
(2000) 09 MAD CK 0038
In the Madras High Court
Case No : W.A. No. 603 of 1999

Chennai Metropolitan Development Authority	APPELLANT
Vs	
Lakshmi Nagar Residents Welfare Association and Others	RESPONDENT

Date of Decision : 19-09-2000

Acts Referred:

Constitution of India, 1950 — Article 226
Tamil Nadu Town and Country Planning Act, 1971 — Section 17

Citation : AIR 2001 Mad 74

Hon'ble Judges : V.S. Sirpurkar, J;V. Kanagaraj, J

Bench : Division Bench

Advocate : A.L. Somayaji for R. Gowthamanarayan, for the Appellant; R. Krishnamurthy for R. Muthukumarasamy, (for No. 1), M. Rathinam, Government Advocate (for Nos. 2 and 3), for the Respondent

Final Decision : Allowed

Judgement

V.S. Sirpurkar, J.—This appeal filed by Chennai Metropolitan Development Authority (CMDA), originally 2nd respondent, challenges the order passed by the learned single Judge, dated 20-11-1998, quashing a communication, dated 29-1-1998, bearing No. Na. Ka. PO/P/8591/97. The learned single Judge has also issued a further direction in the following words :

The respondents are directed to consider the representations made by the petitioners along with the revised proposals made by the 3rd respondent and pass necessary orders, directing the proposed outer ring road from Lakshmi Nagar and Lakshmi Nagar Extension, Thirunindravoor so as to ensure that the said outer ring road Phase-II does not pass through Lakshmi Nagar and Lakshmi Nagar Extension, Thirunindravur. It should be done within three months from the date of receipt or the production of a copy of this order."

2. By the aforesaid communication, dated 29-1-1998, the 2nd respondent had rejected the representation, dated 15-11-1997, sent by the petitioner. In this representation, the petitioner had pleaded to spare the areas of Lakshmi Nagar

and Lakshmi Nagar Extension and that the proposed outer ring road should not pass through those areas.

3. Few facts would be necessary to appreciate the controversy involved :

The writ petition was filed by an association, the members of which were the owners of the lands, with or without buildings thereon, in Lakshmi Nagar and Lakshmi Nagar Extension, Thirunindravur in Tiruvallur District. This association is said to have been formed for protecting the rights of its members, most of whom are the employees of the Central Government or State Government, belonging to lower and lower-middle classes. It is then pointed out that the said members had purchased plots from various survey numbers in respect of which the authorities had approved the layouts for the house-sites. A claim was made in the petition that all the house-sites purchased by the members of the association were covered by the approved layouts, which approval was granted by the Chennai Metropolitan Development Authority. The petitioners then claimed that they came to know about laying of an outer ring road, from Vandalur to Minjur and that the said road was to cross through the lands in Lakshmi Nagar and Lakshmi Nagar Extension. It was claimed that a sketch was sent by the members of the petitioner-association and it is clear from the sketch that the proposed ring road, if allowed to pass through the aforementioned areas of Lakshmi Nagar and Lakshmi Nagar Extension then, the lands would be required to be compulsorily acquired, and in the process, the members who had constructed their houses, terraced or otherwise, would lose the same for accommodating the said ring road. From the pleadings, it seems that number of representations were made to various authorities, including the Hon'ble Chief Minister to spare these areas so as to save the members from being ruined. It is then claimed in the petition that, in pursuance of the representations, the 3rd respondent in the writ petition, viz. Pallavan Transport Consultancy Limited, was entrusted with the work of revising the alignment of the proposed outer ring road. It is then claimed that the 3rd respondent suggested a revision in the alignment of the road so that the proposed outer ring road was to pass slightly to the eastern side so that the pucca houses put up in Lakshmi Nagar, Lakshmi Nagar Extension and Prakash Nagar would be spared and would not be required to be acquired compulsorily. The petitioner claimed that they were satisfied with the proposal made by the 3rd respondent of revising the alignment and, therefore, they were expecting that the same would be accepted by the appellant. However, because of the extraneous pressure brought on the appellant as also the State Government, the appellant had decided to proceed with the old alignment only. The petitioner-association, therefore, made a further representation dated 15-11-1997. However, the said representation also came to be rejected by the appellant by the impugned communication. The petitioner, therefore, assailed the said impugned communication and also sought a direction to accept the report of the original 3rd respondent, Pallavan Transport Consultancy Limited, which is also the 3rd respondent in this appeal.

4. This petition was opposed mainly by the 2nd respondent, who pointed out that the master plan in force for the Madras Metropolitan area itself had stipulated formation of three major orbital corridors, viz. Inner Ring Road, Intermediate Ring Road and Outer Ring Road. The outer ring road was contemplated to cater to the long term traffic need, to facilitate dispersal of urban growth as also to minimise the traffic congestion in the existing corridors, including inner ring road. The outer ring road was to be of 62.30 Kms. while, its width was to be of 122 Mts. including 30.5 Mts. wide strip of land reserved for rail system in the centre. It is pointed out that this ring road and its alignment was drawn-up after verification of the physical feasibility with the support of aerial photographs, field survey and satellite spot imagery carried out in association with the expertise available in the Institute of Remote Sensing, Anna University. The alignment proposed passes through agricultural lands and vacant lands generally avoiding built-up areas, major water bodies, reserve forest areas, etc. and that this alignment was duly approved by the Government. It was pointed out that in the process, some areas having built-up houses were bound to be affected and that the road could not be formed in a piecemeal manner, avoiding constructed buildings. It was pointed out that if the built-up areas were to be saved, the road would be in a zigzag formation and it would ultimately defeat the very purpose of formation of the outer ring road. It is also pointed out that the outer ring road comprised of a rail system also and that the road was to be an express highway. There is a clear denial that there were other areas more particularly on the eastern side, which could be utilised conveniently and effectively for this outer ring road. There is then a specific denial that the 3rd respondent, Pallavan Transport Consultancy Limited -- a Government agency, had recommended any revision in the alignment as was claimed by the petitioner moving the proposed ring road so as to pass from the eastern side of the original site. The chart, which was filed by the petitioner, was also specifically denied. On the other hand, it was pointed out that it was specifically stated by the 3rd respondent in its report that the alternate alignment on the eastern side utilising the vacant area at T.V.S. Nagar would necessitate two additional curves and in Chat process, the number of units which lie within the boundaries to be affected would be about 191 units of which, 34 would be the terraced houses. On the basis of it, it was reiterated that the moving of the ring road as per the representation of the petitioner-association would necessarily hamper the free flow of traffic, affecting the proposal of rail alignment also. It was pointed out that even if the road was to be moved to the eastern side, the dwelling units in existence in the area known as Uzhaippalar Nagar would be affected. It was, therefore, reiterated that in view of the report, the appellant had decided to proceed with the original proposal only. It was also pointed out that there was no question of any extraneous pressure either on the 3rd respondent or on the 2nd respondent or on the appellant. It was also specifically denied that the change in the alignment would result in considerable gain to the Government. It is lastly reiterated in the counter that the factors like free flow of traffic and the smooth alignment would be liable to be given more importance than the small financial gain to the

Government.

5. The learned single Judge, however, proceeded to allow the petition as has been stated above. The learned single Judge has firstly referred to the decisions reported in *Amirthakumar Vs. The State of Tamil Nadu and Another*, and *Ramniklal N. Bhutta and another Vs. State of Maharashtra and others*, and the principles noted therein. A specific reference thereafter has been made to a letter dated 12-2-1997 written by the Member Secretary, Chennai Metropolitan Development Authority to Special Officer, Chief Minister's Special Cell. In this letter, it is stated that the proposal for revision of the Phase-II alignment work was entrusted to Pallavan Transport Consultancy Limited and it would be examined if any modification in the alignment is feasible. The learned Judge then referred to the representation dated 17-2-1997 sent by the petitioner-association to the various authorities, including the Chief Minister and the Governor. A reference has also been made to the letter dated 11-3-1997 sent by the District Revenue Officer to the petitioner-association informing that the objections of the petitioner-association had already been received and would be considered by the Land Acquisition Officer. The learned Judge has then referred to the fact that the proposals were examined by the 3rd respondent and the 3rd respondent then made a report dated 6-10-1997. This report has been extensively quoted by the learned Judge. Lastly, a reference has been made to the representation dated 15-11-1997, which we have already mentioned above. The learned Judge thereafter relying on the counter has found that in the counter some words in paragraph 10 thereof were inserted in ink and from this the learned Judge has recorded a finding to the following effect:

"It has to be pointed out that an attempt has been made by the second respondent in the counter to improve the report of the third respondent. The third respondent has not stated in his report that the introduction of curves in the proposed road will result in technical difficulties in the formation of the outer ring road and will necessarily hamper the free flow of traffic."

The learned Judge on the basis of this came to the conclusion that though the 3rd respondent had not expressed any difficulty whatsoever regarding the formation of additional curves and any difficulties arising because of that, yet, in its counter, the appellant had tried to improve upon the report and ultimately the learned Judge went on to record :

"As rightly pointed out by Mr. R. Krishnamurthy, learned Senior Counsel appearing for the petitioner-association that formation of curves in long stretches of road should not really matter on the technical feasibility and there cannot be any difficulty in having those curves."

In paragraph 12, the learned single Judge has mentioned that as per the original alignment 204 constructions, out of which 75 units are terraced, would be affected while in the alternative arrangement, the total number of units to be affected would be 191 out of which, only 34 are terraced units. Lastly, in

paragraph 13, the learned Judge mentions that the appellant had brought in the Institute of Remote Sensing, Anna University only to bolster its case though the involvement of this agency in the proposed project had not been stated at any earlier point of time. The learned Judge then proceeds to record a finding that the respondents had yielded to some extraneous pressure though the said extraneous pressure was denied by the appellant. According to the learned single Judge, the facts available revealed that there was such extraneous pressure. For recording this finding, the learned Judge has relied upon the letter dated 15-11-1997 sent by the petitioner-association to the Minister of Transport and the Chairman of the appellant. The aforementioned letter is in Tamil and the learned Counsel were fair enough to give us the exact translation of the whole letter. The portion, which has been relied upon, suggests that when the land survey was done again (meaning in pursuance of the representation of the 1st respondent-association), the residents of the Lakshmi Nagar and Lakshmi Nagar Extension, including the residents of the adjacent areas, apprehending that the proposed ringroad would now be passed through their areas, became emotional and held party-meetings in the street corners under the leadership of the ruling party personalities that an incorrect news was spread that the residents of Prakash Nagar and Lakshmi Nagar and also the owner of the Grace Hospital had planned to shift the alignment of the road to other areas and that there was a T.V. broadcast of such a news stating further that the party leaders of that area and T. Sudharshan, local M.L.A., will act in favour of the citizens of the aforementioned areas. The learned Judge from this inferred that there was an extraneous pressure on the Government not to shift the alignment of the road though it was so suggested and though apparently, the 1st respondent-association was amenable to the change in the alignment of the road in pursuance of the recommendations of the 3rd respondent, it buckled under the political pressure brought by the local residents, who were to be affected because of the shift in the alignment of the road.

6. In short, the learned Judge seems to have allowed the writ petition firstly holding that the report sent by the 3rd respondent favours the shift in the alignment of the road; secondly, the learned Judge holds that the authorities have yielded to the pressure and have, therefore, chosen not to shift the alignment of the road; and thirdly, the learned Judge has recorded a finding that since the less terraced houses would be affected by shifting the alignment of the road, that exercise is preferable and It is perhaps because of that, a direction is given by the learned Judge to divert the alignment of the proposed outer ring so as to avoid the areas of Lakshmi Nagar and Lakshmi Nagar Extension, Thirunindravoor.

7. The learned Senior Counsel for the appellant, Mr. A.L. Somayaji, very severely assailed the order of the learned single Judge. His first contention is that firstly, the petitioner/1st respondent's case, on facts, is that the alignment of the road was actually recommended to be changed by the 3rd respondent and this being a basic premise. the petitioner's further case was that the action on the part of the

appellant herein in not accepting the report of the 3rd respondent was mala fide as it was an outcome of the pressure. According to the learned Senior Counsel, the basic premise of the petitioner is itself totally incorrect. The learned Senior Counsel asserts that the report cannot be so read as to be recommending the shift in the alignment of the road and, therefore, the learned Judge has completely erred in comprehending the report of the 3rd respondent. According to the learned Senior Counsel, once this position is obtained, there would be no question of the appellant acting under any kind of pressure extraneous or otherwise. He points out that the learned Judge has completely erred in inferring such a pressure much less from the so-called report. Secondly, the learned Senior Counsel contends that the shifting of the road in fact would be hazardous as it would introduce two curves, which would be defeating the very basic purpose of laying the said express highway. The learned Senior Counsel points out that it cannot be forgotten that right in the middle of the road, there goes the railway track and the curves of the railway track would also be proving hazardous. Lastly, the learned Senior Counsel submits that there was no jurisdiction in the learned single Judge to direct the shifting of the alignment of the road so as to save a particular area at the cost of another area. According to the learned Senior Counsel, the logic of saving more terraced houses by shifting the alignment is a faulty and defective logic. The learned Senior Counsel says that it is not for this Court to decide the alignment of the roads and that is the task of the experts in the field and in the absence of such an expertise, the Court should have been slow to give a direction as it did.

8. Learned Senior Counsel for the 1st respondent-association, Mr. R. Krishnamurthy, supported the order of the learned single Judge and pointed out that there was every reason for the learned Judge to infer that the report of the 3rd respondent was being wrongly read. The learned Senior Counsel suggests that there are bound to be curves once an express highway is to be brought into existence and by shifting the alignment of the ring road, more people will be benefited as the road, if it proceeds by the shifted alignment, would pass mostly through the poramboke lands of the Government and that will spare the Government of major expenses on account of the compensations which it has to pay on account of the land acquisition. According to the learned Senior Counsel, a very substantial amount would be saved on the part of the Government if the alignment of the road is shifted. The learned Senior Counsel very earnestly points out that the 3rd respondent has not discarded the proposal of shifting of the alignment. Lastly, the learned Senior Counsel contended that though a specific direction to avoid the particular areas could not have been given by the learned Judge, in reality, he would be satisfied if the concerned authorities reconsider the proposal in the light of the report produced by the 3rd respondent. In short, the learned Senior Counsel for the 1st respondent wholeheartedly supported the order of the learned single Judge.

9. On this conflicting background, it has to be seen whether the petitioner/1st respondent-association can succeed.

10. In the first place, it will have to be seen as to whether the 3rd respondent has recommended the shift in the alignment of the proposed outer ring road. The appellant has filed the said report on record of the appeal. Seeing the said letter dated 6-10-1997, on which a very heavy reliance is placed by the 1st respondent, it cannot be said prima facie that the 3rd respondent has recommended the shift in the alignment of the road. In the first paragraph of this letter, the 3rd respondent suggests that a joint inspection with the officials of the appellant (C.M.D.A.) was made on 1-9-1997 to examine the possibility of revising the alignment of the initial section of the second phase of the outer ring road passing through the residential areas of Nemilicheri and Thirunindravoor villages. A reference is also made to a detailed topography survey conducted for this purpose. After this, the 3rd respondent has laid out as many as three factors for consideration and decision on the part of the appellant. It will be better to quote all the three factors, which have been placed for consideration. They are :

(1) The original alignment at the said villages is in a straight reach. The section is built up as may be seen from the site plan enclosed. The number of nits under various categories viz. terraced building, tiled building, huts, etc., that fall within the alignment boundary in the section considered is estimated to be 204 of which 85 units are terraced/storeyed.

(2) Revising the alignment on the western side is not desirable as the high tension power line runs close by along the alignment.

(3) An alternate alignment on the eastern side utilising the vacant area at T.V.S. Nagar, close to the original alignment has been given. This necessitates two additional curves (with adequate radius) and the number of units that lie within the boundary is estimated to be 191 units of which 34 are terraced/storeyed. The number of units that would get affected due to the deviation from the original alignment is 182 of which 31 are terraced/storeyed. The number of units common to original and alternate alignment in the section considered being nine of which three are terraced."

After placing these three points for consideration, the 3rd respondent then makes a specific request in the following terms :

"We request you to advice us on the alignment to be taken up for carrying out the task of pegmarking the alignment and proceeding with topography survey work."

It is on the basis of this report that the 1st respondent has built-up its case that the report by the 3rd respondent has actually recommended the shift in the alignment of the proposed outer ring road. Our attention was drawn to paragraph 8 of the affidavit, which suggests as under :

"Petitioners submit that thereafter the 3rd respondent who had been entrusted with the work of alignment had examined the proposal and had made a revision in the pegmarking of the proposed outer ring road. The petitioners are filing

herewith a chart showing the originally proposed outer ring road which is shaded in black and the revision effected by the 3rd respondent which is shown in pink. The petitioner submits that the revision made by the 3rd respondent was such that the proposed outer ring road was to pass slightly to the eastern side whereby the pucca houses put up in Lakshmi Nagar and Lakshmi Nagar Extension and Prakash Nagar would not be affected and the road would pass through the poramboke lands Instead of private lands, leading to considerable gain to the Government. The petitioner who came to know of the aforesaid revised proposal were satisfied with the same and were anxiously awaiting for the same to be approved by the respondents."

In ground (C) also, the petitioner/1st respondent herein says :

"In fact, the 3rd respondent who had been entrusted with the pegmarking of Phase-II alignment has considered the claims of the petitioner and have proposed a slight variation whereby the outer ring road in Phase-II would pass through poramboke lands leaving pucca houses intact and also relieving the Government of acquiring pucca lands with buildings. Having regard to the above circumstances the petitioners submit that the reason for rejecting the representation of the petitioner stating that the Government have approved the outer ring road in question seems to be misleading..... It is therefore submitted that the action of the respondents in having approved the Phase-II alignment of the outer ring road would be vitiated by extraneous factors and therefore liable to be struck down as being arbitrary and unreasonable, violative of Article 14 of the Constitution of India."

11. We have deliberately quoted the report extensively and from it, It cannot be said that the 3rd respondent had in any manner recommended the shift in the alignment of the outer ring road or it had at least recommended the revision. It is true that the appellant had requested the 3rd respondent for its opinion regarding the revision of the alignment. The report specifically points out the facts amongst which it is stated by the 3rd respondent that the shift in the alignment would necessitate two additional curves. Again, the shift in the alignment of the road had neither been recommended nor approved by the 3rd respondent. On the other hand, the 3rd respondent had left this decision to be taken by the appellant alone which is quite clear from the last paragraph, quoted above by us. This will suggest that the basic premise of the writ petition itself was not available to the petitioner. The petitioner proceeded on the presumption that there is a positive recommendation by the 3rd respondent for a shift in the alignment of the road. That does not appear to be the case. Therefore, the learned senior counsel for the appellant Mr. Somayaji is right in saying that the very basic premise on which the petitioner proceeded is absent.

12. Let us now consider as to whether the 3rd respondent at least agrees for the shift in the alignment of the road. There also the petitioner has to draw blank. The 3rd respondent has firstly reiterated that the original alignment is in the straight reach. In the second factor mentioned above, it points out that the shift

In the alignment towards the western side was not desirable at all. Lastly, it points out that the alternate alignment on the eastern side, utilising the vacant area at T.V.S. Nagar, would necessitate two additional curves. It then proceeds to show as to how many house-sites would actually be affected and points out that it would be 182 units which would be affected as compared to the 204 units which would be affected if the original alignment is maintained.

13. The learned senior counsel for the appellant points out that the report was only in the nature of advice and even the appellant had its own expertise to consider and evaluate the report and to come to its own conclusion. It is accordingly considered by the appellant that the additional two curves would hamper the very basic idea of avoiding the traffic congestion and it is in that light that a specific case was pleaded by the appellant in its counter, more particularly in paragraphs 6 and 10. There is a total denial in this counter and in our view rightly, that the 3rd respondent had recommended any revision in the alignment of the proposed outer ring road so as to pass slightly from the eastern side. Even the chart, which was heavily relied upon by the petitioner/1st respondent, was denied in the counter. It is specifically pleaded in paragraph 10 that the introduction of two curves in the proposed highway will result in technical difficulties in formation of outer ring road and would necessarily hamper the free flow of traffic also affecting the proposed rail alignment. The learned single Judge has commented that in the counter the appellant had inserted some words in paragraph 10. They being "solely" and "also affecting the proposed rail alignment". The learned Judge thereby commented that the report was tried to be improved upon by the appellant herein. The learned senior counsel for the appellant very severely criticised this aspect and pointed out that it was the task of the appellant to consider the report and to take a particular stand and that the appellant was perfectly within its right to consider the pros and cons of the report and then to decide the further course of action. Our attention was again and again drawn towards the last sentence. It was pointed out that it is not as if the 3rd respondent was the only authority to decide about the alignment of the proposed highway and that the appellant was also competent to consider the question of alignment in the light of findings by the 3rd respondent in its report. In our view, merely because some words were inserted in the counter in handwriting would not by itself warrant an inference that an attempt has been made by the appellant in the counter to improve the report of the 3rd respondent. What was being reiterated in the counter and more particularly in paragraph 10 was not represented to be the contents of the report, but the justification on the part of the appellant for the action which it had taken. The appellant had pointed out that the introduction of two additional curves in the proposed highway would result in technical difficulties in formation of the outer ring road and would also affect the proposed rail alignment. In our view, the appellant was perfectly justified in considering these aspects, which were pointed out in the report by the 3rd respondent. Again, at the cost of repetition, we may mention that, in fact, it was the task of the appellant to consider all the factors

and that it had the necessary expertise to do so. Having taken these two factors into consideration, in our opinion, the appellant has done nothing wrong. The learned Judge has observed :

"As rightly pointed out by Mr. R. Krishnamurthy, learned senior counsel appearing for the petitioner-association that formation of curves in the strips of road should not really matter on the technical feasibility and there cannot be any difficulty in having those curves."

In our opinion, these observations are completely out of context and there can be no justification for these observations. The learned senior counsel for the appellant contends that it was not for this Court to adjudge the feasibility of the curves and it was the task only of the expertise in the field like Chennai Metropolitan Development Authority and the other experts, who were consulted by the appellant for judging the feasibility. We agree with the learned senior counsel. We also do not agree with the observation of the learned Judge made in paragraph 13 that the appellant had brought in the Institute of Remote Sensing, Anna University as one of the agencies, which had conducted a detailed and careful study of the alignment, to bolster its case. We have no reason to disbelieve the claim of the appellant that this agency was actually involved in the proposed project. Once an affidavit is filed to suggest the role of that agency unless there was a counter-affidavit and the material to belie the claim, such sweeping observations could not have been made. The learned senior counsel for the appellant very rightly suggested that there was no question of any extraneous pressure and that the inference drawn by the learned single Judge that the appellant acted under the extraneous pressure was totally baseless. A mere contention raised by the petitioner/1st respondent in its representation dated 15-11-1997 by itself could not be the be all and end all of the matter. In fact, this was an interested version on the part of the petitioner/1st respondent and, therefore, should have been accepted with a pinch of salt. Even assuming that what was stated in that letter dated 15-11-1997 was correct and that the widespread demonstrations were held by the residents of the localities concerned who would be affected because of the shift in the alignment of the proposed outer ring road, that by itself cannot be said to be an extraneous pressure against the appellant so as to affect its decision. Once an authority like the appellant specifically asserts that it was not acting under any pressure, merely because there are some unsupported allegations regarding an angry-public reaction, it cannot be by itself sufficient to infer that it was sufficient enough to exert an extraneous pressure so as to affect the decision of the appellant. We are, therefore, not in agreement with the learned Judge that it was under an extraneous pressure that the appellant acted and insisted on sticking to the original alignment of the outer ring road as proposed. Once the factor of extraneous pressure goes, then it cannot be said that the decision of the appellant was in any manner mala fide. If the vice of mala fide is removed from the scene, then it will have to be presumed that the decision was a bona fide decision. We have already pointed out that the Chennai Metropolitan

Development Authority has the necessary expertise and, in fact, unless such expertise is available, the very existence of the appellant may not be possible. This takes us to the last consideration considered by the learned Judge in favour of the petitioner/ 1st respondent.

14. The learned single Judge has pointed out that as compared to the number of units, i.e. 204 house-sites which would be affected by the original alignment of the road, the number of units which may be affected by the changed alignment would be comparatively lesser at 182 units. We do not think that such a comparison was possible. This is apart from the fact that in a project of this magnitude, the difference of about 20 or 30 house-sites would really be insignificant. The learned Judge seems to have been impressed more by the fact that while in the original alignment 85 terraced houses would be affected, in the revised alignment the number of affected terraced house-sites would be 31. From this, the learned Judge comes to the conclusion that there is a vast difference and the Government itself would be a beneficiary if less terraced houses are actually affected by the shift in the alignment of the proposed outer ring road. It is not the question of the Government being the beneficiary as crores of rupees are going to be spent for this project and, therefore, if there is an enhancement of compensation on account of there being more terraced houses would be affected, it would really not matter. At the same time, we may add that merely because more terraced houses would be affected would not be a proper reason. The learned Judge seems to have titled in favour of the shift on account of the fact that more number of terraced houses would be affected. We do not think this would be a correct approach. Whether a terraced house or a hut, the concerned person losing his abode would be equally hit in both the eventualities. Therefore, merely because the shift in the alignment would save some terraced houses would not be a relevant consideration.

15. The learned senior counsel for the appellant very earnestly urged that by shifting the alignment of the proposed outer ring road, the welfare of the people in that area could not be sacrificed in favour of the petitioners. We agree. There is a total and complete absence of right in the petitioners and there is nothing special about their locality compared to the other localities which would be affected if the alignment of the road is shifted. They are all equals and if the contention of the petitioner-association is accepted, it will be a story of robbing Peter to pay Paul. Such an approach would be totally erroneous in our opinion. This is again not a case where the concerned authorities have acted with malice in fact or in law or have deliberately discriminated acting arbitrarily. In our opinion, the petitioners have not established any right whatsoever in favour of shifting the alignment of the proposed outer ring road.

16. We are also unable to agree with the last direction given by the learned single Judge only for this reason that there is nothing special about Lakshmi Nagar and Lakshmi Nagar Extension or the citizens residing therein. In the absence of any right in them, such a direction could not have been issued. This is

apart from the fact that it is not the task of this Court to chart out the alignments of the public roads. That is simply not the jurisdiction of this Court, especially under Article 226. We, therefore, unable to agree with the learned Judge, would set aside the order by allowing the appeal.

17. In the result, the appeal succeeds and the writ petition shall be dismissed, but, under the circumstances, without any orders as to the costs. Connected C.M.P. No. 6168 of 1999 is closed.