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W.P.No.14055 of 2003, etc. batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE P. DHANABAL

**W.P.Nos.14055, 17499, 29405, 36539, 22267, 9167, 9580 of 2003,
2587, 2588, 2589, 2590, 2591, 1988, 1989, 1990, 1991, 1992 of 2001 &**

W.P.(MD) No.3691 of 2009

and

W.P.M.P.Nos. 17600, 21858, 44393, 35910, 11695, 12168 of 2003,

W.M.P.Nos.3503, 3505, 3507, 3511 of 2001 &

W.P.M.P.(MD) No.2 of 2009

W.P.Nos.14055 of 2003 :

Syed Ahmad Jallaudeen

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Housing & Urban Development Department,
Fort St. George, Chennai – 600 009.

2.The Revenue Divisional Officer cum
Land Acquisition Officer,
Ramanathapuram,
Ramanathapuram District.



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3. The Tamil Nadu Housing Board
Represented by its Executive Engineer
and Administrative Officer,
Ramanathapuram Housing Unit,
Ramanathapuram – 623 501.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration to declare the entire acquisition proceedings lapsed in view of Notice No.Na.Ka.No.A1/12674/89 dated 07.03.2003 issued by the 2nd respondent proposing to pass the award in respect of Ramanathapuram Taluk – Sakkarakottai Village S.Nos.130/1 and etc., an extent of 19.44.5 Hectares lands acquired for Tamil Nadu Housing Board after the expiry of two years in violation of Section 11-A of the Act.

For Petitioner	:	Mr.A.S.Mujibur Rahman in W.P.Nos.14055, 17499, 29405, 36539, 22267, 9167, 9580 of 2003 & W.P.(MD) No.3691 of 2009
	:	Mr.E.Balavijayan in W.P.Nos.2587 to 2591 of 2001, 1988 to 1992 of 2001
For R1 and R2	:	Mr.A.Selvendran Special Government Pleader in all writ petitions
For R3	:	Mr.R.Ramanlal Additional Advocate General assisted by Mr.M.Arun Kumar Standing Counsel in all writ petitions



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COMMON ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

In all the writ petitions, the petitioners have challenged the land acquisition proceedings.

2.While the writ petitions in W.P.Nos.9167, 9580, 14055, 17499, 22267, 29405, 36539 of 2003 and W.P.(MD) No.3691 of 2009 relate to acquisition of lands in Sakkarakottai Village, W.P.Nos.1988 to 1992 of 2001 and 2587 to 2591 of 2001 relate to acquisition of lands in Pattinamkathan Village in Ramanathapuram District.

3.In view of the common grounds raised in all the writ petitions, this Court is inclined to dispose of all the writ petitions by this common order.

4.In both the batch of cases, the acquisition is for the purpose of construction of houses under the Scheme framed by the Tamil Nadu State Housing Board. Though several grounds were raised by the petitioners, the only ground on which the acquisition is challenged in both the batch of



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cases is that the Award is passed beyond the period of 2 years within in terms of Section 11-A of the Land Acquisition Act.

5.It is true that, under Section 11-A of the Land Acquisition Act, 1894, the Collector is required to pass an Award under Section 11 within a period of 2 years from the date of publication of the declaration. If no Award is made within the period, the entire land acquisition proceedings for acquisition of land will lapse. Insofar as the batch of cases pertaining to acquisition in Sakkarakottai Village, this Court, by an order dated 12.12.2024, has already disposed of W.A.Nos.7 and 677 of 2009, where the appellants in the Appeals challenged the acquisition proceedings by referring to Section 11-A of the Land Acquisition Act. This Court, on the admitted facts, elaborately discussed the submissions with reference to the relevant dates. Taking note of the fact that the declaration under Section 6 of the Act was published in the locality on 15.02.1994 and the Award was passed on 28.03.2003, this Court found that the Award was passed within two years, since the acquisition proceedings was stayed during the period from 09.04.1994 and 13.06.2001. Excluding the time when the stay was in



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force, this Court found that the Award is well within time, and therefore, the contention of the appellants therein was not countenanced. Therefore, all the writ petitions pertaining to Sakkarakottai Village, viz., W.P.Nos.9167, 9580, 14055, 17499, 22267, 29405, 36539 of 2003 and W.P.(MD) No.3691 of 2009 are liable to be dismissed.

6. Similarly, insofar as the writ petitions relating to acquisition of lands in Pattinamkathan Village in W.P.Nos.1988 to 1992 of 2001 and 2587 to 2591 of 2001, the learned Additional Advocate General has produced before this Court, the files. On perusal of files, this Court is able to get the following dates and events.

<i>S.No.</i>	<i>Dates</i>	<i>Events</i>
1.	23.02.1994	Notification under Section 4(1) was issued vide G.O.Ms.No.174, Housing and Urban Development Department
2.	16.03.1994	Notification under Section 4(1) was published in the Tamil Nadu Government Gazette
3.	24.03.1994 and 25.03.1994	Notification under Section 4(1) was published in “Madurai Mani” and “Kumari Murasu”
4.	05.04.1994	Notification under Section 4(1) was published in the locality
5.	16.05.1994	Enquiry under Section 5-A conducted
6.	31.03.1995	Declaration under Section 6 was issued vide G.O.Ms.No.424, Housing and Urban Development Department



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<i>S.No.</i>	<i>Dates</i>	<i>Events</i>
7.	31.03.1995	Declaration under Section 6 was published in the Tamil Nadu Government Gazette
8.	02.04.1995 and 03.04.1995	Declaration under Section 6 was published in two Tamil Dailies namely “Madurai Mani” and “Thina Thanthi”
9.	04.04.1995	Declaration under Section 6 was published in the locality
10.	03.04.1997	Award was passed

Therefore, even without counting or excluding time, the Award is well within two years.

7.In the second batch of cases pertaining to the lands in Pattinamkathan Village, apart from the ground that the acquisition proceedings had lapsed in view of the delay in passing Award, the petitioners have also raised additional grounds.

8.It is contended by the petitioners that the publication of notification were not in local dailies which have wide circulation in the locality and that therefore, the acquisition proceedings is void. It is admitted by the petitioners that the petitioners have filed their objections before the Land Acquisition Officer at the time of enquiry under Section 5-A of the Land Acquisition Act. Some of the petitioners have also raised an issue that



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notice was not served on the petitioners. When the petitioners have admitted that they have filed their objections, this Court is unable to find any legal injury to the petitioners. It is true that declaration under Section 6 of the Land Acquisition Act was published in “Madurai Mani” and “Dina Thanthi”. Even though “Madurai Mani” is not a newspaper having wide circulation in the locality, the daily “Dina Thanthi” is one of the popular newspapers having wide circulation in the entire State of Tamil Nadu. Land acquisition, being *ex-proprietary* in nature, every procedure is required to be complied with. However, publication in the newspapers having wide circulation in the locality, and local publication, etc., are only to enable the land owners to take notice of the acquisition. Since the land owners have participated in the enquiry and submitted their objections in time, publication of notification in “Madurai Mani” may not be fatal to the acquisition, especially when the declaration has been widely published in “Dina Thanthi” and in the locality.

9.The petitioners have also raised an irregularity in holding enquiry under Section 5-A of the Act. Rule 4 of the Tamil Nadu Land Acquisition



Rules, 1991, reads as follows :

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“Rule 4.- (a) *If a statement of objections is filed by a person who is not interested in the land, it shall be summarily rejected.*

(b) *If any objections are received from a person interested in the land and within the time prescribed in sub-section (1) of section 5-A, the Collector shall fix a date for hearing the objections and give notice thereof in Form "B" to the objector as well as to the department or company requiring the land. Copies of the objections shall also be forwarded to such department or company. The department or company may file on or before the date fixed by the Collector, a statement by way of answer to the objections and may also depute a representative to attend the enquiry.*

(c) *On the date fixed for enquiry or any other date to which the enquiry may be adjourned by the Collector, the Collector shall hear the objector, or a person authorised by him in this behalf, or his pleader and the representative, if any, of the department or company and record any evidence that may be produced by both in support of the objections and in support of the need for acquiring the land.”*



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10. As per Rule 4(b), when a person files an objection within 30 days from the date of notice under Section 4(1) of the Act, his objections shall be forwarded to the Requisition Department. As per Rule 4(a), the requirement of following Rule 4(b) arises only if the statement of objections is filed by a person within 30 days from the date of publication of notification under Section 4(1) of the Act. If an objection is received from the land owner within the time prescribed under Sub-Section (1) of Section 5-A of the Land Acquisition Act, the Land Acquisition Officer shall fix a date for enquiry and is expected to give notice to the objector as well as the Requisition Department. For this purpose, the objections of the land owner should also be forwarded to the Requisition Department. On the date fixed for enquiry, the Collector shall hear the objector as well as the Requisition Department and record evidence produced in support of their contentions. It is true that this Court and the Hon'ble Supreme Court have held that the Land Acquisition Officer cannot decide the merits of the objections on the basis of remarks offered by the Requisition Department. In other words, the enquiry report will be in violation of principles of natural justice in case objections of the land owners are rejected only on the basis of the remarks



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or the contentions of the Requisition Department without further opportunity to the land owner to respond to the remarks of requisition department. Therefore, a second enquiry became mandatory by directions of this Court when the Requisition Department offer their remarks in response to the objections raised by the land owners. However, the submission of the petitioners, at this length of time, cannot be considered, in view of the law settled by Hon'ble Supreme Court. The Hon'ble Supreme Court has repeatedly held that the writ petition challenging the acquisition proceedings is not maintainable after the Award is passed and possession is taken. After passing of Award under Section 12 of the Land Acquisition Act, possession is also taken under Section 16 of the Act. By taking possession, the land vests in the Government free from all encumbrances. Therefore, the Hon'ble Supreme Court has repeatedly held that, challenge to acquisition proceedings after passing of Award and taking possession, is not maintainable. Therefore, this Court is unable to give any relief to the petitioners. Accordingly, the second batch of writ petitions pertaining to acquisition of lands in Pattinamkathan Village, viz., W.P.Nos.1988 to 1992 of 2001 and 2587 to 2591 of 2001, are also liable to be dismissed.



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11. In view of the pendency of the writ petitions for a long time, this Court is inclined to protect the interest of every land owner to get just compensation for the lands under the Land Acquisition Act. In response to a suggestion, the respondents have filed an affidavit to the effect that all the parties in this *lis* would be permitted to file a petition under Section 18 of the Land Acquisition Act and in all the cases, the land acquisition officer will refer under Section 18 of the Act before Civil Court for fixing just compensation. The said undertaking is recorded.

12. Therefore, while dismissing all the writ petitions, this Court directs the Land Acquisition Officer to refer the matters under Section 18 of the Land Acquisition Act, for the land owners/writ petitioners to get just compensation for the lands under the Land Acquisition Act. No costs. Consequently, connected miscellaneous petitions are closed.

(S.S.S.R., J.) (P.D.B., J.)
12.12.2024

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Internet : Yes
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To

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1. The Secretary,
State of Tamil Nadu,
Housing & Urban Development Department,
Fort St. George, Chennai – 600 009.
2. The Revenue Divisional Officer cum
Land Acquisition Officer,
Ramanathapuram,
Ramanathapuram District.
3. The Executive Engineer & Administrative Officer,
Tamil Nadu Housing Board,
Ramanathapuram Housing Unit,
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S.S. SUNDAR, J.
and
P. DHANABAL, J.

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