



W.A.Nos. 3036, 3037 and 3041 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2022

CORAM

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,CHIEF JUSTICE

AND

THE HON'BLE MRS.JUSTICE.N.MALA

**W.A.Nos. 3036, 3037 and 3041 of 2021
and**

C.M.P.Nos. 20827, 20829, 20830, 20831, 20874 and 20877 of 2021

1.Vasantham Properties Pvt. Ltd
3rd floor, Sindu Towers,
No.95, Luz church road,
Mylapore, Chennai-600 004
Rep by its Managing Director K.Suresh.

- 2.J.Lakshmi Priya
- 3.C.Kalyani Rep by
Father & guardian Chandrasekar (minor)
- 4.V.Suresh Kumar
- 5.T.Barath Kumar
- 6.S.Sivakumar
- 7.Anand A.Jain
- 8.Sumitra Kumari Jain
- 9.S.Deepa
- 10.Minor G.K.Lavanya rep by her
Father & guardian Kripanidhi
- 11.K.Santhi
- 12.Pushpalatha paneerselvam
- 13.A.Vijaya
- 14.Anandhi Madhivanan
- 15.Minor Srivindhya rep by her



W.A.Nos. 3036, 3037 and 3041 of 2021

Father & guardian Sridharan

16.R.Rahul Barua

17.Minor Bharath Rep by his

Father & guardian Muralidharan

18.R.Anuradha

19.S.Lakshmi

20.P.Sarala Kumari

21.G.N.Sathyamurthy

22.V.Neelabai

23.A.V.Natarajan

24.Thiagarajan

25.Dr. Santhanam

26.M.Revathy

27.N.Leela

28.A.Balasubramaniam

29.M.Lalitha

30.M.Arunkumar

31.R.Hariharan

32.S.Paramasivam

33.Sumathi Nandakumar

34.Uma Chandrasekhar

The address for appellants 2 to 34

Being C/o 1. Vasantham Properties Pvt. Ltd

3rd floor, Sindu Towers

No.95, Luz church road,

Mylapore, Chennai-600 004.

...Appellants in W.A.No. 3036 of 2021

Vasantham Properties Pvt. Ltd

3rd floor, Sindu Towers,

No.95, Luz church road,

Mylapore, Chennai-600 004

Rep by its Managing Director K.Suresh.

...Appellant in W.A.No. 3037 of 2021

1.Vasantham Properties Pvt. Ltd

3rd floor, Sindu Towers

No. 95, Luz church road,



W.A.Nos. 3036, 3037 and 3041 of 2021

Mylapore, Chennai-600 004

Rep by its Managing Director K.Suresh

WEB COPY

- 2.Abdul Aziz
- 3.Balaraman
- 4.Kandan
- 5.Padma
- 6.Parvathi
- 7.Dhanabakiam
- 8.Geetha
- 9.Mala
- 10.Minor Bharathi rep by his
Mother & guardian Padma
- 11.E. Munnusamy
- 12.Ramu Naicker
- 13.Radhakrishnan
- 14.Kumarasamy
- 15.Arjunan
- 16.Ragava Naicker
- 17.Sadasivam
- 18.Ganapathy
- 19.Thangavelu
- 20.Gopal
- 21.Vedachalam
- 22.Ranganathan
- 23.Mani
- 24.Velmurugan
- 25.K.Palani

Appellants 2 to 25 rep by
Their power of attorney the 1st petitioner
3rd floor, Sindu Towers
No. 95, Luz church road,
Mylapore, Chennai-600 004.

...Appellants in W.A.No.3041 of 2021



W.A.Nos. 3036, 3037 and 3041 of 2021

Vs.

- 1.State of Tamil Nadu, Secretary to Government Industries Department,
Fort. St. George
Chennai-600 009
Also at: 19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai-600 008.
- 2.The Special Tahsildar (Land Acquisition)
Unit-III (Oragadam Plan)
SIPCOT- TACID Division,
No.1, Sivashanmugham Road,
West Tambaram, Chennai- 600 045
Present address at: Pillai Pakkam Village,
Sriperumbudur Tambaram Road,
Sriperumbudur Taluk, Kanchipuram District-602 105.
- 3.The Chairman,
Tamil Nadu Corporation for
Industries Infrastructure Development Ltd,
68, Greams Road, Chennai- 600 006
Present address at: 19-A, Ruklmani Lakshmipathy Road,
Egmore, Chennai- 600 008.
- 4.State Industries Promotion Corporation of Tamil Nadu Limited (SIPCOT)
Rep by its Assistant General Manager (Law),
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai-600 008

....Respondents in all Writ Appeals.

Common Prayer: Writ Appeals filed Under Clause 15 of the Letters Patent to set aside the common order dated 23.09.2021 passed in W.P.Nos. 9059, 7171 and 6900 of 2001.

For Appellants in all Writ Appeals : Mr.Suryanarayanan
for R.Parthasarathy



W.A.Nos. 3036, 3037 and 3041 of 2021

WEB COPY

For R1 & R2 in all Writ Appeals : Mr.P.Muthukumar
State Government Pleader

For R4 in all Writ Appeals : Mrs.Sudarshana Sunder

* * * * *

COMMON JUDGMENT

[Order of the Court was made by N.MALA,J.]

The Writ Appeals are filed challenging the common order dated 23.09.2021 passed by the learned Single Judge in a group of writ petitions. The issues raised in the writ appeals are common and therefore taken together and disposed of by this common order.

2.The undisputed facts are that the lands to an extent of 11.36.5 hectares in various survey numbers in eight villages including the appellants lands to an extent of 0.17.14 hectares in S.Nos. 442, 444, 445, 460 and 461 in block No.7 of Panrutti B Village, Sriperumbudur Taluk, Kancheepuram District were acquired for the public purpose of setting up an industrial complex and satellite cities with all infrastructural facilities by the Government of Tamil Nadu under sec 4(1)



W.A.Nos. 3036, 3037 and 3041 of 2021

Notification dated 27.01.1999 in G.O.Ms.No.104 of the Industrial Department.

Since the 4(1) notification was issued invoking the urgency clause under Section 17(1) of the Land Acquisition Act 1894, the enquiry under Section 5(A) of the said act was dispensed with. Thereafter Section 6 declaration dated 05.05.1999 in G.O.Ms.No.365 of the Industrial Department was issued. Pursuant to Section 6 declaration, notices under Section 9(1) and 10 of the Land Acquisition Act 1894, were issued calling for award enquiry. The award was passed with respect to the petitioners lands on 04.05.2001. Shortly before the award was passed on 04.05.2001, the appellants filed the above writ petitions and obtained interim orders, restraining the respondent from dispossessing them from the lands. The compensation awarded was deposited on 21.12.2001.

3.In the back drop of the undisputed facts narrated above the learned Single Judge dismissed the writ petitions after considering in detail the contentions raised by the appellants as well as the respondent's counsel by the common order dated 23.09.2021. Aggrieved by the said common order, the petitioners in the writ petitions have preferred the above writ appeals.



W.A.Nos. 3036, 3037 and 3041 of 2021

4.The learned counsel for the appellants raised three main objections to the acquisition. According to the counsel, the invocation of the urgency clause under Section 17(1) of the Land Acquisition Act was not justified, in as much as, there was no urgency and further an opportunity to object under Section 5(A) of the Land Acquisition Act was denied by such invocation of the urgency provision. The further objection of the learned counsel was that by virtue of Sections 21 and 23 of the Tamil Nadu Acquisition of Land for Industrial purposes Act 1997, the acquisition under the land Acquisition Act 1894 lapsed. According to the counsel, when the Special Act namely Tamil Nadu Acquisition of Land for Industrial purposes Act 1997 was enacted the acquisition ought to have been initiated, only under the said Act and the invocation of the Land Acquisition Act was without jurisdiction. The learned counsel finally submitted that, after the advent of the Right to Fair Compensation Act 2013, the acquisition proceedings under the 1894 Act are deemed to have lapsed under Section 24(2) of the 2013 Act as neither compensation was paid nor was possession taken. The learned counsel therefore prayed that the writ appeals be allowed.

5.In contra, the learned Government pleader submitted that, the learned



W.A.Nos. 3036, 3037 and 3041 of 2021

Single Judge has comprehensively dealt with all the issues and has rightly dismissed the writ petitions and therefore the writ appeals are without merit and same deserve to be dismissed.

6.We have heard the learned counsel on both sides and we have further perused the records.

7.The first objection of the appellants is with regard to the invocation of the urgency clause under Section 17 (1) of the Land Acquisition Act. According to the learned counsel there is absolutely no justification for invocation of urgency clause and further the valuable right of filing objections to the Acquisition given under Section 5(A) of the Act was denied by such invocation. The learned Judge while considering the said issue referred to a number of Judgments and concluded that the invocation of Section 17 (4) of the Act for dispensation of Section 5(A) enquiry was justified.

8.We are of the view that the finding of the learned Judge on this issue is



W.A.Nos. 3036, 3037 and 3041 of 2021

unassailable and we would further add our own reasons to the reasonings given by

the learned Judge. No doubt there are copious Judgments on this issue both in favour of the appellants as also against them. Therefore, the facts of the case will determine if the invocation of urgency clause was justified or not. In the present case the 4(1) Notification was issued on 27.01.1999 dispensing with 5(A) enquiry under Section 17(4) of the Act and thereafter the Section 6 declaration was issued on 05.05.1999. It is pertinent to mention here that the appellants even as per their own averments in the writ petitions submitted their detailed representations to the respondents on 01.03.1999, 05.03.1999 and 09.04.1999 followed by reminders on 22.04.1999 and 07.07.1999 with a request to drop the proposal for acquisition considering the facts stated in the petition. The appellants further admit that the second respondent inspected the property of the appellants and thereafter submitted a report to the District Revenue Officer (LA) through his letter dated 16.04.1999. Thereafter the District Revenue Officer after considering the Tahsildar's report sent a report to the third respondent recommending the case of the appellants for withdrawal of acquisition. It is also a fact that subsequently even award was passed and was not challenged immediately thereupon, and thus, Notification under Section 17 was proceeded with an award therefore challenge to



the notification would not be of any significance.

WEB COPY

9. According to the appellants, the first respondent, inspite of the above facts passed the declaration under Section 6 dated 05.05.1999. From the above narration of the facts, it is clear that though Section 5A enquiry was dispensed with, the appellants were not deprived of their right to object to the acquisition. After consideration of their representations and the reports from the authorities, the first respondent had decided to publish the Section 6 declaration.

10. We are therefore of the opinion that the appellants are in no way prejudiced by the dispensation of 5(A) enquiry and therefore the challenge to the acquisition on this ground is untenable. One more aspect that has to be borne in mind is that, when the 4(1) notification dispensing with the 5(A) enquiry was issued as early as on 27.01.1999, there was no reason why the appellants waited for two years to challenge the acquisition and that too just before the passing of the award. Further the conduct of the appellants in participating in the 9(1) and 10 enquiry reflects on the *bonafides* of the appellants.



11. Though, the appellants relied on several Judgments in support of their plea that invocation of Section 17(4) of the Land Acquisition Act, 1894 was unjustified, we are not inclined to accept the same as the fact situation in those cases are not similar to the facts of these cases. As stated supra, the appellants had an opportunity to submit their objections to the acquisition in the present case. Therefore the submission that by dispensing with 5(A) enquiry, the appellants were deprived of a right to object to the acquisition is rejected.

12. The Hon'ble Supreme Court has held in a catena of cases that the opinion of the appropriate Government while invoking the urgency clause under Section 17(4) is entitled to great weight, unless it is vitiated by malafide and colourable exercise of power. Though malafides was raised in the writ petition at the time of arguments the learned counsel did not raise any issue on malafides and therefore the decision of the Government to invoke urgency clause cannot be faulted with.

13. We would further like to point out here that, it is because of the litigation instituted by the appellants, particularly the order of stay of dispossession which



they obtained pending the writ petitions that has contributed to the delay in implementation of the public purpose for which the lands were acquired. It would be most appropriate to refer here to the Judgment of the Hon'ble Supreme Court in the case of ***Ramniklal N.Bhutta and Another Vs. State of Maharashtra and others*** reported in (1997) 1 Supreme court Cases 134, wherein the Hon'ble Supreme court has stated as follows:

“Before parting with this case, we think it necessary to make a few observations relevant to land acquisition proceedings. Our country is now launched upon an ambitious programme of all-round economic advancement to make our economy competitive in the world market. We are anxious to attract foreign direct investment to the maximum extent. We propose to compete with china economically. We wish to attain the pace of progress achieved by some of the Asian countries, referred to as "Asian tigers", e.g., South Korea, Taiwan and Singapore. It is, however, recognised on all hands that the infrastructure necessary for sustaining such a pace of progress is woefully lacking in our country.



WEB COPY

The means of transportation, power and communications are in dire need of substantial improvement, expansion and modernisation. These things very often call for acquisition of land and that too without any delay. It is, however, natural that in most of these cases, the persons affected challenge the acquisition proceedings in courts. These challenges are generally in shape of writ petitions filed in High Courts. Invariably, stay of acquisition is asked for and in some cases, orders by way of stay or injunction are also made. Whatever may have been the practices in the past, a time has come where the courts should keep the larger public interest in mind while exercising their power of granting stay/injunction. The power under [Article 226](#) is discretionary. It will be exercised only in furtherance of interests of justice and not merely on the making out of a legal point. And in the matter of land acquisition for public purposes, the interests of justice and the public purposes, coalesce. They are very often one and the same. Even in civil suit, granting of



WEB COPY

injunction or other similar orders, more particularly of an interlocutory nature, is equally discretionary. The courts have to weigh the public interest vis-a-vis the private interest while exercising the power under [Article 226](#) - indeed any of their discretionary powers. It may even be open to the High Court to direct, in case it finds finally that the acquisition was vitiated on account of non-compliance with some legal requirement that the persons interested shall also be entitled to a particular amount of damages to be awarded as a lumpsum or calculated at a certain percentage of compensation payable. There are many ways of affording appropriate relief and redressing a wrong; quashing the acquisition proceedings is not the only mode of redress. To wit, it is ultimately a matter of balancing the competing interests. Beyond this, it is neither possible nor advisable to say. We hope and trust that these considerations will be duly borne in mind by the courts while dealing with challenges to acquisition proceedings.”



WEB COPY

14. The next objection of the appellants is that the proceedings are lapsed by virtue of Sections 21 and 23 of the Acquisition of Land for Industrial purposes Act, 1997. The Tamil Nadu Acquisition of land for Industrial purposes Act 1997 (Act No.X of 1999) received the assent of the President on 21.05.1999. The Act was brought into effect from 21.09.2001 vide G.O.Ms.No.35 Revenue [LA I (1)].

15. Section 21 of the Act 10 of 1999 reads as follows:

“21.Restriction on scope of proceedings. - The scope of the enquiry in every such proceeding shall be restricted to a consideration of the interest of the persons affected by the objection.”

16. A plain reading of Section 21 discloses that after the advent of the said Act Acquisition proceedings for the purpose of Industrial purposes shall be initiated only under the said Act and not under the Land Acquisition Act, 1894. As noted above at the time of the 4(1) notification under the 1894 Act the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 was not brought into force



and therefore Section 21 is not attracted.

WEB COPY

17. Section 23 of the Act 10 of 1999 reads as follows:

“23. Application of the Act to certain pending cases of acquisition-

The provisions of this Act shall apply also to any case or cases in which proceedings have been started, before the commencement of this Act, for the acquisition of any land for any public purpose or for company under the Land Acquisition Act, 1894 (Central Act I of 1894) (hereinafter in this section referred as the said Act) intended for industrial purpose but no award has been made by the Collector under Section 11 of the said Act before such commencement as if-

(i) the notification published under sub-section (1) of section 4 of the said Act, or

(ii) the declaration made under section 6 of the said Act, or

(iii) the notice given under sub-section (1) of the section 9 of the said Act, where a notice to show cause against the



W.A.Nos. 3036, 3037 and 3041 of 2021

WEB COPY

acquisition of the land served under sub-section (2) of section 3 of this Act.

(2) Noting contained in sub-section(1) shall apply in relation to any land unless and until after the Government has published a notice in the Tamil Nadu Government Gazette to the effect that the said land is required for the purpose specified in sub-section (1) of section 3 of the Act.”

18.A bare reading of the said provisions makes it clear that the Act will apply to pending cases of land acquisition, only when no award is passed before commencement of the Act. In the present cases the award was passed on 04.05.2001, much before the commencement of the Act and therefore Section 23 is also not applicable to the facts of the case. Therefore the objection raised by the appellants is rejected as untenable.

19.The appellants counsel next contends that the acquisition proceedings are deemed to have lapsed under Section 24(2) of the Land Acquisition Act.



20. In our considered view the said submission can also not be accepted for the simple reason that the pre conditions for invocation of Section 24(2) are that the compensation was neither paid nor possession taken. In the present cases the compensation was deposited on 21.12.2001, which is much prior to the 2013 Act. Further possession of the appellants lands were not taken because of the interim orders passed by this Hon'ble Court, restraining the respondents from dispossessing the appellants pending the writ proceedings.

21. At this juncture, it would be appropriate to refer to the Judgment of the Hon'ble Supreme Court in the case of **Indore Development Authority Vs. Manoharlal** reported in **2020 SCC Online SC 316**. The relevant paragraph Nos.297 and 298 of the above said Judgment of the Hon'ble Supreme Court are extracted here under.

“297. In cases where some landowners have chosen to take recourse to litigation (Which they have a right to) and have obtained interim orders on taking possession or orders of status quo, as a matter of practical reality it is not possible for the authorities or State officials to take the possession or to



WEB COPY

make payment of the compensation. In several instances, such interim orders also impeded the making of an award. Now, so far as awards (and compensation payments, pursuant to such proceedings were concerned) the period provided for making of awards under the Act of 2013 could be excluded by virtue of Explanation to Section 11A. Thus, no fault of inaction can be attributed to the authorities and those who had obtained such interim orders, cannot benefit by their action in filing litigation, which may or may not be meritorious. Apart from the question of merits, when there is an interim order with respect to the possession or order of status quo or stay of further proceedings, the authorities cannot proceed; nor can they pay compensation. Their obligations are intertwined with the scheme of land acquisition. It is observed that authorities may wait in the proceedings till the interim order is vacated.

298. In our considered opinion, litigation which initiated by the landowners has to be decided on its own merits and the benefits of Section 24(2) should not be available to the



W.A.Nos. 3036, 3037 and 3041 of 2021

WEB COPY

litigants. In case there is no interim order, they can get the benefits they are entitled to, not otherwise as a result of fruit of litigation, delays and dilatory tactics and some time it may be wholly frivolous pleas and forged documents as observed in V.Chandrasekaran (supra) mentioned above.”

22.In view of the above, we are not inclined to interfere with the Judgment passed by the learned Single Judge and therefore, the same is confirmed.

23.Accordingly, the Writ Appeals are dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

(M.N.B., CJ.) (N.M., J.)
24.06.2022

Index : Yes
Speaking order : Yes/No
ah/dsn



W.A.Nos. 3036, 3037 and 3041 of 2021

WEB COPY

To

- 1.State of Tamil Nadu, Secretary to Government
Industries Department,
Fort. St. George
Chennai-600 009
Also at: 19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai-600 008.
- 2.The Special Tahsildar (Land Acquisition)
Unit-III (Oragadam Plan)
SIPCOT- TACID Division,
No.1, Sivashanmugham Road,
West Tambaram, Chennai- 600 045
Present address at: Pillai Pakkam Village,
Sriperumbudur Tambaram Road,
Sriperumbudur Taluk, Kanchipuram District-602 105.
- 3.The Chairman,
Tamil Nadu Corporation for
Industries Infrastructure Development Ltd,
68, Greams Road, Chennai- 600 006
Present address at: 19-A, Ruklmani Lakshmipathy Road,
Egmore, Chennai- 600 008.
- 4.State Industries Promotion Corporation of Tamil Nadu Limited (SIPCOT)
Rep by its Assistant General Manager (Law),
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai-600 008.



WEB COPY



W.A.Nos. 3036, 3037 and 3041 of 2021

THE HON'BLE CHIEF JUSTICE
and

N.MALA,J.

ah

W.A.Nos. 3036, 3037 and 3041 of 2021



WEB COPY



W.A.Nos. 3036, 3037 and 3041 of 2021

24.06.2022