



W.A(MD)No.1683 of 2023 & W.P.(MD) No.329 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 31.07.2024

PRONOUNCED ON : 30.01.2025

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

W.A(MD)No.1683 of 2023 and W.P.(MD) No.329 of 2024
and
C.M.P.(MD)Nos.12884 & 15748 of 2023

IN W.A(MD)No.1683 of 2023

P.Ganeshan

..Petitioner/Appellant

Vs.

1. The State of Tamil Nadu,
Rep. By its Secretary,
Public Works Department,
Fort St.George,
Chennai.
2. The District Collector,
District Collectorate,
7A, PSP Nagar,
Korampallam,
Tuticorin District.



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3. The Special Tahsildar
Kennedian Channel,
Flood Drainage Project,
Sathankulam,
Tuticorin District.

4. The District Forest Officer
Thoothukudi Division,
Collector Complex,
Korampallam,
Tuticorin District.

...Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order made by this Court in W.P(MD) No.22389 of 2021 dated 05.08.2022.

For Petitioner : Mr.M.Mahaboob Athiff

For Respondents : Mr.R.Baskaran
Additional Advocate General VI
assisted by Mr.N.Satheesh Kumar
Additional Government Pleader

IN W.P.(MD) No.329 of 2024

T.Arasuraja alias Anburaja

...Petitioner

Vs

1. The Principal Chief Engineer, (General)
Water Resources Department,
Chennai – 600 005.

2. The District Collector/Chairman,
Thamirabarani Protection Committee,
Collectorate,
Tirunelveli District.

3. The District Collector,
Thoothukudi District.



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4. The Special Chief Engineer/Executive Engineer,
Water Resources Organization,
Project Division,
Tirunelveli.
 5. The Executive Engineer,
Public Works Department /Water Resource Organization,
Special Project Division,
Tirunelveli.
 6. The Assistant Executive Engineer,
Water Resources Department,
Keelthamirabarani Basin Sub Division,
Sri Vaikundam,
Thoothukudi District.
- ...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India pleased to issue a Writ of Mandamus directing the Respondents to expedite the project "Thamirabarani Storm Water Canal, a part of Thamirabarani – Kurumeniyaru – Nambiyaru Link Project' and to complete the project within the time limit.

For Petitioner : Mr.M.Karthikeya Venkitachalapathy

For Respondents : Mr.R.Baskaran
Additional Advocate General VI
assisted by Mr.N.Satheesh Kumar
Additional Government Pleader

JUDGMENT

(Judgment of this Court was delivered by **G.ARULMURUGAN, J.**)

This Intra-Court Appeal is preferred by the Land Owner/Writ

Petitioner challenging the common order dated 05.08.2022 made in W.P.



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(MD) No.22389 of 2021 and others wherein in the challenge to the acquisition proceedings was rejected by the Writ Court.

2.1. The short facts to be noted in the above Appeal is as follows:

The Government proposed to implement the formation of Flood Carrier Canal from Kannadian Channel to drought prone area of Sathankulam and Thisayanvilai by interlinking Thamiraparani, Karumeniyar and Nambiyar Rivers in Tirunelveli and Thoothukudi Districts. Based on the detailed project report, it was estimated that a total quantity of 2764.8 mcft of water flowing as unutilized to Sea in the Thamiraparani River will be utilized in the tail end tanks of Pachaiyar System, Manimuthar main canal system, Karumeniyar System, Nambiyar System and also it will have a ground water recharge in the drought prone area of Sathankulam and Thisaiyanvilai and also further that it would fulfill the drinking and irrigation needs of the people in five villages of the Palayamkottai Taluk, seven villages of the Nanguneri Taluk, ten villages in Radhapuram Taluk of Tirunelveli District and sixteen villages in Sathankulam Taluk and two villages in Thiruchendur Taluk will be fulfilled and further by minimizing the sea water intrusion in these areas.



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2.2. As per the estimate, an extent of 45.03 acres of wet land and 1786.25 acres of dry lands was sought to be acquired for formation of flood carrier channel apart from an extent of 147.82 acres of poramboke lands. Based on these detailed estimates, the Government accorded administrative sanction vide G.O.Ms.No.204 (Public Works Department) dated 12.06.2008. Further, G.O.Ms.No.319 (Public Works Department) dated 30.10.2008 was issued granting permission for execution of the project in different stages. Thereafter, due to the revised estimates, the Government has issued G.O.Ms.No.83 (Public Works (I.Spl.2) Department) dated 13.04.2017 granting revised administrative sanction for the project.

2.3 Based on the above sanctions granted, the Government issued G.O. Ms.No.200 (Public Works Department P2) dated 18.11.2019 granting administrative sanction for acquiring the patta lands and also conversion of the Government poramboke lands covered under the above projects. At this stage, G.O.Ms.No.526 (Revenue and Disaster Management Department, Land Administration Wing, LA-I(1) Section) dated 26.09.2020 was issued by virtue of powers under Section 3(e) of



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The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013), hereinafter referred to as the “Act”, by appointing the District Collector of the District as “Appropriate Government” for an area not exceeding 600 Hectares.

2.4. The District Collector/2nd Respondent, being an Appropriate Government as per the above notification issued preliminary notification as contemplated under Section 11(1) of the Act by publishing the notification in the Thoothukudi District Gazette No.5 dated 08.12.2020. As per the notification, since the administrative sanction has been granted for a total extent of 5.02.00 Hectares of land in Arasoor Village -2, Sathankulam Taluk, Thoothukudi District, the notification was issued covering those extents of lands in respect of several land owners. As far as the appellant is concerned, he is the owner of the land to an extent of 3.87 acres in S.No.538/2, 538/3 of Arasoor Village in Thoothukudi District covered under this notification, for which the patta stands in the name of the appellant.



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2.5. The similar notification issued by the 2nd respondent/District

Collector was put to challenge which was rejected by the Writ Court, however in the appeal, a Coordinate Division Bench of this Court in the case of **Thirumani Dharmaraj Vs. The State of Tamil Nadu and others** reported in **(2023) 3 CWC 238; (2023) 3LW 371** quashed the notification on the ground that the notification published in the District gazette cannot be construed as a strict compliance of the statute since as per the provisions of the Act, as intended by the Parliament, it is to effect only a publication of notification in State Gazette and not in District Gazette. It was also held that, the District Collector though may be an appropriate Government for the sake of convenience, it will not vest power in him to effect publication of notification in the District Gazette.

2.6 In the instant case also, the Writ Court by an order dated 05.08.2022 dismissed the Writ Petition and upheld the land acquisition proceedings on the ground that since the notification published in the Thoothukudi District Gazette which carries the official emblem of the State Government and further Rule 13 of the Tamil Nadu Right to Fair Compensation and Transparency in the Land Acquisition, Rehabilitation and Resettlement Rules, 2017, herein after referred to as the “Rules”, has



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to be read with Section 3(e) of the Act and when the District Collector is the “appropriate Government”, the notification published in the District Gazette is valid and further when the Writ Petitioner was aware of the proposal and only by which, he has challenged the preliminary notification itself and further the objection has also been raised which was considered, the notification was held to be proper and was ultimately sustained.

2.7. When the notification issued by the 2nd respondent/District Collector for the same projects in respect of the lands acquired in the Tirunelveli District has been quashed by the coordinate Division Bench in the Thirumani Dharmaraj Case *cited supra* and it was already held that, the notification published in the District Gazette is not proper and since the issue covered in the present appeal is also similar, wherein the notification is published in the District Gazette, however a distinction is sought to be made that several factors were not brought to the notice of the Co-ordinate Division Bench when the issue was decided. Though we are in complete agreement with the decision rendered in Thirumani Dharmaraj case, since the present appeal pertains to separate acquisition proceedings of Thoothukudi District, we proceed to consider and deal



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with the grounds raised in the present appeal.

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3.1. Mr. M.Mahaboob Athiff, learned counsel appearing for the appellant in W.A.(MD) No.1683 of 2023 submitted that, the notification cannot be sustained as the preliminary notification published by the District Collector in the Thoothukudi District Gazette is not in consonance with Section 11 of the Act and when the very publication of the notification is improper, the entire subsequent proceedings carried out pursuant to the preliminary notification eventually has no legal sanctity.

3.2 The learned counsel contended that, in fact the issue has already been decided in Thirumani Dharmaraj case, wherein the Hon'ble Division Bench in unequivocal terms held that the notification published in the District Gazette is improper and it cannot substitute a valid notification to be published in the State Gazette. It is his further contention that, the Hon'ble Division Bench has also arrived at a conclusion by relying on Rule 13 and held that the preliminary notification has to be published in the Tamil Nadu Government Gazette, which is the State Gazette.



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3.3. It is his further contention that, infact the Government had not challenged the decision in Thirumani Dharmaraj case by filing appeal, but instead have accepted the decision and had gone ahead for fresh acquisition proceedings and now it is too late in the day for the respondents to take a different stand in the above appeal and sought for allowing the appeal.

4. Mr. M.Karthikeya Venkatachalpathy, learned counsel appearing for the petitioner in W.P.(MD).No.329 of 2024 also by adopting the arguments of Mr. M.Mahaboob Athiff contended that, when the mandatory procedure had not been followed as per the provisions of the Act then the notification issued has to necessarily fail.

5. Per contra, Mr.R.Baskaran, learned Additional Advocate General made the following submissions in support of the order passed in the Writ Petition:

(i) Whenever a land is sought to be acquired under the 2013 Act, the appropriate Government shall publish a notification in the Official Gazette as per Sec.11(1)(a) of the Act. As the District Collector is the



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appropriate Government in respect of the District if the land sought to be acquired is within 600 Hectares as per the Rule 2(c) as notified by G.O.Ms.No.526 dated 26.09.2020, the entire powers has been conferred upon the District Collector by the State from the beginning till the completion of the acquisition and therefore, the notification issued by the District Collector is proper and lawful.

(ii) The notification under Section 11 has to be published in the Official Gazette and the District Gazette being an Official Gazette of the District Collector, who is conferred as the Appropriate Government and in such circumstances the term “Official Gazette” occurring in the 2013 Act has to be read to include District Gazette.

(iii) The coordinate Bench in Thirumani Dharmaraj Case has proceeded on an assumption that the terms “Appropriate Government” and “Official Gazette” is not defined both in 1894 Act or 2013 Act and therefore by placing reliance on **A.S.Periasamy Vs. State of Tamil Nadu**, reported in **2004 (2) CTC 406**, has held that District Gazette is not an Official Gazette for the purpose of 2013 Act.



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(iv) The Judgment in A.S.Periyasamy Case was rendered in respect

of proceedings under Land Acquisition Act, 1894 which had been held as an draconian law and only hence the 2013 Act was promulgated and further since the Official Gazette was not defined in 1894 Act, the Division Bench has relied on Section 3(39) of General Clauses Act, 1897 which provides the definition of “Official Gazette”. However, Section 4A(1) of the General Clauses Act was not brought to the notice of the Division Bench, where it includes Official Gazette and therefore Section 3(39) of the General Clauses Act has to be read along with Section 4 A(1) and as such it can be relied on only when there is no repugnancy, but whereas in the instant case, by G.O.Ms.No.526 dated 26.09.2020, the District Collector has been empowered as the Appropriate Government and therefore there is repugnancy in so far as the definition of Official Gazette under the General Clauses Act as it does not include District Gazette and this was not brought to the notice of the Division Bench.

(v) Rule 2(c) defines “Appropriate Government”, which includes the Collector of the Revenue District in respect of the Acquisition for public purposes for an area not exceeding as may be notified by the State Government.



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(vi) In view of the decision of the Constitutional Bench of the Hon'ble Supreme Court in **Management of Advance Insurance Co. Ltd. Vs. Shri Gurudasmal** reported in (1970) 1 SCC 633 and in **Vanguard Fire and General Insurance Co.Ltd Vs. Fraser and Ross**, reported in (1960) 3 SCR 857, since neither the 2013 Act nor the 2017 Rules prohibit the publication of the Notification under Section 11 in the District Gazette, the publication will hold good. As per Rule 13(3), nothing is mentioned with regard to District Gazette and since G.O.Ms.No.526 dated 26.09.2020 has been passed subsequent to the 2017 Rules by notifying the District Collector as Appropriate Government, he is the competent authority in respect of acquisition as per proviso to Section 3(e) of the Act which mentions about the "Appropriate Government".

(vii) Since in the Tamil Nadu Amendment Act, 1996 in Section 2(1)(a), the Appropriate Government was not dealt with which was considered in **A.S.Periasamy Vs. State of Tamil Nadu**, reported in 2004 (2) CTC 406, the said decision will not have any effect after the 2013 Act and further, Section 4A of the General Clauses Act mentions



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“Official Gazette” and its literal Tamil meaning if taken which is “அதிகார

அரசிதழ்” it could only indicate District Gazette and in such circumstances, the publications made by the District Collector in the District Gazette cannot be found fault with.

(viii) By placing the above submissions, the learned Additional Advocate General sought to impress upon this Court that, since these factors were not brought to the notice of the Co-ordinate Bench and further the learned single Judge by taking note of the correct provisions of law has upheld the acquisition proceedings. It was also contended by the learned Additional Advocate General that after the Writ Petition was dismissed, the acquisition proceedings were proceeded and an award dated 07.09.2023 has been passed and since the land owner did not receive the compensation, the same has been deposited in the District Court on 20.09.2023. It is his further submission that, the development works in the land acquired from the appellant had been undertaken and was dug out as early as on 11.02.2021 and almost the entire stretch of the work in all other areas have been completed and even though the digging work is over, after the Writ Appeal was preferred and the interim order was granted, the work has been suspended. Further, the learned



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Additional Advocate General contended that, since the completion of the acquisition proceedings and also the execution of the work, the interim order granted has in fact become infructuous and sought for the indulgence of this Court to vacate the interim orders and dismiss the Writ Appeal.

6. Heard the rival submissions and perused the materials available on record.

7. The core issue that arises for consideration of this Court is as to whether the notification published in the District Gazette is a valid notification as contemplated under Section 11 of the 2013 Act and as to whether the District Collector having been conferred as the appropriate Government is authorized to issue notification in the District Gazette.

8. Though, the object of the Scheme sought to be implemented by the Government is laudable, by which the irrigation and drinking water requirements of several villages in two Districts is sought to be met and also by diverting the water through the flood prone channels in such a way to save huge volume of water from being wasted by draining into the



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Sea, still when the properties are sought to be acquired from individual land owners, the right to property of an individual being a constitutional right guaranteed under Article 300A of the Constitution, the respondent cannot deprive or take away the land owners' right except in the manner prescribed by law.

9. In fact when the acquisition proceedings initiated by the District Collectors by publishing the notifications under the District Gazette for the same project in so far as the Tirunelveli District is concerned, even though the acquisition proceedings were upheld by the Writ Court, however the coordinate Division Bench in the case of **Thirumani Dharmaraj Vs. The State of Tamil Nadu and others** reported in **(2023) 3 CWC 238; (2023) 3 LW371** had quashed the acquisition proceedings by holding that the notification published under the District Gazette cannot fulfill the mandate under Section 11 of the Act except by publishing the notification under the State Gazette. The Division Bench has also held that, even though the District Collector has been conferred with the powers as Appropriate Government under Section 3(e) of the Act, it can only be for convenience and it can never vest powers to the District Collector to publish the notification under the District Gazette.



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The relevant portions of the Division Bench Judgement is extracted hereunder for easy reference:

7. The term “appropriate Government” is not defined under either the 1894 Act or the 2013 Act. Therefore, one has to necessarily fall back upon the definition of the term of “Official Gazette” in General Clauses Act, 1897. Sub-section 39 of Section 3 of the General Clauses Act, 1897, which defines the term “Official Gazette” reads as follows:

“official Gazette” or “Gazette” shall mean the Gazette of India or the Official Gazette of a State.

.....

11. A reading of Section 3(e) of the 2013 Act, would show that appropriate Government has been defined to be the State Government and the proviso enacts a deeming provision enabling the District Collector deemed to be the appropriate Government in respect of lands not exceeding certain extent that is to be prescribed. That by itself in our considered opinion will not enable the District Collector to publish notification under Section 11 of the 2013 Act in the District Gazette. The legislation is very carefully drafted. It only incorporates a deeming proviso.

12. At the risk of repetition, the proviso to Section 3(e) of the 2013 Act, is extracted hereunder:

“Provided that in respect of a public purpose in a District for an area not exceeding such as may be notified by the appropriate Government, the Collector of such District



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shall be deemed to be the appropriate Government; ”

13. The proviso enables the appropriate Government/State Government to notify the maximum extent of land up to which the District Collector could be empowered to issue a notification and in such cases, the District Collector would be deemed to be the appropriate Government. If the State Government notifies an extent of land as infinite, the District Collector would be able to issue a notification in respect of any extent of land and he would be the appropriate Government and such notification would be published in the District Gazette. If we look at the intendment of the legislation, the object sought to be achieved by authorizing the District Collector to issue notification in respect of a certain extent of land and deeming him as “appropriate Government” in respect of that extent of land, is only for the purposes of convenience and not to alter the requirements of Section 11 of the 2013 Act. The Parliament must be deemed to be aware of the effect of usage of the term “Official Gazette” in Section 11 of the 2013 Act. The fact that the term “Official Gazette” was intended to be the Fort St. George Gazette, is clear from Rule 13(3) of the Rules framed by the State Government. The very Rule 13(3), clearly prescribes that preliminary notification should be published in the Tamil Nadu Government Gazette. Even if “Official Gazette” could be construed including the District Gazette, the term “Tamil Nadu Government Gazette” at no stretch of imagination



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would include Tuticorin District Gazette. Therefore, the intendment of the Parliament as well as the Legislature is that publication of the notification under Section 11 of the 2013 Act should be made in the State Gazette and not the District Gazette.

....

15. Again with great respect to the Writ Court, we are unable to agree with the said view. The Writ Court has lost sight of the fact that a publication in the Fort St. George Gazette, would amount to publication all over the State whereas publication in the District Gazette is limited to the particular District.

16. When the legislature has used the term “Official Gazette” in Section 11(1) of the 2013 Act and the Rules framed by the State indicate that publication should be made in the Tamil Nadu Government Gazette, we do not think that we could uphold the interpretation of the Writ Court that the term “Official Gazette” will include the concerned District Gazette also.

.....

18.The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, was enacted in 2013 and the Parliament chose to retain the term “Official Gazette”. The State Government framed Rules in the year 2017 and it



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chose to use the term “Tamil Nadu Government Gazette”.

The legislation's intendment therefore is manifest to the fact that the publication shall be made in the “Official Gazette” of the State and not in the “District Gazette”.

10. It is the vehement contention of the learned Additional Advocate General that the above decision has been arrived at only by relying on Section 3(39) of the General Clauses Act and Section 4A(1) of the General Clauses Act was not brought to the notice of the Division Bench. It is his contention that the definition of Official Gazette under Section 3(39) has to be read with Section 4A(1), where the application of certain definitions to Indian Laws is given, which shall apply unless there is anything repugnant in the subject or context to all Indian Laws. It is his contention that, the term “Official Gazette” is included under Section 4A and since by virtue of G.O.Ms.No.526 (Revenue And Disaster Management) dated 26.09.2020, the District Collector has been empowered as “Appropriate Government” and therefore there is a repugnancy in so far as the definition of Official Gazette as contained in the General Clauses Act as it does not include the District Gazette and since the repugnancy is caused because of the provision of 2013 Act, the reliance made on Section 3(39) is not proper and therefore, the



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notification issued by the District Collector being an Appropriate Government is in consonance with Section 11(1) of the 2013 Act and Rule 13 of 2017 Rules. It is useful to extract Section 3(39) and Section 4A of the General Clauses Act, 1897 for better understanding:

Section 3(39):

““Official Gazette” or “Gazette” shall mean the Gazette of India or the Official Gazette of a State;”

Section “4A:

Application of certain definitions to Indian Laws.-

(1) The definitions in section 3 of the expressions “British India”, “Central Act”, “Central Government”, “Chief Controlling Revenue Authority”, “Chief Revenue Authority”, “Constitution”, “Gazette”, “Government”, “Government securities”, “High Court”, “India”, “Indian Law”, “Indian State”, “merged territories”, “Official Gazette”, “Part A State”, “Part B State”, “Part C State”, “Provincial Government”, “State” and “State Government” shall apply, unless there is anything repugnant in the subject or context, to all Indian laws.

(2) In any Indian law, references, by whatever form of words, to revenues of the Central Government or of any State Government shall, on and from the first day of April, 1950, be construed as references to the Consolidated Fund



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the territory of, a State, the State Government;

(ii) in relation to acquisition of land situated within a Union territory (except Puducherry), the Central Government;

(iii) in relation to acquisition of land situated within the Union territory of Puducherry, the Government of Union territory of Puducherry;

(iv) in relation to acquisition of land for public purpose in more than one State, the Central Government, in consultation with the concerned State Governments or Union territories; and

(v) in relation to the acquisition of land for the purpose of the Union as may be specified by notification, the Central Government:

Provided that in respect of a public purpose in a District for an area not exceeding such as may be notified by the appropriate Government, the Collector of such District shall be deemed to be the appropriate Government; ”

13. In view of the proviso to Section 3(e), the District Collector of such District shall be deemed to be appropriate Government in respect of any public purpose in a District for a notified area that has been notified.

14. The State Government has issued G.O.Ms.No526 (Revenue and Disaster Management Department dated 26.09.2020 by which the



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District Collectors have been conferred as the appropriate Government in relation to acquisition of land in respect of a public purpose in the respective District for an area of 600 hectares. The notification appended to the G.O is extracted hereunder :

Under the proviso to clause (e) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) and in supersession of the Revenue and Disaster Management Department Notification No.SROA-41 (C-2)/2017, published at page 49 in Part-III - Section 1(a) of Tamil Nadu Government Gazette, Extraordinary, dated the 21st September 2017, the Governor of Tamil Nadu hereby notifies six hundred hectares as the area, not exceeding which the District Collector shall be deemed to be the appropriate Government in relation to acquisition of land in respect of a public purpose in the respective district.

15. In view of the above notification, for an area not exceeding 600 hectares, the District Collector has been notified to be the appropriate Government for land acquisition and therefore in view of Rule 2(c), the 2nd respondent District Collector is the appropriate Government, as the area sought to be acquired for the above project falls



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within the notification issued by the Government.

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16. It has been held by the Division Bench that, though by virtue of notification published in view of Section 3(e), the District Collector has been conferred as the appropriate Government, the same is only for the convenience by which the powers that are to be exercised by the State Government in respect of acquisition proceedings can be undertaken by the District Collector if the area sought to be acquired falls within the notified area for which the District Collector has been conferred as the appropriate Government. These powers by which the District Collector is conferred as the appropriate Government will not extend to the extent of publishing the notification in District Gazette and only for this proposition, the Division Bench by placing the reliance on Section 3(39) of General Clauses Act had held that the publication in Official Gazette can only be a State Gazette and cannot include a District Gazette.

17. At this juncture, it will also be useful to refer another Division Bench decision of this Court in the case of **Tamil Nadu Housing Board, Rep. By its MD, Nandanam, Ch-35 and another versus DPF Textiles Rep. By its MD S. Martin**, reported in **2018 (1) Mad LJ 633**, wherein



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the proceedings were quashed as the publication was made in District Gazette. The relevant portion is extracted here under:

“9. ...

(iii) *The object of publication in the gazette was indicated by the Hon'ble Supreme Court in I.T.C. Bhadarachalam Paper Boards v. Mandal Revenue Officer, A.P., ((1996) 6 SCC 634). The Supreme Court said:—*

13. ... The object of publication in the Gazette is not merely to give information to public. Official Gazette, as the very name indicates, is an official document. It is published under the authority of the Government. Publication of an order or rule in the Gazette is the official confirmation of the making of such an order or rule. The version as printed in the Gazette is final. The same order or rule may also be published in the newspapers or may be broadcast by radio or television. If a question arises when was a particular order or rule made, it is the date of Gazette publication that is relevant and not the date of publication in a newspaper or in the media (See Pankaj Jain Agencies v. Union of India [(1994) 5 SCC 198]). In other words, the publication of an order or rule is the official irrefutable affirmation that a particular order or rule is made, is made on a



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particular day (where the order or rule takes effect from the date of its publication) and is made by a particular authority; it is also the official version of the order or rule. It is a common practice in courts to refer to the Gazette whenever there is a doubt about the language of, or punctuation in, an Act, Rule or Order. Section 83 of the Evidence Act, 1872 says that the court shall presume the genuineness of the Gazette. Court will take judicial notice of what is published therein, unlike the publication in a newspaper, which has to be proved as a fact as provided in the Evidence Act. If a dispute arises with respect to the precise language or contents of a rule or order, and if such rule or order is not published in the Official Gazette, it would become necessary to refer to the original itself, involving a good amount of inconvenience, delay and unnecessary controversies. It is for this reason that very often enactments provide that Rules and/or Regulations and certain type of orders made thereunder shall be published in the Official Gazette. To call such a requirement as a dispensable one — directory requirement — is, in our opinion, unacceptable.

(iv) The Supreme Court in I.T.C. Bhadarachalam Paper Boards made it very clear that “where the parent statute prescribes the mode of publication or promulgation, that mode has to be followed and that such a requirement is



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imperative and cannot be dispensed with”.

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10. The publication of notification in the official Gazette is a mandatory requirement. The publication of the notification in the District Gazette would not serve the purpose. This statutory requirement was known to the Land Acquisition Officer. The Land Acquisition Officer by publishing the notification earlier in the State Gazette, followed the statutory provision strictly. The same Land Acquisition Officer for reasons best known to him, later published the notification in the District Gazette, which is not legal. The learned Single Judge was therefore correct in quashing the land acquisition proceedings. In view of this substantial ground, we are not dealing with the other reasons which weighed with the writ court for quashing the land acquisition proceedings”.

18. To initiate any proceedings for acquiring a land under the 2013 Act, the procedure is contemplated under Section 11 of the Act.

“11. Publication of preliminary notification and power of officers thereupon.

(1) Whenever, it appears to the appropriate Government that land in any area is required or likely to be required for any public purpose, a notification (hereinafter referred to as preliminary notification) to that effect along



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with details of the land to be acquired in rural and urban areas shall be published in the following manner, namely:—

- (a) in the Official Gazette;*
- (b) in two daily newspapers circulating in the locality of such area of which one shall be in the regional language;*
- (c) in the local language in the Panchayat, Municipality or Municipal Corporation, as the case may be and in the offices of the District Collector, the Sub-divisional Magistrate and the Tehsil;*
- (d) uploaded on the website of the appropriate Government;*
- (e) in the affected areas, in such manner as may be prescribed.....”*

19. As per the above provision, whenever the appropriate Government requires any area for a public purpose, a notification to that effect shall be published in the official gazette and also two daily Newspapers, out of which one shall be in a regional language. All the other subsequent proceedings are all based on this very preliminary notification issued under Section 11(1) of the Act. As this notification can be issued by the appropriate Government, it leaves no room for doubt that once the District Collector has been conferred as the appropriate Government as defined under proviso to Section 3(e) of the Act, he is entitled to issue a notification for any land if it is within the area for



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which, he has been conferred as an appropriate Government. But, the core issue still remains is that, even if the District Collector can issue a notification, can the notification published in the District Gazette is sufficient to meet the requirements of Section 11(1) of the Act.

20. Even Section 11(1) of the Act contemplates a notification to be published in the Official Gazette and the Official Gazette has not been defined under 2013 Act. But what is to be published in the Official Gazette is the notification and the notification has very well been defined in 2013 Act itself. For better understanding, Section 3(v) is extracted hereunder:

“3 (v): “Notification” means a notification published in the Gazette of India or as the case may be, the Gazette of a State and the expression notify shall be construed accordingly.”

21. The above definition makes it specific and clear that the notification means, a notification published in the Gazette of India or as the case may be in the Gazette of a State. Therefore, whenever it appears to the Appropriate Government that any land is required for public



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purpose, a notification which means a notification if it concerns with the State Government is to be published in the Gazette of a State. When the provisions under the 2013 Act itself is self explanatory and gives no room for doubt then the definition of Official Gazette becomes unnecessary as already the notification itself has been clearly defined in the very 2013 Act. As such unless a notification is published in State Gazette which cannot include a District Gazette, the contention of the respondents that the District Collector being an appropriate Government can publish notification in the District Gazette cannot be countenanced and sustained in view of Section 3(v) and 11(1)(a) of the Act.

22. The State Government by virtue of powers conferred under Section 109 of the Act had enacted the 2017 Rules, which came into force on 21.09.2017. The publication of the preliminary notification as contemplated under Section 11(1) of the Act shall be published in Form IV as per Rule 13(1). Further as per Rule 13(3), after the issuance of the notification under Section 11(1), the Collector shall undertake and complete the updating of the land records within two months from the publication of preliminary notification in the Tamil Nadu Gazette. Rule 13 is extracted hereunder for easy reference:



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prevalent forest laws;

(g) make necessary entries in case of Government lands;

(h) make necessary entries of sub-division of the survey numbers involved in the acquisition based on mutations already carried out;

(i) make necessary entries in respect of assets and structures on the land like trees, wells, houses, buildings etc;

(j) make necessary entries with respect of non-agricultural use of the land;

(k) make necessary entries of share croppers or tenants in the land;

(l) make necessary entries of crops grown or sown and the area of such crops;

(m) make any other entries or updation which may be required in respect of land acquisition, award of compensation, rehabilitation and resettlement measures.

(4) In order to complete the above exercise, the Collector may give notice to the affected land owners to produce necessary documents within a period not exceeding one month.”

23. By taking note of Section 3(v), as per Rule 13(3), even the State Government had correctly mandated the District Collector to carry



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out further works only pursuant to publication of preliminary notification in the Tamil Nadu Government Gazette, which can only be the State Gazette. As per Rule 13(1), the preliminary notification under Section 11(1) has to be published in Form IV annexed with the Rules. Form IV as appended in the Rules is extracted hereunder:

FORM IV

[see rule 13 (1)]

PRELIMINARY NOTIFICATION.

No. _____

Dated _____

Whereas it appears to the appropriate Government that a total of _____ hectares of land is required in the _____ Village in _____ Taluk / Block (as applicable) in _____ District for public purpose, namely , _____ . Social Impact Assessment Study was carried out by Social Impact Assessment Agency and a report submitted / preliminary investigation was conducted by a team constituted by Collector as laid down under rule 4. The summary of the Social Impact Assessment Report / preliminary investigation is as follows: _

_____. (copy of SIA report is attached herewith)

A total of _____ (in number) families are likely to be displaced due to the land acquisition. The reasons necessitating such displacement are given below:-

_____ is appointed as Administrator for the purpose of



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rehabilitation and resettlement of the affected families. Therefore, it is notified that for the above said project in the _____ Village of _____ Taluk / Block (as applicable) in _____ District, land measuring an extent of _____ hectares, whose details are specified in the Schedule below, is under acquisition:

THE SCHEDULE

Sl.No	Survey No.	Classification of land	Area under Acquisition	Boundaries				Structures	Trees	Name & address of person interested	Registered holder
				N	E	S	W				
(1)	(2)	(3)	(4)	(5)				(6)	(7)	(8)	(9)

This notification is made under sub-section (1) of section 11 of the Right to Fair Compensation and Transparency in Land acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013), to all whom it may concern.

A plan of the land may be inspected in the office of the Collector and _____ on any working day during the working hours.

The Government is pleased to authorize _____ and his staff to enter upon a survey land, take levels of any land, dig or bore into the sub-soil and do all other acts required for the proper execution of their work as provided and specified in section 12 of the said Act.

Under sub-section (4) of section 11 of the said Act, no person shall make any transaction or cause any transaction of land i.e. sale / purchase, etc., or create any encumbrances on such land from the date of publication of this notification in the **Tamil Nadu Government**



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Gazette without prior approval of the Collector.

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*Objections to the acquisition, if any, may be filed by the person interested within 60 (sixty) days from the date of publication of this notification in the **Tamil Nadu Government Gazette** as provided under section 15 of the said Act before the Collector.*

**Since the land is urgently required under sub-section (1) of section 40 of the said Act / urgently required for the project involving defence of India / National Security / Emergencies arising out of Natural Calamities / emergency with the approval of Parliament (Strike off what is not applicable) under sub-section (2) of section 40 of the said Act, it has been decided not to carry out the Social Impact Assessment*

Study, vide G.O. No. _____, _____, dated _____.

Enclosure: As above

Place:

Date:

Collector

** Strike out if not applicable*

24. Even Form V as appended to the Rules mandates that an objection by the interested person, may be filed within 60 days from the date of publication in the Tamil Nadu Government Gazette. Further, the perusal of the very impugned notification issued by the District Collector in the Thoothukudi District Gazette dated 08.12.2020 itself shows that this notification will be published in the Tamil Nadu Gazette. The notification is extracted hereunder:



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NOTIFICATION BY THE COLLECTOR

(ROC.E2/15503/2020, Dt. 08.10.2020)

FORM IV

(See rule 13(1))

PRELIMINARY NOTIFICATION

Whereas it appears to the appropriate Government has given Administrative Sanction that a total of 5.02.00 hectares of land is required in the Arasoor-2 Village in Sattankulam Taluk in Thoothukudi District for public purpose namely Tamirabarani Karumeniyar Nambiyar interlinking Flood Carrier Canal Project. Environmental Impact Assessment Study for the irrigation project (i.e) formation of Flood Carrier Canal from Kannadian channel to Drought Prone Areas of Sattankulam, Thisayanvilai by interlinking Tamirabarani, Karumeniyar, Nambiyar rivers in Tirunelveli and Thoothukudi districts in Tamilnadu has been carried out by "WAPCOS" under the section 3(3) of the Environmental Protection Act 1986. The land is acquired to wit for the formation of flood carrier Canal. As the Environmental Impact Assessment study has been carried out for this irrigation project. Social impact Assessment shall not apply according to the provision of the sub section 6(2) of Right to Fair compensation and Transparency in Land Acquisition. Rehabilitation and Resettlement Act 2013 (Copy of Environmental Impact Assessment study report is attached herewith). Since in the



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4th stage River linking canal yet to be digged for Flood carrier project. No family was displaced due to the land acquisition of 5.02.00 hectares in this project. The Revenue Divisional Officer, Tiruchendur is appointed as Administrator for the purpose of Rehabilitation and Resettlement. Therefore, it is notified that for the above said project in the Arasoor-2 Village of Sattankulam Taluk in Thoothukudi District, land measuring an extent of 5.02.00 hectares, the details of which are specified in the Schedule below, is under acquisition:

This notification is made under sub-section (1) of section 11 of the Right of Fair Compensation and Transparency in Land acquisition, Rehabilitation and resettlement Act, 2013 (Central Act 30 of 2013), to all whom it may concern.

A plan of the land may be inspected in the office of the Collector and Special Tahsildar on any working day during the working hours.

The Government is pleased to authorize the requiring department Executive Engineer, PWD, Special Project Division, Tirunelveli and his staff to enter upon a survey land, take levels of any land, dig or bore into the sub-soil and do all other acts required for the proper execution of their work as provided and specified in section 12 of the said Act. Under sub-section (4) of section 11 of the said Act, no person shall make any transaction or cause any



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*transaction of land i.e. sale/purchase, etc or create any encumbrances on such land from the date of publication of this notification in the Tamil Nadu Government Gazette without prior approval of the Collector. **Objections to the acquisition, if any, may be filed by the person interested within 60 (Sixty) days from the date of publication of this notification in the Tamil Nadu Government Gazette as provided under section 15 of the said Act before the Collector, Thoothukudi.***

District Collector, Thoothukudi.

Place: Thoothukudi

Date: 13.10.2020

25. As per the impugned notification in the Form IV published, even though this notification is published in the Thoothukudi District Gazette, as per the notification, objections to the acquisition may be filed by the person interested within sixty days from the date of the publication of this notification in the Tamil Nadu Government Gazette as provided under Section 15 of the said Act. Therefore, even as the impugned notification which has been made either for convenience or for any other purpose, still only after this notification is published in the Tamil Nadu Government Gazette, the land owner needs to file if any objection within sixty days. The need had never arisen for the land owner to submit his



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objections or the authorities to take further proceedings under the 2013 Act till the preliminary notification is published in the State Gazette as mandated under Section 11(1) read with Section 3(v) of the Act.

26. When the provisions of the Act is very clear and unambiguous, no interpretation is required and the conferment of the District Collector as appropriate Government as held by the Division Bench can only be for convenience and even though the District Collector is authorized to initiate all the proceedings including the issuance of the notification under Section 11(1) of the Act, still it can never be construed that such publication can be made in the District Gazette as the notification itself has been clearly defined to be a notification to be published in the State Gazette. When the rules have been properly framed in consonance with the provisions of the Parent Act and Rule 13(3) mandates the publication of the notification in the Tamil Nadu Government Gazette and the Form IV appended to the Rules also makes it clear that the notification to be published in the Tamil Nadu Government Gazette, there is no iota of doubt or any confusion that any preliminary notification under Section 11(1)(a) of the 2013 Act can only be made in the State Gazette concerning with the State and in view of the provisions contained in



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Section 3(v) and 11(1) of the Act read with Rule 13(3), we need not rely on either Section 4A(1) or Section 3(39) of the General Clauses Act, 1897.

27. In view of the above discussions, we are completely in agreement with the decision rendered in the Thirumani Dharmaraj Case *cited supra* by supplementing our views, considering the provisions contained under the Act as referred above. Under such circumstances, we are not able to sustain the conclusions arrived at by the Writ Court and accordingly is interfered with. In such view, the order of the learned Judge is set aside and resultantly the Writ Appeal and Writ Petition stands allowed and the notification issued in so far as the petitioner and the appellant stands quashed and consequently connected miscellaneous petitions are closed. No costs.

28. Before we part with, since it has been brought to our notice that major part of the work in the public project has already been completed and in view of the present order passed in the Appeal



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quashing the proceedings with respect to a limited extent of land, in which also work has been partly executed, we only direct the respondents to take earnest steps in completing the project by initiating fresh proceedings by complying with the mandatory provisions of the Act, as expeditiously as possible, in any event within a period of 4 months from the date of the receipt of the copy of the order. In view of the fact that the appellant had remained silent after the dismissal of the writ petition and only after the award was passed and compensation was also deposited before the Court, had filed the above appeal after nearly a year, it is made clear that in view of the entire compensation amount being deposited as per the award, the respondents are at liberty to proceed with the works and all the works already carried on in the subject lands will stand saved. However the land owners will be entitled for the compensation as to be fixed under the fresh notification, dehors the award being passed as per the earlier notification which has now been quashed. As in respect of the other lands covered in this District, the land owners have accepted the compensation and almost the entire work has been executed, this order will only enure to the benefit in respect of the lands covered under above cases. When the respondents have accepted the decision of the Division Bench in respect of the same project for the



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adjoining District and have went in for fresh notification, they cannot be allowed to take a different stand.

(R.S.K.,J) (G.A.M.,J)

30.01.2025

Index: Yes
Neutral Citation : Yes
Speaking order : Yes
Sma



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**R.SURESH KUMAR, J.
AND
G.ARUL MURUGAN, J.**

Judgment made in
W.A(MD)No.1683 of 2023 and W.P.(MD) No.329 of 2024
and C.M.P.(MD)Nos.12884 & 15748 of 2023

30.01.2025