



W.A. No.2416, 2421, 2422, 2439 & 2475 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 13.07.2023

DELIVERED ON : 01.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR. JUSTICE P.B.BALAJI

W.A. No.2416, 2421, 2422, 2439 & 2475 of 2019
and
CMP.Nos.15875, 15905, 15912, 16026 & 16192 of 2019

The Chairman and Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai 600 035.

.. Appellant in all the appeals

Vs.

1. M.Rathinam
Rep. by Power of Attorney Agent,
V.Rajendran.
2. Government of Tamil Nadu,
Rep. by the Commissioner and Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai 600 009.
3. The Special Tahsildar,
Land Acquisition Officer,
Housing Scheme, Thirumangalam,
Chennai 600 101.

.. Respondents in WA.No.2416 of 2019



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1. M.G.Usha Unnikrishnan

Rep. by Power of Attorney Agent,
K.Viswanathan.

2. Government of Tamil Nadu,

Rep. by the Commissioner and Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai 600 009.

3. The Special Tahsildar,

Land Acquisition Officer,
Housing Scheme, Thirumangalam,
Chennai 600 101.

.. Respondents in WA.No.2421 of 2019

1. Deivayanai Ammal

2. B.Shankar

Both Rep. by Power of Attorney Agent,
K.Viswanathan.

3. Government of Tamil Nadu,

Rep. by the Commissioner and Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai 600 009.

3. The Special Tahsildar,

Land Acquisition Officer,
Housing Scheme, Thirumangalam,
Chennai 600 101.

.. Respondents in WA.No.2422 of 2019



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1. M.G.Unnikrishnan
Rep. by Power of Attorney Agent,
D.Manickarajan.

2. Government of Tamil Nadu,
Rep. by the Commissioner and Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai 600 009.

3. The Special Tahsildar,
Land Acquisition Officer,
Housing Scheme, Thirumangalam,
Chennai 600 101.

.. Respondents in WA.No.2439 of 2019

1. M.Rathinam

2. Devaiyanai Ammal

3. B.Shankar

4. Chandra
Rep. by their Power of Attorney Agent
V.Rajendran

5. Government of Tamil Nadu,
Rep. by the Commissioner and Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai 600 009.

6. The Special Tahsildar,
Land Acquisition Officer,
Housing Scheme, Thirumangalam,
Chennai 600 101.

.. Respondents



W.A. No.2416, 2421, 2422, 2439 & 2475 of 2019

Writ Appeal filed under Clause 15 of the Letters Patent against the common order dated 09.04.2010 made in WP.No.6492 to 6496 of 2002 passed by the learned Single Judge of this Court.

For appellant
(in all WAs)

: Mrs.Shyamala

For respondents

R2 & R3 in W.A.Nos. 2416,
2421 & 2439 of 2019
R3 & R4 in W.A.Nos.2422 of 2019
R5 in W.A.No. 2475 of 2019

: Mrs.Geetha Thamaraiselvan,
Spl.GP

R1 in W.A.Nos. 2416, 2421
and 2439 of 2019

R1 & R2 and R1 to R4 in
W.A.Nos. 2422 of 2019 &
2475 of 2019 respectively

Mr.Richardson Wilson

COMMON JUDGMENT

(D.KRISHNAKUMAR, J)

The private respondents in all these appeals filed W.P.Nos.6492 to 6496 of 2002 respectively before the learned Single Judge, challenging the notification issued under Section 4(1) of the Land Acquisition Act dated 17.08.1990 and also the declaration issued under Section 6 of the Act dated 28.09.1991.



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2. The lands in question were acquired by the respondents vide notification dated 17.08.1990 under Section 4(1) of the Act and declaration dated 28.09.1991 under Section 6 of the Act. Challenging the same, the private respondents filed W.P.Nos.6492 to 6496 of 2002. The said Writ Petitions were allowed by the learned Single Judge of this Court holding that the very same 4(1) notification dated 17.08.1990 and Section 6 declaration dated 28.09.1991 were already quashed by this Court in WP.Nos.9751 & 9752 of 1999 in respect of different survey numbers. Challenging the said order, the appellant Housing Board preferred appeal in W.A.No.195 of 2009 and the same was allowed on 01.12.2010.

3. According to the learned counsel for the appellant, in the instant case, the private respondents herein challenged the notification issued under Section 4(1) of the Act and declaration under Section 6 of the Act. According to the appellant, the said declaration was issued on 28.09.1991 and subsequently award was also passed on 30.09.1993 in Award No.2 of 1993 and thereafter, the respondents have filed the Writ Petitions before this



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Court on 11.06.1999. So it is clear that the Writ Petitions were filed after a lapse of 4 years from the issuance of Section 6 declaration.

4. According to the appellant, the respondents/Writ Petitioners have approached this Court belatedly by filing the Writ Petition, which is hit by delay and laches. The said aspect was not duly considered by the Writ Court. Hence, he seeks to set aside the order passed in the Writ Petitions.

5. The learned counsel appearing for the private respondents strongly objected to the above submissions and submitted that the facts in the present case are entirely different from the one relied on by the appellant. Therefore, the aforesaid decision of the Division Bench will not apply to the facts of the case. Hence, the order of the Writ Court is sustainable and these Writ Appeals may be dismissed.

6. We have carefully considered the rival submissions and perused the materials available on record.



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7. In the present case on hand, notification under Section 4(1) of the Act was issued on 17.08.1990 and declaration under Section 6 was issued on 28.09.1991. Subsequently, Award No.2 of 1993 was also passed on 30.09.1993. It is clear that the Writ Petitions were filed after a lapse of 4 years from the issuance of declaration under Section 6.

8. In an identical case, the Division Bench of this Court, in W.A.No.195 of 2009, elaborately discussed the above issue and held that the Writ Petition deserves to be dismissed on the ground of delay and laches. The relevant portion of the said judgment reads as follows:

"7. Further, the question whether a writ petition after long delay and passing of Award should be entertained against the land acquisition proceedings fell for consideration before a Division Bench of this Court in S.Harshavardhan v. State of Tamil Nadu [2005 (3C) CTC 691]. Taking into consideration the judgments of the Supreme Court, the Court held that the writ petition challenging the land acquisition proceedings should not be entertained after the Award had been passed.

8. In a recent cases, when similar issue came up for consideration before the Supreme Court in Swaika Prooperties (P) Ltd. v. State of Rajasthan [(2008) 4 SCC 695], the Supreme Court held that the writ



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petition filed after passing of Award deserves to be dismissed without going into the merits of the case. The writ petitioner can be said to have waived, by his own inaction, his objections to the acquisition on the ground of extinction of public purpose. The Court further held that such a writ petition deserves to be dismissed on the ground of delay and laches.

9. In view of the Division Bench decision of this Court and the Supreme Court decision cited supra and the fact that the learned Single Judge, without discussion of the case of the first respondent/writ petitioner, passed a mechanical order, there is no other option but to set aside the order impugned in this writ appeal. The impugned order dated 08.09.2006 passed in WP.No.9751 of 1999 is accordingly set aside and the writ appeal is allowed. No costs. Connected Miscellaneous Petition is closed."

9. On a perusal of records, it is seen that the same notification has already been quashed by the Division Bench of this Court in the judgment in W.A.No.195 of 2009 on the ground of delay and laches in respect of same notification. Therefore, we are not inclined to take a different stand from the decision already taken by the Division Bench of this Court. Thus, accepting the contentions of the appellant, this Court is of the view that these appeals are to be allowed on the same line as held by the Hon'ble Division Bench of this Court in the judgment referred supra.



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10. In fine, these appeals are allowed. The common order passed by the Writ Court in WP.Nos.6492 to 6496 of 2002, dated 09.04.2010 is set aside. No Costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J] [P.B.B., J.]
01.11.2023

Speaking order: Yes/No
Index : Yes/No
pvs/ak

To

1. The Commissioner and Secretary to Government,
The Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Chennai 600 009.

2. The Special Tahsildar,
Land Acquisition Officer,
Housing Scheme, Thirumangalam,
Chennai 600 101.



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D.KRISHNAKUMAR, J.
and
P.B.BALAJI, J.

pvs/ak

Pre-Delivery common judgment in

W.A. No.2416, 2421, 2422
, 2439 & 2475 of 2019

and

CMP.Nos.15875, 15905, 15912,
16026 & 16192 of 2019

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