to be served under Section 13 of the Act should be erased from the order. But even so, it does not affect the enforceability of the same. Section 13 lays down the different modes of service of an order passed under the Act according as the order is of a general nature or affecting a class of persons or an individual, corporation or firm. We are here concerned with the case of an individual and the section lays down that it can be served either personally by delivering or tendering the order to him or by post or where he cannot be found, by affixing a copy of the order to some conspicuous part of the premises in which he is known to have last resided.

15. Thus, it could be seen from the law laid down by the Apex Court that a distinction was always maintained between judicial/quasi-judicial proceedings and other proceedings. In so far as the scheme of the Land Acquisition Act, 1894 is concerned, it envisages various types of notices at various stages. Section 4(1) notification is required to be gazetted followed by publication in two dailies having circulation in the locality and a local publication. The opportunity provided under Section 5-A is actually for 'persons interested' and not necessarily the land owners. This enquiry is followed



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by a Section 6 declaration and the Act thus provides innumerable opportunities to "persons interested" in objecting to the acquisition. The Land Acquisition Act does not limit its reach to "owners of land", but enables any person interested in the land to have a say. Moreover, the liability of the acquiring authorities to serve a notice of enquiry is also restricted only to persons whose names find a place in the revenue records. When the Act does not even make it obligatory for the acquiring authorities to conduct a roving enquiry to find out the actual owners, beyond the names reflected in the revenue records, it cannot be expected of the acquiring authorities to find out if the patta holder is alive or dead."

18.3. The Hon'ble Divisional Bench of this Court held that the opportunity provided under Section 5(A) of the Land Acquisition Act is actually for 'persons interested' and not necessarily the land owners. This enquiry is followed by a Section 6 declaration and the Act thus provides innumerable opportunities to the "persons interested" in objecting to the acquisition. The Land Acquisition Act does not limit its reach to "owners of land", but enables any person interested in the land to have a say. Moreover, the liability of the acquiring authorities to serve a notice of enquiry is also restricted only to persons whose names find a place in the revenue records.

18.4. In the case on hand, the father of the petitioners in W.P.No.11081 of 2014 died and the subject land was registered in the name of the deceased Abaranji and all the revenue records stood in the name of the deceased. After his demise, the petitioners failed to transfer the property in their names as the legal heirs of the deceased Abaranji. That apart, the petitioners failed to brought to the notice of the acquisition officer about the demise of the original owner and hence the notice under Section 15(1) of the Act was issued in the name of Abaranji. However, the petitioners had received notice on behalf of their deceased father and they also appeared for enquiry on 19.06.2013. The Rule categorically provides that the notice should be served to the land owners/interested persons. Therefore, the issuance of notice to the death person will not vitiate the acquisition proceedings, since the petitioners are being the legal heirs of the deceased person were duly served notice and they filed objections and also appeared before the enquiry officer. That apart no prejudice caused to the petitioners for service of notice on the deceased person.



Therefore, the above judgment squarely applicable to the case on hand and the acquisition is not void and it is very much sustainable in law.

Issue No.IV:-

19. The learned counsel appearing for the petitioners would submit that the respondents issued notice for the implementation and development of the roads. Whereas the Act contemplated under Chapter III Section 3 speaks about the construction and development, later under the same Section there should be an notification under the sub-section regarding a draft notification inviting objections from the petitioner. The Sub clause 1 of Section 8 of the Act contemplates the benefits under a & b regarding acquisition further under Section Sub Clause 3 & 4 of Section 8 of the Act speaks about the details of the preliminary notification and the proposed building lines and control line. In the case on hand, Sections 9 to 14 of the Act have not been followed by the respondents in applying their mind while implementing the project.

19.1. The provisions under 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 procedure 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. In this regard, it is relevant to relay upon the order dated 20.02.2019 in W.P.No.3468 of 2014 batch, in the case of K.Selvaraj & anr Vs. The State of Tamil Nadu & ors, in which this Court held as follows :-

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



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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 Gazette 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



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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



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M/s.Ceedeeyes Standard Towers Pvt Ltd' s case, cited supra, wherein, the learned Judge while distinguishing R.Morthy' 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."

This Court held that the notification issued under Section 8 of the Act is not sine qua non for initiating acquisition proceedings under Section 15 of the Act. Therefore, the Acquisition Officer has not required to comply with the proceedings as contemplated under Section 15(2) of the Act and the contention raised by the learned counsel appearing for the petitioners cannot be accepted.

Issue No.V:-

20. The learned Government Advocate appearing for the respondents produced the copies of the notice issued under Section 15(2) of the Act to the respective petitioners. On perusal of those documents revealed that, the petitioners were duly served notices and they also filed their respective



objections. Of course, some of the petitioners failed to attend the enquiry which was conducted by the authority concerned. After having been considered the case shown by the owners of the land/interested person, published the notification under Section 15(1) of the Act, thereby acquiring the subject lands in these Writ Petitions.

20.1. Over all, the respondents duly followed the procedures as contemplated under the Act and Rules for acquiring lands for the purpose of Chennai outer ring road development work including project facilities such as interchanges, bus bays, truck lay byes, junction improvements, wayside amenities, major and minor junction improvements etc. These facilities only part and parcel of the project road amenities and it is one of the facilities provided for the outer ring road phase-I.

21. In view of the above discussions, this Court finds no merits in all the Writ Petitions and all these petitions deserve to be dismissed. Accordingly, all the Writ Petitions are dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS II)

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Sub Assistant Registrar

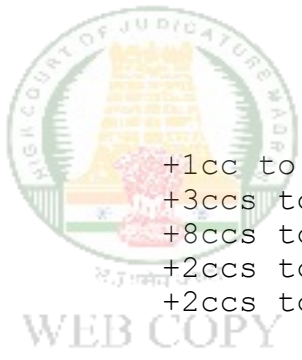
rts

To

1. The Secretary to the Government
State of Tamil Nadu,
Department of Revenue,
Secretariat,
Chennai - 600 009.
2. The Secretary to the Government,
State of Tamilnadu
Highways and Minor Ports Department,
Secretariat,
Chennai - 600 009.
3. The District Revenue Officer (L.A)
Chennai Outer Ring Road Project,
CMDA, Koyembedu,
Chennai - 600 092.



4. The State Highways Authority,
The Chief Engineer,
(The Tamil Nadu Highways)
Chepauk,
Chennai - 600 005.
5. The Highways Authority,
The Divisional Engineer,
(The Tamil Nadu Highways)
Office of the Divisional Engineer,
Sriperumbudur Division,
Sriperumbudur Town and Taluk.
6. The District Collector
Kancheepuram,
Office of the Collector at
Kancheepuram.
Kancheepuram District.
7. The Thasildar Sriperumbudur Taluk,
Office of the Thasildar Sriperumbudur,
Sriperumbudur Town and Taluk,
Kancheepuram District.
8. The Tamil Nadu Road Development
Company Limited,
Raja Annamalaipuram,
Chennai - 600 028.
9. The Chairman,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building, Egmore
Chennai - 8.
10. The Special Tahsildar
Chennai Outer Ring Road Project,
Tambaram (E), Poonamallee.
11. The District Collector
Thiruvallur District Thiruvallur.
12. The Special Tasildhar
Land Acquisition Outer Ring Project CMDA
Koyambedu Chennai-92.
13. The Special Tahsildar
(LA) Chennai Outer Ring Road Phase-I
Poonamallee AT Nazarathpettai (Beside
Government High School).



+1cc to Mr.A.Palaniappan,Advocate,Sr.No.46412
+3ccs to M.Sivavarthanana,Advocate,Sr.No.46460
+8ccs to Mr.David Tyagaraj,Advocate,Sr.No.46314
+2ccs to Mrs.P.Veena Suresh,Advocate,Sr.No.46589,46590
+2ccs to Mr.A.Jenasena,Advocate,Sr.No.46701

W.P.No.33868 of 2013 &
M.P.No.2 of 2013, M.P.No.1 of 2014
W.P.Nos.11801, 13176 to 13180 of 2014
M.P.Nos.2,2,2,2,2,2 of 2014
W.M.P.Nos.24766, 26126 to 26130 of 2016
W.P.Nos.37245 & 37246 of 2015 &
M.P.Nos.2 & 2 of 2015
W.M.P.Nos.6766 & 6767 of 2016

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NSK 06/10/2021