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W.P. No.28555/2022, etc. Batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
25.11.2022	21.12.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 28555 TO 28557, 28559 TO 28561 & 28563 TO 28566 OF 2022

W.P. No.28555 of 2022

K.Jayaraman

.. Petitioner

- Vs -

1. Union of India

Rep. by the Secretary
Ministry of Road Transport & Highways
Transport Bhawan, 1, Parliament Street
New Delhi 110 001.

2. The Project Director

National Highways Authority of India
(Ministry of Road Transport & Highways)
No.26, 1st Floor, VGP Nagar West
Vazhuthareddy Post, Villupuram 605 401.

3. The Competent
Authority/Special

District Revenue Officer (Land Acquisition)
National Highways No.45-A
District Collectorate, Villupuram 605 401.

.. Respondents



W.P. No.28555/2022, etc. Batch

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W.P. No.28555 of 2022 filed under Article 226 of the Constitution of India praying this Court to issue a writ of Declaration declaring that the notification bearing No.Na.Ka.E/TheNe-45A/427/2018 dated 12.10.2018 issued by respondent No.3 and published in Dina Thanthi dated 25.10.2018 (Cuddalore Edition) is null and void.

For Petitioners : Mr. N.Radhakrishnan

For Respondents : Mr. N.Ashok Kumar, CGSC for R-1
Mr. Su.Srinivasan, for R-2
Mr. Karthik Jagannath, GA, for R-3

COMMON ORDER

Assailing the notification issued for the acquisition of the lands of the petitioners for the purpose of formation of National Highways – 45 as having lapsed in view of the Declaration having not been issued within the period of one year from the date of notification, the present writ petitions have been filed.

2. It is the case of the petitioners that the notification issued u/s 3-A (1) of the National Highways Act, 1956 (for short 'the Act') dated 12.10.2018, for the acquisition of the lands was challenged, by filing W.P. No.14729/2019, which



W.P. No.28555/2022, etc. Batch

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was published in the Cuddalore Edition of 'Dina Thanthi' on 25.10.2018, in which this Court, vide order dated 22.5.2019 in WMP No.14725/2019 granted an order of interim stay of all further proceedings for a period of four weeks. Ultimately, vide order dated 30.7.2019, this Court dismissed the said writ petition.

3. It is the further case of the petitioners that summons dated 27.9.2019 was issued by the 3rd respondent directing the petitioners to appear for enquiry on 9.10.2019, to which a copy of the letter dated 18.9.2019 containing the technical opinion of the National Highways Authority was annexed so as to enable the petitioners to raise objections. It is the further case of the petitioners that they participated in the enquiry and raised their objections for the acquisition of their lands contending that the lands are agricultural lands. However, the 3rd respondent, vide order dated 9.10.2019, disallowed the objections of the petitioners u/s 3-C of the Act.

4. It is the further case of the petitioner that though notification was issued on 12.10.2018, however, only after a period of one year from the date of notification, the Declaration u/s 3-D (1) of the Act was published in the



W.P. No.28555/2022, etc. Batch

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Government Gazette on 11.11.2019. Thereafter, the 3rd respondent called upon the petitioner vide communication dated 16.12.2019 for the enquiry to be conducted u/s 3-G (3) of the Act for the purpose of determination of compensation in which the petitioners participated and reiterated their objections. Since the Declaration was published after the expiry of a period of one year from the date of notification, the same is in violation of Section 3-D (3) of the Act, which would render the acquisition proceedings as lapsed. Therefore, the present writ petitions have been filed to declare the aforesaid acquisition proceedings as having lapsed.

5. Learned counsel appearing for the petitioners submit that the Declaration u/s 3-D (1) having been issued beyond the period of one year from the date of issuance of Notification u/s 3-A (1), the said notification ceases to have any effect and no acquisition can be made in pursuance of the said notification. It is the submission of the learned counsel that Declaration u/s 3-D (1) ought to have been issued within one year from the date of publication of notification u/s 3-A excluding the period during which stay was in subsistence in the proceedings initiated before this Court. In the proceedings initiated by the



W.P. No.28555/2022, etc. Batch

WEB COPY

writ petitioner in W.P. No.14729/19, this Court, vide its order dated 22.5.2019, had granted an order of stay in WMP No.14725/19 for a period of four weeks, which was never extended. That being the case, excluding the said period, the Declaration u/s 3-D (1) ought to have been issued and published on 03.09.2019, but it has been published only on 11.11.2019, in the Government Gazette, which is beyond the period of one year prescribed under the proviso to Section 3-D of the Act. Therefore, the acquisition proceedings would cease to exist u/s 3-D (3) of the Act and the acquisition proceedings cannot be carried on.

6. It is the further submission of the learned counsel for the petitioners that the stay having been in operation only for a period of four weeks, whereinafter, the said stay having not been extended, the stay ceased to exist and, therefore, only the period during which the stay was in operation alone should be excluded for the purpose of computing the limitation, which clearly shows that the Declaration u/s 3-D (1) has been issued much beyond the period of one year and, therefore, the acquisition ceased to exist. Therefore, he prays for allowing the petitions holding that the acquisition proceedings had ceased to exist for want of declaration within the period specified u/s 3-D (1) of the Act.



W.P. No.28555/2022, etc. Batch

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7. Per contra, learned standing counsel appearing for the 2nd respondent submitted that the writ petition itself is not maintainable, as it is hit by delay and laches. It is the submission of the learned standing counsel that inspite of the fact that the declaration u/s 3-D (1) was published on 11.11.2019, the petitioners have approached this Court after a period of about 2 years and 11 months. It is the further submission of the learned standing counsel that in fact, only after a period of five months from the date of passing of the Award, the petitioner has approached this Court by filing the present petition.

8. It is the further submission of the learned standing counsel that once award has been passed determining the compensation, writ petition is not maintainable even if work has not commenced on the lands, which were acquired. Therefore, the present writ petitions are not maintainable and, accordingly, they deserve to be dismissed.

9. It is the further submission of the learned standing counsel that W.P. No.14729/19 was filed by the petitioner along with W.M.P. No.14725/19 for



W.P. No.28555/2022, etc. Batch

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stay in which stay was granted by this Court on 22.5.19 for a period of four weeks. The respondents, though filed petition to vacate the interim order of stay, however, when the matter was taken up on various dated, viz., 17.7.19, 24.7.19 and 29.9.19 when arguments were advanced and finally order dismissing the petition was passed on 30.7.2019 with a direction to the 3rd respondent therein to consider the representation of the petitioner and pass orders within a period of three weeks.

10. It is the further submission of the learned standing counsel that pursuant to the said order, enquiry was conducted on 9.10.2019 and after hearing the petitioners, who were provided with opportunity and all the documents, the objection raised by the land owners were disallowed u/s 3-C (2) by the 3rd respondent. It is the further submission of the learned standing counsel that the said order disallowing the objection of the petitioners were not put to challenge.

11. It is the further submission of the learned standing counsel that consequent upon the disallowance of the objections of the land owners,



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Declaration u/s 3-D (1) was published in the Gazette on 11.11.2019 and published in the Government Gazette on 11.11.2019. It is therefore the submission of the learned standing counsel that the period of 68 days, exceeding one year after excluding the period of stay and also the proceedings before this Court and, therefore, the declaration u/s 3-D (1) was published well within the period of one year from the date of Section 3-A (1) notification and, therefore, the stand of the petitioners that the acquisition ceased to exist due to the declaration not having been published within the period of one year from the date of notification u/s 3-A (1) is not made out and, accordingly, he prayed for dismissal of the writ petitions.

12. In support of his submissions, learned standing counsel appearing for the 2nd respondent placed reliance upon the following decisions :-

- i) *Competent Authority – Vs - Barangore Jute Factory & Ors. (2005 (13) SCC 477);*
- ii) *Swaika Properties Pvt. Ltd. & Anr. – Vs – State of Rajasthan & Ors. (2008 (4) SCC 695);*
- iii) *C.Kannappa Pillai & Ors. – Vs – The District Collector, Villupuram District & Ors. (W.A. Nos.845 to 847/09 – Dt. 2.9.2009);*



W.P. No.28555/2022, etc. Batch

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- iv) *Nataraj – Vs – Govt. of India & Ors. (W.P. (MD) No.3810/2021, etc. – Dated 11.10.2022);*
- v) *Ashiq Ali – Vs – Mohd. Shakeel & Ors. (1985 SCC OnLine All. 625);*
- vi) *Ram Abhilakh Misra – Vs – Cane Commissioner & Ors. (1996 SCC OnLine All 1388);*
- vii) *Vishnu Dutt Sharma – Vs – Regional Joint Director of Education, Agra, etc. (2001 SCC OnLine All. 15)*
- viii) *Centre of Excellence in Disaster & Management – Vs – Ms. S.K.Dynamics Pvt. Ltd. & Ors. (2016 SCC OnLine Utt. 2234);*
- ix) *Shambhoo Nath Singh Yadav – Vs – State of UP (1993 SCC OnLine All. 242);*
- x) *Govinda Bhagoji Kamable & Ors. – Vs – Sadu Babu Kamable & Ors. (2005 (1) Mh. LJ 651);*
- xi) *Dr. T.Gnanasambandan – Vs – The Board of Governors & Ors. (2014 SCC OnLine Mad 235);*
- xii) *Southern Railway rep. by its Chairman – Vs – Ponnusamy & Ors. (2007 SCC OnLine Mad 321); and*
- xiii) *Natarajan – Vs – The Union of India & Ors. (W.A. Nos.830 to 841 of 2012 – Dt. 29.08.2018)*

13. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials



W.P. No.28555/2022, etc. Batch

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available on record as also the decisions relied on by the learned standing counsel appearing for the 2nd respondent.

14. While the petitioners have put in issue the lapsation of the notification in view of the non-compliance of Section 3-D (1), not having been issued within a period of one year from the date of Section 3-A (1), the issue of maintainability of the present petition on the ground of delay and laches is pressed into service by the respondents, while countering that there has been due compliance of the period within which declaration u/s 3-D (1) has to be issued.

15. It is borne out by record that notification u/s 3-A (1) was published in the 'Daily Thanthi' on 25.10.2018 and the Declaration was published in the Government Gazette on 11.11.2019 calling upon the petitioners to appear for enquiry u/s 3-G (3). The notice calling for enquiry u/s 3-G (3) is not disputed by the petitioners. The petitioners have not raised any qualms about the declaration u/s 3-D (1) having been published beyond the period of one year at the time of enquiry by placing any substantive material and only for the first time, the said stand has been taken by the petitioners in the present writ



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petitions. Further, award was passed u/s 3-G (1) determining the compensation payable to the petitioners/land owners on 20.6.2022. That being the admitted position, the present petitions have been moved on 6.4.2022 and, thereafter, represented on 5.8.22 and 7.9.22 and, finally, filed on 26.10.22. The above sequence of dates clearly show that the petitioners have kept silent for about three years from the date of the declaration u/s 3-D (1) and despite the award enquiry being conducted during December, 2019 and award itself having been passed on 20.06.2022, the present petitions have been filed after the petitioners have participated in the award enquiry. A careful perusal of the petitions reveals that there are no worthwhile reasons given by the petitioners with regard to the delay in filing the present petitions. It is to be pointed out that the petitioners cannot pick and choose their time to file the writ petitions, having participated in the award enquiry resultantly inviting the award, though the allegation of the petitioners is that the declaration u/s 3-D (1) has been passed after lapse of one year from the date of notification u/s 3-A (1). It is not as if the said alleged violation has happened after the petitioners have participated in the enquiry and after award was passed. The said alleged violation had happened as early as in November, 2019, when the declaration u/s 3-D (1) was published.



W.P. No.28555/2022, etc. Batch

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16. Be that as it may. The ground of attack of the petitioners relate to the completion of one year period beyond which the declaration u/s 3-D (1) has been issued, which renders the notification as lapsed.

17. A perusal of the materials available on record reveal that notification u/s 3-A (1) of the Act was published on 25.10.2018. Challenging the said notification, writ petition in W.P. No.14729/2019 was filed along with W.M.P. No.14725/19 seeking for stay in which this Court, vide order dated 22.5.2019, had granted a period of stay for a period of four weeks.

18. It is the averment of the respondents in the counter that to vacate the said interim order, petition was filed along with counter affidavit in the main writ petition. The case was initially listed for hearing on 17.7.2019 during which time, few other writ petitions were also filed and submissions were advanced before this Court for vacating the interim order. However, for giving a quietus to the issue, the writ petition itself was posted for hearing on 24.7.2019 and, thereafter on 29.7.2019, on which dates, arguments were advanced and order



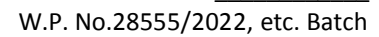
W.P. No.28555/2022, etc. Batch

WEB COPY

was passed on 30.7.2019 by disposing of the writ petition in W.P. No.14729/19, in which the following order was passed by the Division Bench :-

“17. In such view of the matter, without going into the merits of the rival contentions, while declining to grant the relief sought for, we direct the competent authorities, to whom objections have been made, to consider the same on merits and in accordance with law, within a period of three weeks, from the date of receipt of a copy of this order.”

19. It is to be pointed out that as against the aforesaid order, no appeal has been preferred by either of the parties. The declaration u/s 3-D (1) had come to be published in the Government Gazette on 11.11.2019. Thereafter, the enquiry was conducted by issuing notice u/s 3-G (3) to the petitioners, resulting in the award being passed on 20.6.2022. In this backdrop, it is the contention raised on behalf of the petitioners that the notification u/s 3-A (1) having been issued on 25.10.2018, excluding the period in which stay was in operation, i.e., for a period of four weeks, the stay having not been extended thereafter, necessarily, the declaration u/s 3-D (1), which should have normally been issued within a period of one year by excluding the period of four weeks from computing the time, however, it has been issued only on 11.11.2019, which



20. In the aforesaid factual matrix, the moot question that falls for consideration before this Court is *whether in the absence of extension of interim order after a period of four weeks, issuance of declaration u/s 3-D (1) by excluding the period upto the date on which order was passed in the writ petition, is in violation of the mandate provided u/s 3-D (3) and, therefore, renders the acquisition as lapsed.*

“226. Power of High Court to issue certain writs.- (1)
Notwithstanding anything in article 32 every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories



directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.

(3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without

—
(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard, makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period,



before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated.

(4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 32.”

(Emphasis Supplied)

22. From the above, it is clear that the High Court is vested with inherent jurisdiction to entertain matters in relation to issues provided for under Article 226, including power to grant interim relief. Clause (3) therein speaks with regard to an order of interim stay or injunction or any order of such nature being made in any proceeding relating to a petition mentioned in clause (1), and where such interim order is sought to be vacated, the procedure to be followed is prescribed. In addition to the procedure prescribed therein, sub-clause (b) of clause (3) speaks about the vacation of the interim order at the instance of the opposite party.



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23. A careful perusal of the aforesaid provision reveals that where an interim order, which has been granted earlier, is sought to be vacated, at the instance of the opposite party, it is the duty of the opposite party to provide the copies of such petition and other documents in support of its plea and any order has to be passed only upon hearing the concerned party, in whose favour an interim order has been granted.

24. Further therein, it is provided the manner in which the High Court shall dispose of the application made for vacating the interim order, which shall normally be done by the High Court within a period of two weeks from the date on which the application is received or from the date on which the copy of such application is furnished, whichever is later or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated.



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25. What would be the status of a matter in which a petition has been filed to vacate an interim order, which is pending consideration of the Court and if it is not disposed of within a period of two weeks as mandated under Article 226 (3). The said issue fell for consideration before a learned single Judge of this Court in ***Dr. T.Gnanasambanthan – Vs – The Board of Governors & Ors. (2014 SCC OnLine Mad 235)*** and the learned single Judge, after adverting to very many decisions of various High Courts on the very same issue, went on to hold as under :-

*67. In **Raza Buland Sugar Co. Ltd vs. The Municipal Board {AIR 1965 SC 895}**, a Constitution Bench of the Supreme Court held that the question whether a particular provision is mandatory or directory, cannot be resolved by laying down any general rule and that it would depend upon the facts of each case. The Court has to consider the purpose for which the provision had been made, its nature, the intention of the legislature in making the provision, the serious general inconvenience or injustice to persons resulting therefrom whether the provision is read one way or the other, the relation of the particular provision to other provisions dealing with the same subject as well as other considerations which may arise on the fact of a particular case, including the language of the provision. The said decision of the Constitution Bench was followed by the Supreme Court in Salem*



Advocate Bar vs. Union of India {2005 (6) SCC 344}. While doing so, the Supreme Court pointed out therein that our laws on procedure are grounded on a principle of natural justice which requires that men should not be condemned unheard, that decision should not be reached behind their backs, that proceedings that affect their lives and properties should not continue in their absence and that they should not be precluded from participating in them. Therefore, we have to interpret Article 226(3), consistent with the interpretation given by the Constitution Bench. If the interpretation given to clause (3) of Article 226 would result in putting one of the parties to grave injustice, without any opportunity of hearing, the provision cannot be taken to be mandatory but can be taken only as directory.

*68. In **Sharif-Ud-Din vs. Abdul Gani Lone {AIR 1980 SC 303}**, the Supreme Court indicated that the question whether a provision of law is mandatory or not depends upon its language, the context in which it is enacted and its object. The Court made an important observation, which will resolve the problem for us and hence it is extracted as follows:-*

"In order to find out the true character of the legislation, the Court has to ascertain the object which the provision of law in question is to subserve and its design and the context in which it is enacted. If the object of a law is to be defeated by non-compliance with it, it has to be regarded as mandatory. But when a provision of law



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relates to the performance of any public duty and the invalidation of any act done in disregard of that provision causes serious prejudice to those for whose benefit it is enacted and at the same time who have no control over the performance of the duty, such provision should be treated as a directory one. Where however, a provision of law prescribes that a certain act has to be done in a particular manner by a person in order to acquire a right and it is coupled with another provision which confers an immunity on another, when such act is not done in that manner, the former has to be regarded as a mandatory one".

* * * * *

74. As a matter of fact, the Division Bench of the Allahabad High Court took note of only one serious consequence namely that of a party approaching the Court with a vacate stay application in a leisurely manner and the Division Bench took such a situation out of the purview of Article 226(3). But, any number of such situations, which will prove to be disastrous, can be thought of. Take for instance a case, where an application for vacating the stay is taken up for hearing within two weeks of its presentation and the Court reserves orders. If orders were not pronounced on or before the expiry of the 14th day from the date of filing of the vacate stay application, could it be said that the party, who obtained an interim stay, should still suffer, despite ensuring that the application is heard within two weeks. It is not within the



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control of any party to have his application or the opposite party's application listed for hearing. Even if a party succeeds in getting the application listed within two weeks, it is not in his control to ensure that the application is heard before the expiry of two weeks. Even if a party succeeds in making the Court hear the application for vacation of the interim order within two weeks, it is not in his control (especially these days) to ensure that it is disposed of within two weeks from the date of filing of the vacate stay application.

75. Therefore, an interpretation that would put a party, who is not at fault, to disastrous consequences, for the failure of an institution or for the happening of something that is beyond his control, is wholly unjustified. If a statutory provision imposes an obligation upon one party and makes the opposite party suffer for the consequences of non fulfillment of the obligation cast therein, such a provision cannot be said to be mandatory. Unfortunately, none of the High Courts, whose decisions are relied upon by the respondents, has taken note of this basic difference between the person, on whom, an obligation is cast and the person, on whom, the consequences are made to fall under Article 226(3). Hence, with great respect, I am unable to agree with the views expressed by the other High Courts."



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26. From the above, it is clear that in order to ascertain the true character of a legislation, the Court has to find the object which the provision of law in question is to subserve and its design and the context in which it is enacted. In such a backdrop, in the absence of any petition being filed to vacate the interim order and when no order has been passed or in the absence of the interim order already granted not being extended, the status of the interim order granted earlier befalls consideration. In the case on hand, though the respondents claim to have filed petition to vacate the interim order along with counter affidavit, however, a perusal of the materials available on record do not disclose that such a petition to vacate the interim order has been filed.

27. In the aforesaid backdrop, whether the order of interim stay granted on 22.5.2019 for a period of four weeks would automatically stand extinguished, if the said order is not extended by another judicial order, more especially when no petition has been filed to vacate the said order is the crux of the issue which would determine the outcome of the present petition.



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28. There is no quarrel with the fact that interim order was granted for a a period of four weeks on 22.5.2019 and, thereafter, the writ petition itself was taken up for hearing on 17.7.2019 and, thereafter on 24.7.2019 and 29.7.2019 resulting in the order being passed on 30.7.2019.

29. Normally, Courts, for a particular reason, finding the existence of a *prima facie* case, grants interim order, be it a time bound order or a blanket order. Pursuant to the interim order dated 22.5.2019, which was granted for a period of four weeks, no further judicial order has been passed extending the interim order. Thereafter, as stated above, the matter was listed on 17.7.2019 at which point of time, the respondents had filed their counter and the matter was placed for arguments, which was posted on 24.7.2019 and 29.7.2019. There is no whisper as to whether the petitioner had sought for extension of stay or the respondents had sought for vacating the interim order. In the absence of any further judicial order, would the interim order of stay, which was granted on 22.5.2019, be deemed to have stood vacated or expired after the completion of four weeks.



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30. A careful perusal of clause (3) of Article 226 reveals that only insofar as a petition, which has been filed for vacating an interim order, the conditions shown in sub-clause (b) would stand attracted and not otherwise. What is mandated is that for the purpose of vacating the interim order, an opportunity of hearing should be offered to the party in whose favour the interim order survives. In the case on hand, as stated above, the order passed in W.P. No.14729/19 does not reveal any interim application having been filed by the respondents for vacating the order dated 22.5.2019.

31. In this background, the contents of clause (3) of Article 226 assumes significance which reveals that *“where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to”*. Therefore, what is material is that so long as no order is passed in the petition filed for vacating the order, the order of stay would survive, irrespective of whether the said order is extended by way of another judicial order or not, irrespective of the fact, whether or not the petitioner seeks for any extension of the interim order and the said interim order would stand continued. Merely because stay has been initially granted for a



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particular period cannot be meant that beyond the said period, the stay stood expired. There are umpteen number of scenarios, which would make listing of a particular case for hearing impossible and at such points of time, the act of the Court in not able to list the matter would in no way should prejudice the party enjoying the benefit. Such a narrow construction as aforesaid would defeat the very purpose of stay, which is granted only upon the court's *prima facie* satisfaction.

32. It is to be pointed out that a judicial order continues in operation until and unless the same is vacated or not extended on the case being taken up. There is no whisper in the order passed in W.P. No.14729/19 that stay was not extended; rather, what is to be noted is that when the main petition was taken up for hearing, the question of stay beyond the period of four weeks was not an issue raised by either of the party, which is evident from the said order. Further, the said order also reveals that ultimately, on the disposal of the main petition, the stay petition was closed, which clearly show that the stay was in operation till the disposal of the main petition, as otherwise the said petition would have ceased to exist upon the expiry of the order of stay. Had it not been for the stay



W.P. No.28555/2022, etc. Batch

WEB COPY

being alive till such time, there would have occasioned no necessity for the Court to close the said petition, as it would have stood automatically closed upon expiration of stay.

33. An order of stay granted by a court of law does not stand vacated or lapsed on its own, but for the court vacating the same in the manner known to law. It is to be borne in mind that every day, number of matters are listed for hearing in which some come cases reach while the other cases could not be taken up. Merely because the case was not taken up would not cause the stay to expire upon the completion of the time, but rather, it is deemed to have stood extended. When the case is taken up, an order vacating the stay already granted should be explicitly stated so as to make the stay expire or vacated and unless such an order is passed, the stay already granted upon *prima facie* satisfaction is deemed to have continued. Merely because the order of stay was not extended by passing another judicial order, it cannot be said that in the absence of any order being passed by the Court, the interim order earlier passed expired automatically. Such construction would defeat the purpose for which interim orders are granted on *prima facie* satisfaction and that is the main reason, it has



W.P. No.28555/2022, etc. Batch

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been held time and again that *prima facie* satisfaction should be recorded by the Court while granting interim order.

34. Therefore, as held in *Gnanasambanthan's case (supra)*, an interpretation that would put a party, who is not at fault, to disastrous consequences, for the failure of an institution or for the happening of something that is beyond the control of the party is wholly unjustified. Equally, where a party has not been diligent in moving any vacate stay petition or has moved at a leisurely pace, would not be entitled to any relief and the relief of stay granted to the other party would hold good till the main petition is decided one way or the other.

35. In the case on hand, as already pointed out, though it is stated in the counter that vacate stay petition has been filed, however, a perusal of the order in W.P. No.14729/19 reveals that no petition has been filed to vacate the interim order of stay granted on 22.5.19. Further, even the case number under which the said petition is said to have been filed has also not been given, which would only go to show that no such petition was filed to vacate the said order. Further,



W.P. No.28555/2022, etc. Batch

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the order in W.P. No.14729/19 also does not record any miscellaneous petition having been filed for vacating the order of stay. Therefore, in such a scenario, there arose no necessity for the court to vacate the interim order already granted on 22.5.2019 and, therefore, for all purposes, the interim order granted on 22.5.2019 would only be deemed to have been extended till the disposal of the main petition on 30.7.2019. Therefore, this Court has no hesitation to hold that the interim order, which was granted by this Court on 22.5.2019, for a period of four weeks, was very much in operation beyond the said period, by means of deemed extension, till 30.7.2019, the date on which this Court had finally disposed of the main writ petition. Therefore, the clock for the respondents stood ticking for issuance of the declaration u/s 3-D (1) only on and from the moment this Court disposed of the main writ petition in W.P. No.14729/19, as the order of interim stay stood merged with the order passed in the main writ petition on 30.7.2019.

36. In the above backdrop, it is seen that the Gazette notification u/s 3-D (1) was published on 11.11.2019 and the notification was issued on 25.10.2018. That being the undisputed position, the declaration u/s 3-D (1) has been issued



W.P. No.28555/2022, etc. Batch

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well within the time and, therefore, there would be no lapse of the acquisition u/s 3-D (3).

37. For the reasoning aforesaid, the acquisition proceedings cannot be said to have been lapsed u/s 3-D (3) and the act of the petitioners in keeping silent by partaking in the enquiry u/s 3-G (3) and allowing the award to be passed and, thereafter, filing the present writ petitions putting in issue the lapsation of the notification, for reasons best known to them, renders the writ petition not maintainable as having been hit by delay and laches on the part of the petitioners. Accordingly, all the writ petitions fail and they are dismissed. There shall be no order as to costs. However, liberty is granted to the petitioners to proceed in accordance with law for receiving the compensation already deposited by the respondents, if not already received.

21.12.2022

Index : Yes / No

Internet : Yes / No

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W.P. No.28555/2022, etc. Batch

To

1. The Secretary
Ministry of Road Transport & Highways
Government of India
Transport Bhawan, 1, Parliament Street
New Delhi 110 001.
2. The Project Director
National Highways Authority of India
(Ministry of Road Transport & Highways)
No.26, 1st Floor, VGP Nagar West
Vazhuthareddy Post
Villupuram 605 401.
3. The Competent Authority/Special
District Revenue Officer (Land Acquisition)
National Highways No.45-A
District Collectorate
Villupuram 605 401.



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W.P. No.28555/2022, etc. Batch

M.DHANDAPANI, J.

GLN

**PRE-DELIVERY ORDER IN
W.P. NO.28555, OF 2022, etc. Batch**

**Pronounced on
21.12.2022**