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W.A.Nos.123 to 131 of 2013

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**RESERVED ON: 01.08.2023**

**DELIVERED ON: 01.09.2023**

**CORAM:**

**THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR**

**and**

**THE HON'BLE MR.JUSTICE P.B.BALAJI**

**W.A.Nos.123 to 131 of 2013**  
**and M.P.Nos.1/2013 & 1/2015**

**W.A.No.123 of 2013**

1.D.Jayaraman

2.J.Ravichandren

3.J.Mohan

4.J.Gurusamy

5.J.Muthu

.. Appellants

Vs.

1.The Government of Tamilnadu,  
Rep. by its Secretary,  
Urban and Housing Development,  
Fort St.George, Chennai-9.

2.The Member Secretary,  
CMDA, Chennai-8.

3.Special Tahsildar,  
Land Acquisition Unit-I,  
CMDA, Chennai-8.

.. Respondents



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**Prayer:** Writ Appeal filed under Clause 15 of the Letters Patent against the Common Order dated 19.06.2012 made in W.P.Nos.9368, 25180, 27521, 27522, 27523, 12051, 24678, 24679, 27886 of 2006.

For Appellant : Mr.V.Ragavacharai, Senior Counsel  
for Mr.S.Packiaraj

For Respondents : Mr.P.Kumaresan,  
Additional Advocate General  
assisted by  
Mrs.P.Veena Suresh,  
Standing Counsel for R2  
Mrs.U.M.Ravichandran,  
Special Government Pleader for R1 and R3

### **COMMON JUDGMENT**

#### **D.KRISHNAKUMAR, J.**

The writ petitioners are the appellants herein. They filed the writ petitions challenging the notification issued under Section 4(1) of the Land Acquisition Act, 1894 [in short "Old Act"] vide G.O.Ms.No.248, Housing and Urban Development (U.D.III) dated 09.03.1994, which came to be dismissed, vide impugned common order dated 19.06.2012, against which these writ appeals have been filed.



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2. Short facts leading to the filing of these writ appeals are as follows:

2.1. An extent of 14.3 acres were acquired under the scheme of acquisition known as Land Assembly Development Project for the development of residential and commercial neighbourhood, both sides of the Inner Ring Road. Section 4(1) Notification was issued vide G.O.Ms.No.248, Housing and Urban Development Department (UDIII) dated 09.03.1994.

2.2. Challenging the Section 4(1) Notification, the writ petitions were filed on the following grounds:

(i) Section 4(1) Notification does not disclose the public purpose for which the lands were sought to be acquired.

(ii) There is a time lag of 60 days from the date of notification, date of publication in two local newspapers and the date of publication in the locality.

(iii) The publication in newspapers has not been effected in two dailies which are widely in circulation in the locality.



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2.3. The Writ Petitions, after contest, came to be dismissed by this Court, vide common order dated 19.06.2012, against which the present writ appeals are filed.

3. Mr.V.Raghavachari, learned Senior Counsel for the appellants made the following contentions:

(i) Section 4(1) Notification was published on 06.04.1994 and whereas Section 6 Declaration was published on 28.06.1995, after a delay of one year and 2 1/2 months and since there was no valid declaration under Section 6 made within one year from the date of Section 4(1) Notification, the notification issued would lapse and the State is bound to issue a fresh section 4(1) Notification. But in the present case, no such fresh notification was issued.

(ii) The Government issued G.O.Ms.No.248/94 on 06.04.1994 for the proposed acquisition of 14.35 acres of land in Manjambakkam village only, but the said Government Order and the proposed acquisition was not circulated in that locality and there was no proper publication in this regard.



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(iii) The land acquisition was challenged by one Revathy Mohan in W.P.No.13815 of 1995, who is the owner of S.No.139/4B and the Government Order was quashed on 25.07.2002 on the ground that no notice and no proper paper publication was effected. CMDA filed an appeal claiming that they published in Adhistam & Kumari Murasu dailies, but the writ appeal was dismissed on 03.11.2004, as the said newspapers do not have wide circulation in the locality.

(iv) If the acquisition Government Order was quashed by any one of the parties covered in the same acquisition proceedings, it applies to all the properties mentioned under the Government Order. Originally, 535.57 acres were acquired for the project but 521.22 acres was released and the remaining 14.35 acres of land alone was acquired and nearly 97.40% of land was released and as such, the entire acquisition proceedings are discriminatory.

(v) Though the Government claimed to have conducted Section 5A enquiry, the names of dead persons were contained in Section 4(1) Notification and Section 6 Declaration and as such, the Government had never conducted any enquiry under Section 5A of the old Act.



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4. Mr.P.Kumaresan, learned Additional Advocate General has drawn the attention of this Court to the counter affidavit filed by the second respondent wherein it has been stated as under:

4.1. In Madhavaram and Manjambakkam village, previously Saidapet Taluk, Chengalpattu MGR District, Chennai Metropolitan Development Authority (CMDA) acquired a large chunk of land for the Land Assembly Development Scheme (LADS). In Phase-I LADS, 13.42.0 Hectares bearing S.No.702/1 etc., of land in Madhavaram Village were ordered to be acquired, but in view of the orders of the Hon'ble Apex Court dated 25.10.2005 in SLP.Nos.12523 to 12538 / 01 and SLP.No.12654 to 12669/2009, CMDA had resolved to drop the proposal in Phase-I. Similarly in LADS Phase II, the land identified by CMDA to be proposed to acquire with an extent of 10.52.05 hectares bearing S.No.485/1 in Madhavaram Village were also resolved to dropped by the Government at the instance of Special Commissioner and Commissioner of Land Administration, vide proceedings dated 20.08.2002.



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4.2. In LADS Phase III, the lands which were situated in Madhavaram Village bearing S.No.479/2 etc., having an extent of 38.32.0 hectares, which was also dropped by CMDA with the consent of Special Commissioner and Commissioner of Land Administration.

4.3. Initially lands were acquired through Award No.3/97 dated 27.06.1997 in Manjambakkam Village to the tune of 05.81.0 Hectares for Development of residential and commercial neighbourhood on both sides of the Inner Ring Road. Later the purpose of the lands were identified for the "Truck Parking Yard" at Manjambakkam Village, which is abutting Inner Ring Road and give access to G.N.T. road for relieving the congestion caused due to heavy parking of trucks along the GNT Road. Hence, the land in Manjambakkam Village had been acquired for the larger public interest and facilitating the tertiary sector of the economic status of the nation and public as well, which very much substantiates the larger common public interest.



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4.4. The first appellant had participated in Section 5(A) enquiry on 25.10.1994, which was conducted in a fair and just manner within the ambit of Land Acquisition Act and hence, the contention of the appellant that enquiry notices were not served on them is totally incorrect.

4.5. This Court has already upheld the land acquisition initiated in Award No.3/97 dated 27.06.1997 in the judgment delivered in W.P.Nos.8920 & 14311 of 1997 and in W.A.No.503 of 2006 dated 09.12.2009 [*S.Kesavan and another v. The Special Tahsildar, Land Acquisition and Others*] reported in *CDJ 2009 MHC 5871* and hence, the appellants cannot challenge the award, after this Court upholding the land acquisition proceedings in a similar writ appeal.

4.6. After passing of award, possession has been taken and acquisition proceedings have become final and as such, the quashing of award at this stage is unjust in the light of the decision of the Hon'ble Supreme Court in *Swaika Properties (P) Ltd. and another v. State of Rajasthan and Others* [(2008) 4 SCC 695].



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4.7. Challenge made to the Land Acquisition proceedings after passing of award is not maintainable in the light of the decision of the Hon'ble Supreme Court in ***Ramalingam and Others v. State of Tamil Nadu [2005 (3) CTC 2]***.

4.8. The judgment relied on by the appellant in W.A.No.1130 and 1233 to 1244 of 1999 reported in ***2001 (2) CTC 259 [Shanmugadurai v. State of Tamil Nadu]*** pertains to Section 4(1) Notification issued vide G.O.Ms.No.958, Housing and Urban Development Department dated 10.06.1991, where the order passed setting aside the proposed Phase I in Madhavaram Village comprised in S.No.702/2 having an extent of 13.42.0 Heactares and hence, the contention of the appellant that the said case is similar is totally unsustainable.

5. Heard the learned counsel for the parties and also perused the entire materials available on record.



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6. The primordial contention of the appellants are that:

(i) Section 4(1) Notification has been challenged on the ground that similar writ petition has been filed and the said notification was quashed by this Court and besides the same, Section 4(1) Notification and Section 6 Declaration were published as against dead persons.

(ii) Section 5A enquiry has not been conducted in the manner as contemplated under the Act.

(iii) Publication in newspapers has not been effected in two dailies, which have wide circulation in the locality.

7. The appellants mainly placed reliance upon the order dated 25.07.2002 W.P.No.13815 of 1995 filed by one ***Mrs.Revathy Mohan alias Dhanalakshmi v. State of Tamil Nadu and Others [CDJ 2003 MHC 2047]***, wherein very same grounds were raised and it was allowed quashing the Section 4(1) Notification dated 09.03.1994 and against which the appeal filed by CMDA in W.A.No.3629 of 2004 was dismissed on 03.11.2004.



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8. It is to be pointed out at this juncture that challenging the very same Section 4(1) Notification and Section 6 Declaration, similar writ petition was filed by one S.Kesavan and another in W.P.No.5535 of 1996, which was dismissed holding that so long as the acquisition is for public purpose, then, the acquisition has to be upheld unless it is vitiated by any infirmity or irregularities in following the procedure prescribed under the statute. It was further held that lands are being acquired for the development of Inner Ring Road and therefore, it cannot be said that the acquisition of land is not for public purpose and on that ground, vide order dated 08.11.2002, the said writ petition was dismissed. Against the said order, the writ petitioners therein again filed W.A.No.503 of 2006 and it was also dismissed, vide judgment dated 09.12.2009.

9. A perusal of the judgment dated 09.12.2009 in W.A.No.503 of 2006 [*Kesavan and Others v. The Special Tahsildar, Land Acquisition, Chennai and Others*] reported in *CDJ 2009 MHC 5871* would disclose that the learned Standing Counsel for CMDA had brought to the notice of the Division Bench as to the quashing of Section 4(1) Notice in the



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writ petition filed by Mrs.Revathy Mohan @ Dhanalakshmi (cited supra), wherein the earlier Division Bench while quashing the notification has granted liberty to initiate acquisition proceedings afresh in terms of the Land Acquisition Rules. It is useful to refer to the following portion of the Division Bench judgment dated 09.12.2009 in W.A.No.503 of 2006:

"27. Therefore, it has been urged on behalf of the CMDA that out of the larger extent if the acquisition notification pertaining to the appellants is quashed, the public purpose of establishing the Truck Parking Terminal to ease the congestion in Chennai City would be jeopardised.

28. In reply to the submissions made by the learned Standing Counsel appearing for the CMDA, the learned senior counsel appearing for the appellants would submit that G.O.Ms.No.248, Housing and Urban Development, (UD-III) dated 9.3.1994, issued for the similar purpose has been quashed by this Court and the judgment reported in 2003(1) MLJ page 378 - Mrs.Revathy Mohan alias [Dhanalakshmi vs. State of Tamil Nadu and others](#), on the ground that Rule 4(b) of Land Acquisition Rules have not been followed and the publication has been effected in Tamil Dailies which were not having wider circulation in the locality. While quashing the notification, this Court in the said decision, had granted liberty to initiate acquisition proceedings afresh in terms of the Land Acquisition Rules.

29. It is stated by the Chief Executive Officer of CMDA in the above said affidavit that in respect of land acquisition which was subject matter of the challenge in the above cited decision, CMDA is taking steps through Tahsildar to issue a fresh notification under [Section 4\(1\)](#) of the said Act.



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30. This Court after taking into consideration the affidavit of the Chief Executive Officer, CMDA and the submissions made by the learned Standing Counsel for CMDA and the learned senior counsel appearing for the appellants, is of the considered opinion that the lands in question along with other acquired lands in Phase-III are going to be utilised for the public purpose to develop Truck Parking Terminal which would ultimately ease the traffic congestion in Chennai City. The said purpose in any event cannot be said as "non-public purpose". *Even though similar notification has been quashed by this Court in the judgment reported in 2003(1) MLJ 378 (cited supra), this Court has granted liberty to the Respondents to issue 4(1) notification afresh in terms of Act and Rules and it is averred by the Chief Executive Officer, CMDA in his affidavit that the steps are being taken to issue a fresh Section 4(1) notification. Therefore, the benefit of the above cited decision cannot be extended to the appellants. Moreover, the lands admeasuring to an extent of 80 cents belonged to the appellants lie within the compound wall constructed by the CMDA covering the total extent of 12 acres of land. In the event of quashment of the impugned notification, the said extent is liable to be de-notified which would cause inconvenience/hinder the implementation of the scheme for public purpose and therefore on the ground also, it cannot be quashed.* (emphasis supplied)

31. This Court on a careful consideration and appreciation of entire materials available on record, is of the considered opinion that there is no error apparent on the face of the record or infirmity in the order passed in the writ petition. This Court also finds that the points urged by the appellants for the first time in this writ appeal, lack merits and no grounds made out for interference.

32. Hence, the writ appeal is dismissed, confirming the order dated 8.11.2002 made in W.P.No.5535 of 1996. But in



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the circumstances, there will be no order as to costs.  
Consequently, W.A.M.P.No.1034 of 2006 is closed."

The aforesaid decision of the Division Bench of this Court squarely applies to the facts of this case.

10. In the case on hand, Section 4(1) Notification was issued on 09.03.1994, Section 6 Declaration was published on 28.06.1995, Award enquiry was conducted on 23.5.1997, 26.5.1997, 17.6.1997, 19.6.1997 and 20.06.1997 and Award No.3/97 was passed on 27.06.1997 and writ petitions came to be filed during the year 2006 after a delay of 9 years. In the light of the Division Bench decision of this Court dated 09.12.2009 in W.A.No.503 of 2006, wherein the land acquisition proceedings were upheld by this Court, the present litigation challenging the very same 4(1) notification after a lapse of 12 years on the ground CMDA has changed the project into a Truck Parking Yard is legally unsustainable.

11. The second respondent has categorically stated in the counter affidavit that originally the lands were acquired for "Development of



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Residential and Commercial Neighbourhood Scheme on both sides of Inner Ring Road" and later, the purpose of the lands were identified for the "Truck Parking Yard" at Manjambakkam Village, which is abutting the Inner Ring Road to give access to GNT Road for relieving the congestion caused due to heavy parking of trucks. The second respondent further stated that the layout of truck parking yard has already been approved by the Secretary, Housing & Urban Development / Vice-Chairman, CMDA and CMDA has passed a resolution in A.R.No.93/2011 and therefore the acquired land was fully utilized for the larger public interest and not for commercial purpose as alleged by the appellants.

12. The first appellant has participated in Section 5(A) Enquiry on 25.10.1994 and 24.05.1994 and therefore, the contention of the appellant that enquiry notices were not served on them cannot be accepted. That apart, the petitioner's land was vacant at the time of passing of award and when the notice of enquiry under Sections 9(3) and 10 were served on the appellants, it was refused to be received by them and hence, notices



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were served by affixture by pasting it on the doors of the house as contemplated under Section 45(3) of the old Act and hence, the service of notice as contemplated under Section 45 are scrupulously followed.

13. In the case on hand, the award in Award No.3/97 came to be passed on 27.06.1997 and after passing of award, possession was taken over and the entire acquisition proceedings have concluded, at this distant point of time, challenging the land acquisition proceedings in legally unsustainable in the light of the decision of the Hon'ble Supreme Court in *Indore Development Authority v. Manoharlal and Others* [(2020) 8 SCC 129], which observed as under:

"346. In matters of land acquisition, this Court has frowned upon, and cautioned Courts about delays and held that delay is fatal in questioning the land acquisition proceedings. In case possession has not been taken in accordance with law and vesting is not in accordance with Section 16, proceedings before Courts are to be initiated within reasonable time, not after the lapse of several decades."

14. In the light of the aforesaid decision of the Hon'ble Supreme Court as well as the Division Bench decision of this Court in



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W.A.No.503 of 2006 dated 09.12.2009, the claim of the appellants/writ petitioners challenging the 4(1) Notification and the conduct of Section 5A enquiry of the Land Acquisition Act 1894, at this distant point of time is legally unsustainable. The writ appeals lack merits and deserve dismissal.

15. In the result, these Writ Appeals stand dismissed. No costs. Consequently, connected miscellaneous petitions are dismissed.

**[D.K.K., J.,] [P.B.B., J.]**  
**01.09.2023**

Index:yes/no  
Internet:yes  
Jvm

To

- 1.The Secretary,  
The Government of Tamilnadu,  
Urban and Housing Development,  
Fort St.George, Chennai-9.
- 2.The Member Secretary,  
CMDA, Chennai-8.
- 3.Special Tahsildar,  
Land Acquisition Unit-I, CMDA, Chennai-8.



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&  
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Jvm

**Common Judgement in  
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**01.09.2023**