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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2021

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NOS.21728, 24731, 25829, 32425 OF 2014
AND

M.P.NOS.1, 1, 1, 1 OF 2014

1.G.Jaganathan
2.G.Rajagopalan

... Petitioners in W.P.No.21728 of 2014

1.G.Krishnan
2.V.Sugumar
3.A.Jayaraman

... Petitioners in W.P.No.24731 of 2014

1.M.Dhanapal (Deceased)
2.K.Chinnasamy
3.Poongodi
4.Jeevitha (Minor)
5.Santhanu (Minor)
6.Periyammal

... Petitioners in W.P.No.25829 of 2014

(4 and 5 minors rep. by their mother and natural guardian Poongodi 3rd petitioner)

(P3 to P6 are substituted in the place of deceased P1 M.Dhanapal, as per Order dated 27.01.2016 by TSSJ in W.M.P.No.2152 of 2016 in W.P.No.25829 of 2014)

1.M.Sivanathan
2.M.Prakasam
3.M.Sundaram

... Petitioners in W.P.No.32425 of 2014

Vs

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



2. The Special Tahsildar (L & A)
Housing Scheme, Dharmapuri.

3. The Managing Director,
Tamil Nadu Housing Board,
Anna Salai, Nandanam,
Chennai 600 035.

... Respondents in all WP's

PRAYER in W.P.No.21728 of 2014:- Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Declaration declaring that the Land Acquisition proceedings initiated by the 1st respondent in Section 4(1) Notification bearing G.O.Ms.No.576 Housing and Urban and Development dated 07.06.1985 and Section 6(1) Declaration bearing G.O.Ms.No.935 H & U.D. dated 26.06.1986 and subsequent proceedings in so far they relates to the petitioner's land of an extent of 2 Acres and 42 cent situated in S.No.475/1A, 1H, 1S, 1AD, 1AH, 1Z, 1D, 1C, 1Q, 1Y, 1J, 1G, 1W in A. Jettihalli Village, Dharmapuri Taluk and District 'as lapsed'.

PRAYER in W.P.No.24731 of 2014:- Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Declaration declaring that the Land Acquisition proceedings initiated by the 1st respondent in Section 4(1) Notification bearing G.O.Ms.No.578 Housing and Urban and Development dated 07.06.1985 and Section 6(1) Declaration bearing G.O.Ms.No.587 H & U.D. dated 23.04.1986 and subsequent proceedings in so far they relates to the petitioner's land of an extent of 9 Acres situated in S.No.463/1A, 463/3C, 463/1E, 472/3, 472/4 & 515/1F in A.Jettihalli Village, Dharmapuri Taluk and District 'as lapsed' as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (Central Act No.30 of 2013).

PRAYER in W.P.No.25829 of 2014:- Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Declaration declaring that the Land Acquisition proceedings initiated by the 1st respondent in Section 4(1) Notification bearing G.O.Ms.No.578 Housing and Urban and Development dated 07.06.1985 and Section 6(1) Declaration bearing G.O.Ms.No.587 H & U.D. dated 23.04.1986 and subsequent proceedings in so far they relates to the petitioner's land of an extent of 5.15 Acres in Survey Nos.471/1, 471/2, 471/3, 472/1, 478/9 situated in A.Jettihalli Village, Dharmapuri Taluk and District 'as lapsed' as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (Central Act No.30 of 2013).



PRAYER in W.P.No.32425 of 2014:- Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Declaration declaring that the Land Acquisition proceedings initiated by the 1st respondent in Section 4(1) Notification bearing G.O.Ms.No.578 Housing and Urban and Development dated 07.06.1985 and Section 6(1) Declaration bearing G.O.Ms.No.587 H & U.D. dated 23.04.1986 including subsequent proceedings in so far they relates to the petitioner's land of an extent of 0.37.5 Hectares i.e., 92.5 cents in Survey Nos.473/1B and 478/2 situated in A.Jettihalli Village, Dharmapuri Taluk and District 'as lapsed' as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (Central Act No.30 of 2013).

For Petitioners : Mr.V.Ravi
in all WP's

For Respondents : Mr.M.R.Gokul Krishnan,
in all WP's
1 & 2 Government Advocate

For Respondent 3 : Dr.R.Gouri, Standing counsel
in all WP's

COMMON ORDER

The W.P.No.21728 of 2014 is filed to issue a Writ of Declaration declaring that the Land Acquisition proceedings initiated by the 1st respondent in Section 4(1) Notification bearing G.O.Ms.No.576 Housing and Urban and Development dated 07.06.1985 and Section 6(1) Declaration bearing G.O.Ms.No.935 H & U.D. dated 26.06.1986 and subsequent proceedings in so far they relates to the petitioner's land of an extent of 2 Acres and 42 cent situated in S.No.475/1A, 1H, 1S, 1AD, 1AH, 1Z, 1D, 1C, 1Q, 1Y, 1J, 1G, 1W in A. Jettihalli Village, Dharmapuri Taluk and District 'as lapsed'.

2. The W.P.No.24731 of 2014 is filed to issue a Writ of Declaration declaring that the Land Acquisition proceedings initiated by the 1st respondent in Section 4(1) Notification bearing G.O.Ms.No.578 Housing and Urban and Development dated 07.06.1985 and Section 6(1) Declaration bearing G.O.Ms.No.587 H & U.D. dated 23.04.1986 and subsequent proceedings in so far they relates to the petitioner's land of an extent of 9 Acres situated in S.No.463/1A, 463/3C, 463/1E, 472/3, 472/4 & 515/1F in A.Jettihalli Village, Dharmapuri Taluk and District 'as lapsed' as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (Central Act No.30 of 2013).



3. The W.P.No.25829 of 2014 is filed to issue a Writ of Declaration declaring that the Land Acquisition proceedings initiated by the 1st respondent in Section 4(1) Notification bearing G.O.Ms.No.578 Housing and Urban and Development dated 07.06.1985 and Section 6(1) Declaration bearing G.O.Ms.No.587 H & U.D. dated 23.04.1986 and subsequent proceedings in so far they relates to the petitioner's land of an extent of 5.15 Acres in Survey Nos.471/1, 471/2, 471/3, 472/1, 478/9 situated in A.Jettihalli Village, Dharmapuri Taluk and District 'as lapsed' as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (Central Act No.30 of 2013).

4. The W.P.No.32425 of 2014 is filed to issue a Writ of Declaration declaring that the Land Acquisition proceedings initiated by the 1st respondent in Section 4(1) Notification bearing G.O.Ms.No.578 Housing and Urban and Development dated 07.06.1985 and Section 6(1) Declaration bearing G.O.Ms.No.587 H & U.D. dated 23.04.1986 including subsequent proceedings in so far they relates to the petitioner's land of an extent of 0.37.5 Hectares i.e., 92.5 cents in Survey Nos.473/1B and 478/2 situated in A.Jettihalli Village, Dharmapuri Taluk and District 'as lapsed' as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (Central Act No.30 of 2013).

5. The case of the petitioners are as follows:

5.1. In W.P.No.21728 of 2014 the first petitioner is having lands of an extent of 0.01.5 Hectares etc., i.e., 1.2 Acres and the second petitioner is having land of an extent of 0.06.0 Hectares etc., i.e., 1.40 Acres in total 2.42 Acres in S.No.475/1A, 1H, 1S, 1AD, 1AH, 1Z, 1D, 1C, 1Q, 1Y, 1J, 1G, 1W in A. Jettihalli Village, Dharmapuri Taluk and District. After the initiation of acquisition proceedings by the respondents the petitioners are in possession and enjoyment of the said properties.

5.2. In W.P.No.24731 of 2014 the petitioners are having lands of an extent of 9 Acres got through his father in S.No.463/1A, 463/3C, 463/1E, 472/3, 472/4 & 515/1F in A.Jettihalli Village, Dharmapuri Taluk and District. After the initiation of acquisition proceedings by the respondents the petitioners are in possession and enjoyment of the said properties.

5.3. In W.P.No.25829 of 2014 the petitioners are having lands of an extent of 5.15 Acres got through one Gopal Gounder in S.No. 471/1, 471/2, 471/3, 472/1, 478/9 in A.Jettihalli Village, Dharmapuri Taluk and District. After the initiation of



acquisition proceedings by the respondents the petitioners are in possession and enjoyment of the said properties. The petitioners are having Coconut Trees, Mango Trees, Guava Tree, Teak wood Trees, apart from that the petitioners are cultivating with other agricultural crops in their land. The land stood in the name of the petitioners' grandfather and grandmother after their demise, the petitioners are in possession and enjoyment of the same.

5.4. In W.P.No.32425 of 2014 the petitioners are having lands of an extent of 0.37.5 Hectares i.e., 92.5 Cents got through one Gopal Gounder in S.Nos.473/1B, 478/2 in A.Jettihalli Village, Dharmapuri Taluk and District. After the initiation of acquisition proceedings by the respondents the petitioners are in possession and enjoyment of the said properties. The petitioners are having Mango Trees, Guava Tree, Corn, apart from that the petitioners are cultivating other agricultural crops in their land.

6. While being so, the second respondent proposed to acquire the land to an extent of 80 acres in A.Jettihalli Village, Dharmapuri Taluk and District for forming Dharmapuri A.Jettihalli Neighbourhood Scheme and Acquisition Proceedings were initiated. The Notification under Section 4(1) of the Land Acquisition Act was approved by the Government vide G.O.Ms.No.576, Housing and Urban Development Department dated 07.06.1985 and published in the Government Gazette on 26.06.1985.

7. Thereafter, the draft declaration under Section 6 of the Land Acquisition Act was approved vide G.O.Ms.No.955, Housing and Urban Development Department dated 26.06.1986 and the same was published in the Government Gazette on 27.06.1986. In the meanwhile, the petitioners challenged the Acquisition Proceedings in W.P.Nos.3365 of 1989, 3449 of 1989, 11862 to 11864 of 1986. In all the writ petitions initially a stay was granted thereby stayed the Acquisition Proceedings.

8. Subsequently, by an order dated 28.01.1988 the interim order was modified only in respect of dispossession alone and permitted the respondents to proceed with the Acquisition Proceedings. Accordingly, the respondents passed an award on 25.05.1988. Thereafter, the writ petitions filed by the petitioners were allowed. Aggrieved by the same, the second respondent filed writ appeals and all the writ appeals were allowed in favour of the second respondent herein. Thereafter, the respondents had taken over symbolic possession of the petitioners land and laid out the entire property and applied for approved layout.



9. In the year 2000, the LP/DTCP also granted in favour of the petitioners. Based on the same, the petitioners sent representations for reconveyance of the said lands. However, those request was not considered and as such they filed writ petitions before this Court and the same were disposed with directions to the respondents therein to consider the representations. However, all the representations were rejected and aggrieved by the same the petitioners filed writ petitions before this Court and all the writ petitions were again dismissed on 10.09.2005 and the writ appeals filed were also dismissed by this Court by an order dated 09.07.2009. However, even till today the possession of the respective petitioners land were not taken and as such they filed these writ petitions on the ground that the entire Acquisition Proceedings have lapsed, since they were not paid compensation and the possession has not been taken till today as contemplated under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter called "New Act").

10. While pending these writ petitions, the petitioners raised additional grounds that some of the land which were notified along with the petitioners land for the same acquisition purpose were subsequently left out by the respondents. They were also issued no objection certificate. On the strength of such certificate, the adjacent land owners put up multi storeyed building and they are enjoying the same. The adjacent land, which were notified along with the petitioners land under the same notification, were excluded and they were issued no objection certificate, but the petitioners land alone now sought to be acquired. Therefore, it is clear discrimination and violation of fundamental rights of equality before law guaranteed under Article 14 of the Constitution of India.

11. The second respondent filed counter and stated that after issuance of draft declaration notice as contemplated under Section 6 of the Act, the same was published in the Government Gazette on 27.06.1986. Thereafter, an award has been passed on 25.05.1988. The possession of the respective lands were taken over and handed over to the second respondent as early as on 26.06.1985. Thereafter, the Revenue records were mutated in their name and the second respondent was also issued patta No.1545. Thereafter, they laid out the land and their lay out were approved in LP/DTCP No.413 of 1993. In fact, the land area which is meant for common use was also gifted by the Gift Deed dated 23.01.2004 registered vide Document No.261 of 2004 in favour of the Local Panchayat to provide road, drainage etc. The entire award amount was deposited in the Revenue Deposit.



Therefore, the twin conditions contemplated under Section 24(2) of the New Act have been duly complied with and the entire acquisition proceedings are not lapsed and prayed for dismissal of these writ petitions.

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12. The learned counsel for the petitioners vehemently contended that all the petitioners are agriculturist and having small portion of land. In the said land, they put a hut and they are residing there. However, the land situated adjacent to the land of petitioners and abutting the land were excluded by the second respondent. Thereafter, all the said lands were sold out to various persons and they constructed multi storeyed building for commercial purpose and enjoying the same. Therefore, it is clear violations of fundamental rights of equality before law guaranteed under Article 14 of the Constitution of India. In support of his contention he also relied upon the Judgment of the Division Bench of this Court in W.A.Nos.252 to 255 of 2011 dated 16.08.2011 and the order passed in the batch of writ petitions dated 29.10.2010 in W.P.No.32946 etc of 2004.

13. Admittedly, the petitioners challenged the acquisition proceedings before this Court and succeeded before the learned Single Judge. Aggrieved by the same, the second respondent preferred writ appeals and the same were allowed in their favour. Even while pending the writ petitions the respondents were permitted to proceed except taking possession of the subject land. Thereafter the respondents passed an award on 25.05.1988 in respect of the subject land in these writ petitions and the compensation has been deposited in the Revenue Deposit. Insofar as the possession is concerned it has not been taken over by the second respondent.

14. However, the first respondent had taken symbolic possession and the same has been handed over to the second respondent as early as on 26.06.1986. Thereafter, all the Revenue Records mutated in favour of the second respondent and also their lay out was approved in LP/DTCP No.413 of 1993. In pursuant to the approved lay out the second respondent also executed a gift deed in favour of the Local Panchayat for providing amenities such as road, drainage etc. Therefore, the acquisition proceedings have not lapsed as contemplated under Section 24(2) of the New Act as contended by the petitioners.

15. Insofar as the additional grounds raised by the petitioners are concerned, the petitioners land were not permitted to be taken possession by the second respondent while pending the writ petition. Subsequently all the writ petitions were allowed and the entire land acquisition proceedings were



quashed by the Single Judge of this Court. However, the second respondent filed writ appeals and all the writ appeals were allowed in their favour. Therefore, even while pending the writ petitions they passed an award and all acquisition proceedings, as stated supra, had been proceeded as against the petitioners land.

16. Insofar as the land comprised in Survey Nos.463/3A and 473/1B1A are concerned the said land belongs to one K.Vimalan, he filed writ petition challenging the acquisition proceedings in W.P.No.11233 of 1987. In the said writ petition blanket stay was granted from proceeding with any further acquisition proceedings. The second respondent did not take any steps to vacate the interim blanket stay of all acquisition proceedings. Therefore, the said lands alone were excluded from passing an award. The writ petitions were allowed and Land Acquisition Proceedings quashed. However, the first respondent herein filed writ appeals in W.A.Nos.818, 819 of 1992 as against the order passed in W.P.No.11233 of 1987 and 5824 of 1988. The Writ Appeals were allowed by an order dated 23.08.1996. In those writ appeals the second respondent was arrayed as second respondent.

17. In fact, the counsel who appeared on behalf of the second respondent supported the case of the first respondent. Even then, the respondents failed to pass any award insofar as the said lands are concerned. The respondent simply kept the matter in cold storage. Thereafter, the said K.Vimalan approached the second respondent for issuing no objection certificate to deal with the said properties. After analysing of the land acquisition proceedings the second respondent issued no objection certificate vide letter No.LA.Special.1/12940/2012 dated 06.07.2012. Thereafter, the said land was sold out to various persons and the purchasers have accorded planning permission and constructed multi storeyed building for commercial purpose.

18. On the other hand, insofar as the lands belong to the petitioners are concerned they are still in possession and enjoyment of the petitioners. Though the writ appeals filed by the second respondent were allowed in the year 1996, the respondents did not take any steps to take physical possession of the said land. In fact, the lay out was approved in the year 1993 and the land meant for amenities such as road, drainage etc., was gifted in the year 2004 by the registered vide Document No.261 of 2004 in favour of the Local Panchayat and even thereafter the second respondent did not take any steps to take physical possession of the lands from the petitioners. In fact, the petitioners submitted detailed representation for



reconveyance of their respective lands and subsequently those requests were rejected. The petitioners also challenged the said rejection orders before this Court.

19. In fact, the writ petitions were dismissed and confirmed by the Division Bench of this Court in Writ Appeals on 09.07.2009 itself. Even then, the second respondent did not take any step to take possession of the land. Therefore, the petitioners filed these writ petitions on two grounds, i.e., the land acquisition proceedings have lapsed, since the possession of the property has not been taken over and award amount has not been deposited by the respondents. While pending the writ petitions, the petitioners filed petitions to raise additional grounds namely the discrimination. In this regard, the learned counsel for the petitioners relied upon the Judgment of the Division Bench of this Court in Writ Appeal No.252 to 255 of 2011 dated 16.08.2011. The Hon'ble Division Bench of this Court held as follows:

"18. It is, therefore, evidently clear that in number of cases the Government on the basis of the recommendations of the Expert Committee accepted the requests of the land-owners and took a decision to re-convey their lands. But, at the same time, in respect of some of the representations the Government took the decision otherwise and rejected the request of reconveyance of the land. Such action of the respondents prima facie appears to be arbitrary, capricious, discriminatory and violative of Article 14 of the Constitution of India.

19. It is well-settled that no unlimited jurisdiction is vested with any judicial or quasi-judicial forum. An unfettered discretion is a sworn enemy of the constitutional guarantee against discrimination. An unlimited jurisdiction leads to unreasonableness. No authority, be it administrative or judicial has any power to exercise the discretion vested in it unless the same is based on justifiable grounds supported by acceptable materials and reasons thereof.

20. A Constitution Bench of the Supreme Court while dealing with the State Action, in the case of Menaka Gandhi Vs. Union of India reported in AIR 1978 SC 597 discussed the scope of Article 14 of the Constitution and observed:- [p.624 para-56] 56. Now, the question immediately arises as to what is the requirement of Article 14: what is the content and



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reach of the great equalizing principle enunciated in this Article? There can be no doubt that it is a founding faith of the Constitution. It is indeed the pillar on which rests securely the foundation of our democratic republic. And, therefore, it must not be subjected to a narrow, pedantic or lexicographic approach. No attempt should be made to truncate its all embracing scope and meaning, for to do so would be to violate its activist magnitude. Equality is a dynamic concept with many aspects and dimensions and it cannot be imprisoned within traditional and doctrinaire limits. We must reiterate here what was pointed out by the majority in *E.P.Roayappa V. State of Tamil Nadu*, (1974) 2 SCR 348: AIR 1974 SC 555 namely., that from a positivistic point of view, equality is antithetic to arbitrariness. In fact equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic, while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary, it is implicit in it that it is unequal both according to political logic and constitutional law and it therefore violative of Article 14. Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. The principle of reasonableness, which legally as well as philosophically, is an essential element of equality or non-arbitrariness pervades Article 14 like a brooding omnipresence and the procedure contemplated by Article 21 must answer the test of reasonableness in order to be in conformity with Article 14. It must be right and just and fair and not arbitrary, fanciful or oppressive; otherwise, it would be no procedure at all and the requirement of Article 21 would not be satisfied.

21. In *Suman Gupta Vs. State of J & K* reported in (1983) 4 SCC 339 the Supreme Court followed the principles laid down in *Menaka Gandhis Case* (supra) and reiterated that Article 14 of the Constitution is violated by powers and procedures which in themselves result in unfairness and arbitrariness. It must be remembered that our entire constitutional system is founded in the rule of law, and in any system so designed it is impossible to conceive of legitimate power which is arbitrary in character and travels beyond the bounds of reason.

22. The concept of equality before law means that among equals the law should be equal and should be equally administered, and that like should be treated



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alike. There must not be discrimination among equals unless there is reasonable classification. When something is to be done within the discretion of the authorities, it must be done according to the rule of reasons and justice, and it should not be according to the whims of the authorities."

20. Further the Hon'ble Division Bench of this Court held that the action of the stay in different Judgment to the land owners is highly arbitrary, capricious and discriminatory and violative under Article 14 of the Constitution of India. The learned counsel for the petitioners also relied upon the Judgment of this Court in W.P.No.32946 etc batch cases of the year 2004 dated 29.10.2020. In the said writ petition also similar ground as in the case on hand were raised that several other land in the locality have been dropped from the acquisition proceedings both before sanction and after administrative sanction and it is hit by Articles 14 and 19(1) (e) and 21 of the Constitution of India. This Court held as follows:

26. It is seen from the counter and annexure in the typed set filed by the Govt., certain lands which were dropped from the acquisition proceedings were both during sanction and after administrative sanction. It is interesting to note that lands in Survey No,.90, Egattur Village along with several other survey numbers in 49, 53, 55, 56 and 57 have been dropped from acquisition after the issuance of Administrative sanction. No reason has been given in the counter affidavit filed by the respondent as to why these lands were excluded from the acquisition proceedings after the grant of administrative sanction. The writ petitioners specifically contended that some of the lands which have been dropped, were after the administrative sanction for the acquisition. The basis upon which such exclusion was made is not properly justified by the respondents. Such exercise of picking and choosing some of the lands for acquisition is out and out discriminatory hit by Arts. (14), 19(1) (e) and 21 of the Constitution of India.

27. It is to be noted that after excluding certain lands from the same acquisition proceedings without any acceptable reasons, the respondents have strenuously pleaded before this court opposing the challenge made by the petitioners to Sec.3(2) notice without complying with the mandatory procedure of issuance of notice under Sec.3(1).



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28. Further, the Govt., or a Public Sector Undertaking cannot take a dual stand one in favour of certain land owners and another against another set of persons as the Constitutional Mandate of Arts.14, 19 (1) and 21 of the Constitution of India clearly prohibit such a discriminatory approach affecting the rights of the individuals adversely. It is not the case of the respondents that the entire lands which stood excluded from the acquisition proceedings were wetlands. It is seen from the annexure that both during and after administrative sanction, lands both dry and wet have been deleted batch and included.

40. To sum up,

(a) the failure to comply with the procedure prescribed under Sec.3 of the Act before issuing the notice under Sec.3(2) is fatal to maintain the acquisition proceedings against the petitioners as it is trite law that 'if the manner of doing particular act is prescribed under a statute and the same is not followed such action would be a nullity in the eye of law as held by the Hon'ble Apex Court in

(a) Kunwar Pal Singh (Dead) by LRs Vs. State of U.P. and others reported in (2007) 5 SCC 85 ;

(b) Mackinnan Mackenzie and Company Limited Vs. Mackinnan Employees Union reported in (2015) 4 SCC 544 ;

(c) Laxmi Devi Vs. State of Bihar and others reported in (2015) 10 SCC 241 and

(d) Brajendra Singh Yambem Vs. Union of India and another reported in (2016) 9 SCC 20.

In all the cases the Hon'ble Apex Court has laid down a clear law that once a procedure is prescribed, it alone should be followed and not any other procedure of their own. In view of such a clear message, the present proceedings initiated without following the due procedure prescribed under Sec.3 have no legs to stand and consequently are required to be dropped.

(b) Already on the basis of the above principle of law decision was taken by this Court in W.P.No.27578/04 quashing similar proceedings and the same was confirmed in W.A.No.246/08 by the Division Bench of this Court. While so, this Court cannot take a different stand.

(c) The Division Bench while confirming the order in the above writ petition quashing the same land acquisition proceedings in respect of other land owners has given liberty to issue fresh proceedings, if needed. But the respondents have not only initiated



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fresh proceedings but also gone one step further to drop the proceedings even for the land owners who got stay of the acquisition proceedings. Though the petitioners also do have the benefit of stay, the Land Acquisition Proceedings are not dropped. The act of the respondents thus is violative of Arts.14, 19(1), 21 and 300A of the Constitution of India in view of the law laid down by the Hon'ble Apex Court in the case of Hari Ram and another Vs. State of Haryana and others reported in (2010) 3 SCC 621 and Radhy Shyam (Dead) through LRS. and others Vs. State of Uttar Pradesh and Others reported in (2011) 5 SCC 553.

(d) The land acquisition proceedings were initiated as early as in 2001. The public purpose for which they were initiated would have no longer survived in view of lot of subsequent developments and hence, there is no use to proceed with the proceedings except to fight for an empty cause and Eminent Domain principle, that too using the Emergency clause by demolishing the pucca building put up by the petitioners.

(e) Further, in the past 19 years, the cost of the lands has skyrocketed in the areas where the lands are located and Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 has come into force. As per the new Act the cost to be paid to the petitioners is double the rate of the market value which definitely would not only defeat the public purpose for which the lands are sought to be acquired but also would definitely be against the public interest as the money meant for the common people cannot be allowed to be wasted in fair compensation.

(f) Above all this Court cannot close its eyes to the present status of lands sought to be acquired and they all have residential buildings meant for the survival of the petitioners and the cost has to be paid for the building also.

(g) When the acquisition proceedings are under stay in this batch it is not known as to how they are claimed to have been proceeded further ending with the Award as claimed by the respondents before this Court. In view of the stay, those proceedings are to be ignored and set aside as contemptuous having no legal impact to be relied upon. When notice under [Section 3\(2\)](#) is held to be unsustainable through a judicial order, the progress of acquisition proceedings inching towards notice under [Sections 4\(2\)\(6\)](#) and [7\(5\)](#) cannot pass the test of legal correctness."



21. This Court held that the acquisition officials pick and choose and dropped certain lands in favour of certain land owner on their own without any reason, to initiate fresh proceedings as suggested by this Court. But they proceeded further to drop the land acquisition proceedings for certain land, but passed award in the case of the petitioners. The above cases are squarely applicable to the case on hand for the reason that the petitioners land were acquired and the said proceedings are under challenge before this Court. Initially the blanket stay was granted for acquisition proceedings and subsequently modified only for taking possession alone. All the writ petitions were allowed and in the writ appeals the respondents succeeded and proceeded with the acquisition proceedings.

22. Likewise in respect of the lands comprised in Survey Nos.463/3A and 473/1B1A belongs to one K.Vimalan challenging the acquisition proceedings before this Court in W.P.No.11233 of 1987, this Court granted blanket stay in the acquisition proceedings. However, the second respondent did not take any steps to vacate the stay and subsequently writ petition was allowed. However, the first respondent herein challenged the order and succeeded in the writ appeals in W.A.Nos.818, 819 of 1992 in which, the second respondent was also a party. In fact, the counsel who appeared for second respondent supported the case of the first respondent and this Court set aside the order passed by the learned Single Judge of this Court held as follows:

"2. Learned Single Judge has allowed the writ petitions on the ground that the acquisition of other lands under the said Notification has been quashed by this Court in W.P.No.3693 of 1986 etc., dated 08.10.1991 Venkanna Chowdry Charities by one of the Trustees Sambu Prasad - Petitioner -vs- State of Tamil Nadu by its Commissioner and Secretary, Housing & Urban Development Department, Fort St. George, Madras - 9 and two others - Respondents. It may be pointed out here that the said Judgment rendered on the basis that in all the notifications therein for public purposes specified therein was vague and did not contain material particulars so as to enable the land owners to make effective objection. Secondly, the acquisition was made before the formulation of the scheme by the Housing Board. Both these points are covered by the judgment of the Supreme Court in State of Tamil Nadu and others v. Krishnan and others) (1996) I S.C.C. 250). (In paragraphs 29 and 33). Therefore, following the said decision of the Supreme Court, these writ appeals are entitled to succeed. Accordingly, both the writ appeals are allowed. The



order dated 29.10.1991 passed by the learned Single Judge in W.P.Nos.11233 of 1987 and 5824 of 1988 is set aside and the writ petitions are dismissed. No costs."

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Even then, the second respondent did not take any steps to pass an award as against the land owned by the said K.Vimalan and no action has been taken to acquire the land of the said K.Vimalan till the year 2004.

23. In the year 2012 on the request made by the said K.Vimalan those lands were excluded from Acquisition Proceedings and he was issued no objection certificate vide Letter No.LA Special 1/12940/2012 dated 06.11.2012. Thereafter, he sold out the said property to various persons and the purchasers have constructed multi storeyed building and they are enjoying the same. As far as the petitioners are concerned they are being agriculturists and having small portion of land repeatedly requested the respondents for reconveyance and to exclude their land from acquisition proceedings, since the said acquisition was initiated only for the purpose of Neighbourhood Housing Scheme.

24. Admittedly, all the subject land in question in these writ petitions are agricultural lands and it is evident from the photographs produced by the learned counsel for the petitioner. All the petitioners have put up their hut in their respective lands and are doing cultivation. However, their request were rejected. Therefore it amount to clear discrimination and violates the fundamental rights guaranteed to petitioners under Article 14 of the Constitution of India.

25. The Hon'ble Supreme Court of India held that if Article 14 of the Constitution of India is violated by powers and procedures, it is unfair and arbitrary. Our entire Constitution system is based on adherence to the rule of law and it is impossible to compromise legitimate power if it is arbitrary and beyonds and bounds of reasons. There must not be discrimination among equal unless there is reasonable classification to be done. Even the classification must be done according to all. Therefore this Court is of the definite opinion that the action of the second respondent in giving different treatment to the land owners is highly arbitrary, capricious and discrimination besides a violative of Article 14 of the Constitution of India.

26. That apart, the second respondent failed to take physical possession from the petitioners even till today. Admittedly, the lay out was approved in the year 1993 and the symbolic possession of the entire lands were handed over to the



second respondent on 26.06.1986. In fact, some of the land was also gifted in favour of the Local Panchayat to provide service amenities by the Gift Deed dated 23.01.2004 vide registered Document No.261 of 2004. Even then, the second respondent has not taken physical possession of the petitioners land. On the other hand, they issued no objection certificate to the above said K.Vimalan and in pursuant to the same he sold out his lands to third parties. The purchasers have constructed multi storeyed building and enjoying the same for commercial purpose.

27. The acquisition proceedings after the administrative sanction, were excluded and the second respondent should not have granted no objection certificate to the particular persons alone. The respondents have shown discrimination among the land owners and it amounts to clear violation of Article 14 of the Constitution of India.

28. In view of the above, all the writ petitions are allowed and the acquisition proceedings have lapsed. Consequently, the respondents are directed to transfer and effect mutation of the Revenue Records in favour of the respective petitioners in respect of their respective lands. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

rna

To

1. The Secretary to the Government
Housing and Urban Development Department,
Fort St. George, Chennai - 600 009.
2. The Special Tahsildar (L & A)
Housing Scheme, Dharmapuri.
3. The Managing Director,
Tamil Nadu Housing Board,
Anna Salai, Nandanam,
Chennai 600 035.

+4ccs to Mr.V.Ravi, Advocate, S.R.Nos.47728, 47729, 47730, 47731
+1cc to the Government Pleader, S.R.No.47885

W.P.Nos.21728, 24731, 25829, 32425 of 2014

JPL(CO)
RLP(28/12/2021)