



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.07.2021

CORAM

The Hon'ble Mr.JUSTICE T.S.SIVAGNANAM

AND

The Hon'ble Mrs.JUSTICE S.ANANTHI

W.A.(MD).Nos.1078, 1080, 1082 and 1083 of 2018

and

C.M.P(MD).Nos.7723, 7725, 7727 and 7728 of 2018

Against W.P.(MD).Nos.13368, 13372, 13377 and 13378 of 2015

M.Akbar Ali .. Appellant in W.A.(MD).No.1078/2018
P.Periyasamy .. Appellant in W.A.(MD).No.1080/2018
P.Selvaraj .. Appellant in W.A.(MD).No.1082/2018
A.Abdul Siddiq .. Appellant in W.A.(MD).No.1083/2018

Vs.

1.The Government of Tamil Nadu,
Rep by its Secretary to Government,
Highways Department,
Fort St. George,
Chennai-600 009.

2.The District Revenue Officer,
Trichy District,
Trichy.

3.The Tahsildar (Land Acquisition)
lalgudi,
Trichy District.

... Respondents 1 to 3 in all W.As

4.The Executive Officer,
Arulmighu Saptharishwarar Thirukovil,
Lalgudi, Trichy District. .. Fourth Respondent in
W.A.(MD).Nos.1078 & 1080/2018

5.Warish .. Fourth Respondent in
W.A.(MD).Nos.1082 and 1083 of 2018

COMMON PRAYER: Writ Appeals filed under Clause 15 of the Letters Patent, to set aside the order dated 01.03.2018 in W.P.(MD). Nos.13368, 13372, 13377 and 13378 of 2015 and thereby allow the writ appeals as prayed for.

Prayer in WP(MD). 13368 of 2015 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, declaring the land acquisition proceedings under the Tamil Nadu Highways Act,



2001 in respect of Petitioner s landed property to an extent of 350 Sq.ft. comprised in Survey No. 115/1A1 situated at Sirudhaiyur Village, Lalgudi Taluk, Trichy District as lapsed an inoperative in view of the enactment of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013.

Prayer in WP(MD). 13372 of 2015 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, declaring the land acquisition proceedings under the Tamil Nadu Highways Act, 2001 in respect of Petitioner's landed property to an extent of 450 Sq.ft. comprised in Survey No. 115/1A1 situated at Sirudhaiyur Village, Lalgudi Taluk, Trichy District as lapsed an inoperative in view of the enactment of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013.

Prayer in WP(MD). 13377 of 2015 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, declaring the land acquisition proceedings under the Tamil Nadu Highways Act, 2001 in respect of Petitioner s landed property to an extent of 100 Sq.ft. comprised in Survey No. 118/23 situated at Sirudhaiyur Village, Lalgudi Taluk, Trichy District as lapsed an inoperative in view of the enactment of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013.

Prayer in WP(MD). 13378 of 2015 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, declaring the land acquisition proceedings under the Tamil Nadu Highways Act, 2001 in respect of Petitioner s landed property to an extent of 450 Sq.ft. comprised in Survey No. 118/23, situated at Sirudhaiyur Village, Lalgudi Taluk, Trichy District as lapsed an inoperative in view of the enactment of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013.

For Appellants : Mr.R.R.Kannan

(In all W.As)

For Respondents : Mr.R.Baskaran,

Standing Counsel for Govt. for R1 to R3

(In all W.As) : Mr.Chandrasekar for R4

**COMMON JUDGMENT**

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

These writ appeals have been filed by the writ petitioners challenging the common order dated 01.03.2018 passed in a batch of cases, where the appellants challenged the land acquisition proceedings under the provisions of the Tamil Nadu Highways Act, 2001.

2. There were two sets of writ petitions in the batch. One set of writ petitions challenging the acquisition proceedings on merits and the other set of writ petitions seeking writ of declaration to hold that the Tamil Nadu Highways Act, 2001 is repugnant to the Central Act, namely, Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and hence, the acquisition proceedings initiated under Section 15(2) of the Tamil Nadu Highways Act, 2001 has got lapsed and inoperative.

3. The legal issue involved in this matter has been settled by the Honourable Supreme Court in Writ Petition (Civil) No.1411 of 2020 [G.Mohan Roy and others Vs. State of Tamil Nadu and others] and the provisions of the Tamil Nadu Act continue to be a valid piece of legislation. The relevant portions of the said decision are extracted hereunder:

"27. As the name suggests, the impugned Act is in the nature of a validation Act i.e., an Act which validates something invalid in the eyes of law and to make such validation effective, it has been given a retrospective effect by the State. Whereas the subjectmatter legislative competence is manifest from List III of the VII Schedule read with Article 246. Despite that, an inprinciple question has been raised on the competence of the State legislature to pass a revival Act with retrospective effect.

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29. The line of decisions discussed above reveals a settled position as regards the competency of legislature to enact a retrospective validating Act, inter alia, delineated as under:

(i) The legislature must be having power over the subject matter as also competence to make a validating law.

(ii) There must be a clear validating clause coupled with substantive change in the earlier position.

(iii) The retrospective operation must be



(iv) There can be no express or declaratory overruling of the judgment of the Court.

(v) It is permissible for the legislature to make a decision of the Court ineffective by removing the material basis of the decision in the manner that the Court would not have arrived at the same conclusion had the corrected/modified position prevailed at the time of rendering the said earlier decision.

Notably, the factum of power vested in the State legislature over the subject matter and its competence to make a validating law is not in issue or disputed in the present case.

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40. Having said thus, the argument that the 2019 Act could not be said to be a "reenactment" of the 1997 Act and 2001 Act deserves to be addressed. For, the High Court judgment called for reenactment for the proper fulfilment of Article 254(2). While enacting the 2019 Act, the State legislature neither individually placed the 1997 Act and 2001 Act in the form of fresh bills before the House, nor introduced amending Acts for the said three enactments in order to incorporate the provisions of compensation, resettlement and rehabilitation. Instead, it framed one bill that sought to achieve four purposes - first, amend the State enactments to provide for different provisions of compensation to bring them in line with the law made by the Parliament; second, add fresh provisions relating to resettlement, rehabilitation and infrastructure amenities at par with the 2013 Act; third, revive the enactments declared to be repugnant and void by the High Court and validate them after passing this bill in the assembly and placing it before the President; and fourth, restore the validity of all past acquisitions under the State legislations, quashed by the High Court by making the Act operative from a retrospective date.

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52. In the present case, the letter seeking assent clearly demonstrates that the three State enactments were made for the purpose of speedy acquisitions. It further states that the law made by the Parliament rendered the three enactments repugnant and out of operation owing to the Madras High



Court judgment. It also states that the State has considerable interest, having a strong bearing on the public exchequer, in saving and reviving the three State enactments. It also clearly specifies the law made by the Parliament, which could be coming in the way of the State enactments for due consideration by the President. Suffice it to say that the communication was in compliance with the mandate of Article 254 as well as with the decision of this Court in *KaiserIHind Pvt. Ltd.*⁴⁹ We see no reason to intervene on this ground.

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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 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.

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56. In light of the aforesaid discussion, we hold the 2019 Act 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 also of the High Court judgment.

57. Thus, we dismiss the present batch of writ petitions."

4. In the light of the above decision of the Honourable Supreme Court, the order passed by the learned Single Bench does not call for interference. Accordingly, the writ appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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Government of Tamil Nadu,
Highways Department,
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- 2.The District Revenue Officer,
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Trichy.



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