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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2025

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.12149 of 2004

S.Muthulakshmi ... Petitioner

Vs.

1. The Secretary to Government,
Public Works Department,
Fort St.George,
Chennai – 600 009.

2. Tahsildar,
Vedasandur Taluk,
Dindigul District.

3. K.Andavar ... Respondents

[R3 impleaded as per order of this Court
dated 15.07.2004 in W.P.M.P.No.22098 of 2004]

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari calling for the records relating to the notification issued under Section 4(1) of the Land Acquisition Act, 1894 in G.O.(Ms).N.164 Public Works (S2) Department, dated 28.04.2003 and published in the Tamil Nadu Government Gazette, Extraordinary dated 30.04.2003, Part II Section 2 and the Declaration issued under

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Section 6 of the said Act in G.O.(Ms) No.197, Public Works (S2) Department dated 09.03.2004 and published in Tamil Nadu Government Gazette, Extraordinary dated 12.03.2004 and quash the same insofar with respect to the lands of the petitioner in S.No.691/1, Palappatti Village, Vedasandur Taluk, Dindigul District is concerned.

For Petitioner : Mr.N.Damodaran

For Respondents : Mr.G.Velu
Additional Government Pleader
for R1 and R2
Mr.C.P.Palanichamy for R3

O R D E R

This Writ Petition has been filed to issue a Writ of Certiorari to quash the order in G.O.(Ms).N.164 Public Works (S2) Department, dated 28.04.2003 and published in the Tamil Nadu Government Gazette, Extraordinary dated 30.04.2003, Part II Section 2 and the Declaration issued under Section 6 of the said Act in G.O.(Ms) No.197, Public Works (S2) Department dated 09.03.2004 and published in Tamil Nadu Government Gazette, Extraordinary dated 12.03.2004, in so far as the lands owned by the petitioner in S.No.691/1, Palappatti Village, Vedasandur Taluk, Dindigul District.

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2. Heard Mr.N.Damodaran, learned counsel appearing for the petitioner and Mr.G.Velu, learned Additional Government Pleader appearing for respondents 1 and 2 and Mr.C.P.Palanichamy, learned counsel appearing for the third respondent and perused the materials available on record.

3. The learned counsel for the petitioner submitted that the issue involved in the present writ petition is squarely covered by the earlier order passed by this Court in W.P.No.15869 of 2003 dated 11.01.2013. The relevant portion in the order is extracted hereunder :-

> " 6. In a recent decision of the Hon'ble Supreme Court in ***Darshan Lal Nagpal (dead) by L.Rs. v. Government of NCT of Delhi and Others reported in 2012-1-L.W.889***, the Hon'ble Supreme Court elaborately considered the validity of invoking the urgency clause under Section 17 of the Act, acquiring the lands from private persons. The Hon'ble Supreme Court emphasized that degree of care required to be taken by the State is greater then the power of compulsory acquisition of private land is exercised by invoking the provisions like the one contained in Section 17 of the Act because that results in depriving the owner of his property without being afforded an

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opportunity of hearing.

7. In my view, the decision of the Hon'ble Supreme Court would apply to the case on hand. Further in view of the fact that the impugned notification has been stayed from the year 2003, therefore, at this juncture, if the respondents intend to proceed further in this matter, they should do so only after affording opportunity to the land owners to submit their objections and conduct enquiry as envisaged under Section 5A of the Act. Furthermore, from the impugned notification it is not evident as to the nature of urgency, which cannot group the delay of 30 days. The Hon'ble Supreme Court as depricated the practice of invocation of urgency clause without their being a real urgency. Unfortunately, though the writ petition was pending from 2003, the official respondents have not filed any counter.

8. Hence, for all the above reasons, the impugned notification is liable to be quashed. Accordingly, the writ petition is allowed and the impugned order in G.O.Ms.No.164, Public Works (S2) Department dated 28.04.2003 and published in the Tamil Nadu Government Gazette, Extraordinary dated 30.04.2003, Part-II-Section 2 are hereby set aside.

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However, it made clear that the order passed by this Court in this writ petition shall not preclude the authorities to issue fresh notification under Section 4(1) of the Act and after such fresh notification is issued, then the land owners including the petitioner shall be entitled to submit their objections and thereafter, the authorities shall conduct enquiry under Section 5A of the Act and proceed in accordance with law. No costs."

4. In view of the above, this writ petition is disposed of on the same terms. However, there shall be no order as to costs.

03.09.2025

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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G.K.ILANTHIRAIYAN, J.

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