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Rev.Appl.No.238 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 10.01.2025

Pronounced on : 23.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE P. DHANABAL

Rev.Appl.No.238 of 2022

T.N.Natarajan (died)

1.N.Shanmugavalli

2.Dr.T.N.Sashikala

3.N.Prathima

4.V.Umamaheswari

5.E.Mahalakshmi

... Petitioners

Vs.

1.State of Tamil Nadu

Represented by its Commissioner and Secretary,
Housing and Urban Development Department,
Fort St. George, Madras – 600 009.

2.Madras Metropolitan Development Authority,

Represented by its Member Secretary,
Gandhi Irwin Road,
Egmore, Madras – 600 009.



Rev.Appl.No.238 of 2022

WEB COPY

3.Special Deputy Collector, LA-III,
Madras Metropolitan Development Authority,
Gandhi Irwin Road,
Egmore, Madras – 600 009.

... Respondents

Prayer : Review Application filed under Order 47 Rule 1 read with Section 114 of Code of Civil Procedure to review the judgment in W.A.No.2572 of 2001 dated 27.01.2016 on the file of this Court.

For Petitioners : Mr.A.S.Balaji
For R1 and R3 : Mr.T.Arun Kumar
Additional Government Pleader
For CMRL : Mr.Aditya Chandramouli
(R2 in
WP No.2885/2011)

ORDER

S.S. SUNDAR, J.

This Review Application is preferred by the legal heirs of the appellant in W.A.No.2572 of 2001 seeking review of the common order dated 27.01.2016 passed in W.A.No.2572 of 2001 and W.P.No.2885 of 2011.

2.The petitioners herein are the legal heirs of Late Mr.T.N.Natarajan,



Rev.Appl.No.238 of 2022

who is the appellant in W.A.No.2572 of 2001. Pursuant to a notification dated 16.10.1991 issued under Section 4(1) of the Land Acquisition Act, the land belonged to Late T.N.Natarajan was acquired for the purpose of formation of Truck Terminal in Koyambedu Wholesale Market Complex by the Madras Metropolitan Development Authority. Late Mr.T.N.Natarajan filed a writ petition in W.P.No.20286 of 1993 challenging the notification issued under Section 4(1) of the Land Acquisition Act and the subsequent declaration under Section 6 of the Act in respect of his land situated in S.No.52, 53, 56, 57, 62, 63 and 6 of Nerkundram Village, Saidapet Taluk, Chengai MGR District, measuring 4.4 Acres. The said writ petition was dismissed by the learned Single Judge of this Court by order dated 19.10.2001. Challenging the same, Late Mr.T.N.Natarajan preferred the Writ Appeal in W.A.No.2572 of 2001. In respect of the same acquisition proceedings, the petitioners, who are the legal heirs of Late Mr.T.N.Natarajan, have filed another writ petition in W.P.No.2885 of 2011 for issuance of a Writ of Certiorari to quash the order of Government vide G.O.Ms.No.62, Planning, Development Department and Special Initiatives, dated 24.06.2009, and the communication of the Special Tahsildar in letter



Rev.Appl.No.238 of 2022

dated 22.12.2010, and for consequential direction forbearing the respondents from in any manner depriving the petitioners of their lands without due process of law. By a detailed order, both the Writ Appeal and the writ petition were dismissed by the Division Bench of this Court by common order dated 27.01.2016. Seeking review of the order, the above Review Application is filed.

3.The land acquisition proceedings was challenged mainly on the ground that the objections of the petitioners were not properly considered by the Land Acquisition Officer. However, the petitioners have admitted that the land owner originally participated in the enquiry under Section 5-A of the Land Acquisition Act and raised his objections. It was only after conducting enquiry, and overruling the objection of landowners the Government issued declaration under Section 6 of the Act. Though it was pointed out that the notification under Section 4(1) was not published in two dailies having wide circulation in the locality, the Division Bench held that no prejudice is caused to the petitioners, since the object behind wide publicity is only to give prior notice to the land owners at the relevant point



of time to enable the land owners to submit their objections effectively. The Bench held that the petitioners cannot sustain such small infractions unless serious prejudice is caused to them. Taking note of the fact that Award was passed, the Division Bench held that the writ petition is liable to be dismissed on the ground of laches, following the judgments of the Hon'ble Supreme Court in several cases.

4.Learned counsel appearing for the review petitioners submitted before this Court that the writ petition was filed before passing of Award and that therefore, the writ petition cannot be thrown on the ground of delay and laches. The learned counsel then submitted that the acquisition proceedings is vitiated because of the failure to publish the notification under Section 4(1) of the Act in two dailies having wide circulation in the locality. The learned counsel submitted that the notification under Section 4(1) of the Act was published in “Namadhu M.G.R.” and “Dinathoodhu” on 12.10.1991. He further submitted that the publication of the notification in the official Gazette was on 16.10.1991. Since the notification under Section 4(1) of the Act was published in two dailies before it was published in the Gazette, the



learned counsel submitted that the land acquisition proceedings is vitiated.

He submitted that, under the Act, a notification under Section 4(1) should be published in the Government Gazette first, and it is thereafter, it is required to be published in two dailies having wide circulation in that locality. It is only after the notice being published in two dailies, it should be widely published in the locality by giving such public notice in the convenient places. The learned counsel then submitted that the publication of notification in two dailies should be in newspapers which have wide circulation in the locality. “Namadhu M.G.R.” and “Dinathoodhu” are all newspapers which have limited circulation, intended to reach either party offices or a limited circle.

5.The irregularities pointed out by the learned counsel for the petitioners in publication of notification under Section 4(1) of the Act, were elaborately considered by the Division Bench and the Bench held that all the submissions relating to the publication of notification under Section 4(1) of the Act cannot be countenanced, since the land owner, who challenged the acquisition proceedings, participated in the enquiry and all his objections



were meticulously considered and rejected. However, no argument was advanced before the Bench pointing out any flaw in the order in which the notification under Section 4(1) of the Act was published. Therefore, this argument also cannot be countenanced. A Review cannot be maintained on a ground which was not raised when the main Appeal was argued earlier.

6.In this case, as rightly pointed out by the Division Bench, the petitioners, having participated in the enquiry, cannot have any grievance. In other words, there is no legal injury to the petitioners merely because the notification under Section 4(1) of the Act was not published in the manner as contemplated under Section 4(1) of the Act or in the same order as it is expected to be published from the plain language of the statutory provisions. It is true that, land acquisition proceedings, being *ex-proprietary* in nature, the procedure contemplated under the Act has to be followed without any infraction. Whenever the Government is satisfied that a land is needed for any public purpose, it is open to the Government to acquire the land subject to the observance of the procedure prescribed under the Act. The Act contemplates notice to individual land owners as well as notice by



publication in three modes. When a person in response to the notification under Section 4(1) of the Act files an objection, the land owner is entitled to be heard. In the present case, it is not in issue that the land owner was given ample opportunity to participate in the enquiry under Section 5-A of the Act and raised all his submissions. It is in the said context, the question whether the notification was published in the order in which it requires publication, has no relevance.

7.In *Mohan Singh and others v. International Airport Authority of India and others* reported in (1997) 9 SCC 132, the Hon'ble Supreme Court has held that, though compliance of these three steps under Section 4(1) is mandatory for the exercise of the power under Section 17(4), it is not necessary that all the three steps should be completed before making a declaration under Section 6(1) and have it published for directing the Collector to take possession under Section 17(1) or 17(2) of the Act. When emergency provisions are invoked, the enquiry under Section 5-A is dispensed with. Therefore, notice is required only during Award enquiry fixing compensation. In view of the law laid down by the Hon'ble Supreme



Rev.Appl.No.238 of 2022

Court, this Court is unable to find any force in any of the submissions of the learned counsel appearing for the review petitioners.

8.Scope of review is limited to the provisions of Order 47 Rule 1 of Code of Civil Procedure. Review is not an Appeal to permit re-hearing or re-appreciation of facts to find whether a different view is possible. Having regard to the scope of review, this Court finds no merit in this Review Application.

9.Therefore, this Review Application is dismissed. However, there is no order as to cost.

(S.S.S.R., J.) (P.D.B., J.)
23.01.2025

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Index : Yes

Neutral Citation : Yes

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