
(2014) 02 MAD CK 0043

In the Madras High Court

Case No : Writ Petition No. 1109 of 2014 and M.P. Nos. 1, 2 and 4 of 2014

Jayaraman

APPELLANT

Vs

State of Tamilnadu

RESPONDENT

Date of Decision : 21-02-2014

Acts Referred:

National Highways Act, 1956 — Section 4

Registration Act, 1908 — Section 53, 54, 55

Tamil Nadu Town and Country Planning Act, 1971 — Section 17, 2(19), 47, 58

Citation : (2014) 4 MLJ 685

Hon'ble Judges : S. Manikumar, J

Bench : Single Bench

Judgement

S. Manikumar, J.—The impugned notification, dated 04.01.2014, reads as follows:

Government of Tamil Nadu Highways Department District Collectorate, Villupuram. Road Sector Project Revised Notice - FORM-B (See Rule)

Public Notice under sub-section (2) of Section 15 of the Tamil Nadu Highways Act 2001 (Tamil Nadu Act 34/2002)

A notification u/s. 15(2) of the Tamil Nadu Highways Act, 2001(Tamil Nadu Act 34/2002) has already been published in the Tamil Daily "Dhinanthanthi" and English daily "Dec-can Chronicle" dated 12.01.2010 relating to Acquisition of the following lands comprised in Tindivanam Town Ward-B Block 2, 14.27 in Vilupuram District, whereas there were certain Omissions in the above notification a revised fresh notification is hereby issued under Section 15(2) of the Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34/2001) that the land/lands specified in the Schedule and situated in the village of Tindivanam Town in Tindivanam Taluk in the District Villupuram are required for the purpose of (L.C. No. 93 at Railway km 124/2-3 in between Olakkur-Tindivanam Railway station) All persons interested in the land/land is are accordingly "required to lodge before the District Revenue Officer, Villupuram within 30 (thirty) days from the date of publication of this notice, a statement in writing their objections, if any,

to the acquisition of the said lands.

Any objection/statement which is received after the due date or which does not clearly explain the nature of the sender's interest in the land is liable to be summarily rejected. Objections received within the due date, if any will be enquired into on 07.02.2014 at 11.00 A.M., at Collector's Office, Villupuram, when the objector will be at liberty to appear in person or by person or persons authorised by him or them in this behalf or by a pleader and to adduce any oral or documentary evidence in support of their objections.

Short facts, leading to the present writ petition, are as follows:

(i) Lands situate at Villupuram District, Tindivanam Taluk, Ward B, Block No. 14, T.S. No. 41, Old S. No. 156/7, measuring 03950 sq. m. were sought to be acquired by the respondents under the impugned notification. The above lands, along with other lands were originally allotted to petitioners' share by virtue of a partition of the ancestral properties, and that the same was further partitioned among the petitioners' family members, vide partition deed, dated 22.08.2008 in Doc. No. 1661/2008, on the file of SRO II, Tindivanam, wherein, the above mentioned property situate at Villupuram District, Tindivanam Taluk, Ward B, Block No. 14, T.S. No. 41, Old S. No. 156/7, measuring 03950 sq.m., was allotted to petitioners' share. In the above mentioned property, besides the petitioners' residential house, petitioners have constructed a modern rice mill, wherein, they have employed more than 50 employees, in the above mentioned modern rice mill, operating in the name and style "Adhilakshmi Modern Rice Mill". The petitioners are the absolute owners of the above mentioned property and that they are in peaceful possession and enjoyment of the property. The factum of their ownership of the above mentioned property is not in dispute, as the respondents herein, had acknowledged the same, in the above mentioned impugned notification.

(ii) The District Collector, Villupuram District, 2nd respondent herein, has issued the impugned notification, in proceedings in A1/1515/2009 dated 01.11.2010 and published in Tamil Daily Thinathanthi dated 12.11.2010, issued under Section 15(2) of Tamil Nadu State Highways Act, wherein petitioners' lands have been sought to be acquired, for the purpose of construction of Railway (Railway Gate No. 93) bridge. It is further mentioned that any objection to the above mentioned impugned notification shall be submitted within 30 days from the date of publication, with the 2nd respondent herein, and in pursuance to the same, petitioners have submitted their objections to the 2nd respondent herein, wherein, they have categorically contended that the above mentioned proposal for acquisition of lands, would affect the livelihood of the petitioner's family and more than 50 employees in the Modern Mill.

2. Challenge to the impugned notification issued under Section 15(2) of the Tamilnadu State Highways Act, are as follows:

(i) The impugned notification came to be published, without following the

mandatory requirement, envisaged under section 8 of the Act. As per Section 8 of the Act, the Divisional Engineer, State Highways Department, Tindivanam, the 4th respondent, is mandated to fix the Highway Boundary, Building Line and Control line, by way of a draft Notification and that the said draft Notification shall be necessarily published inviting objections, which will be followed, by issuing a Final Notification, after consideration of the above mentioned objections. The procedure as contemplated under Section 8 of the Act is mandatory, where the construction or development of a highway is undertaken or proposed to be undertaken. Further the same will be helpful for ascertaining the actual lands, required for the proposed development or construction of a Highway. In the present case, no such action has been taken by the Divisional Engineer, State Highways Department, Tindivanam, 4th respondent herein, as mandated under Section 8 of the Act. Hence the impugned notification passed by the District Collector, Villupuram District, the 2nd respondent herein, is vitiated, as the mandatory provision of Section 8 of the Act has not been complied with, before proceeding with acquisition, under Section 15 of the said Act.

(ii) Section 8 of the Tamilnadu Highways Act serves the purpose of ascertaining the lands actually required for the purpose of either construction or development of a Highway. Only after ascertaining the actual lands required for the above mentioned purpose, the competent authority under the Act, namely, the District Collector, Villupuram, 2nd respondent herein, can proceed with acquisition of lands under Section 15 of the Act. Further, the draft notification under Section 8 is mandated to be furnished to the petitioners, so as to invite objections from the interested persons. In the present case, as the District Collector, the 2nd respondent has proceeded with acquisition of the petitioners' lands under Section 15 of the Act, without complying the mandatory procedure under Section 8 of the Tamilnadu Highways Act, the valuable rights, of the petitioners making objections, for the draft notification is arbitrarily taken away. Without ascertaining the requirement of the petitioners' land for the proposed development of the Highways, through the above mentioned procedure provided for, under Section 8, the 2nd respondent is legally barred from proceeding with acquisition of the petitioners' land. Hence, the impugned notification issued by the 2nd respondent herein, proposing to acquire the petitioners' land, under Section 15 of the said Act is arbitrary, illegal and the same is vitiated for non-compliance of mandatory procedure, under Section 8 of the Tamilnadu Highways Act. Though, no specific ground has been raised in the writ petition, that the road, on which a construction of a Railway Gate Bridge (Railway Gate No. 93) is proposed, for which lands have been sought to be acquired, inviting the attention of this Court to Section 3 of the Tamilnadu State Highways Act, 2001, learned counsel for the petitioner submitted that the said road, has not been declared as a Highways Road, and hence, acquisition cannot be made. Judgment in CeeDeeYes Standard Towers (P) Ltd., rep. by its M/s. CeeDeeYes Standard Towers (P) Ltd. Vs. The Collector of Chennai and Others : M/s. CeeDeeYes Standard Towers (P) Ltd. Vs. The Collector of Chennai and Others is relied on.

Heard the learned counsel for the petitioner and perused the materials available on record.

3. In *CeeDeeYes Standard Towers (P.) Ltd., rep. by its Managing Director, Chennai v. Collector of Chennai and 9 Others* (supra), Hon''ble Mr. Justice T. Raja, while testing the correctness of a notice issued under Section 15(2) of the Tamilnadu Highways Act, 2001, on the grounds inter alia that the acquisition proceedings taken, without there being a declaration under Section 3 of the Act and notification issued under Section 8 of the Act, at paragraph Nos. 6 and 7, held as follows:

6.Though the difference between Section 8(1)(2) & (3) and 8(4) of the Act is subtle - that makes a huge difference in working out of this Act, when Section 8(1)(2) & (3) envisages for issuance of Notification calling for objections from the landowners to fix the Highway boundary, boundary line, building line, sub-Section 4 being notwithstanding clause does not say that the Government may refrain from fixing the Highway boundary when it says, the Government may refrain from fixing the building line or control line for such highway. In view of this difference in the application of the provision, resorting to Section 15(2) of the Act to acquire the petitioner's land without first complying Section 8 is arbitrary exercise of power.

7.Therefore, having regard to the above lapse that neither any Award has been passed nor the owner of the land/interested person has been paid with the compensation till date coupled with the other lapse that the Highways Authority issued the impugned notices without complying with the pre-requisites by issuing a Notification under Section 8(1) of the Act fixing Highway Boundary, building line or control line and without even issuing notice as per Section 8(2)(b) of the Act to the person/persons likely to be affected by such Notification, it can only be concluded that issuance of the notices under Section 15(2) is nothing but arbitrary exercise of power.

4. Though the relief sought for, has been opposed by the respondents therein, placing reliance on the Hon''ble Division Bench judgment in *R. Kumar and Others Vs. State of Tamil Nadu*, , a learned Judge of this Court in *CeeDeeYes Standard Towers (P.) Ltd., rep. by its Managing Director, Chennai v. Collector of Chennai and 9 Others* (supra), taking note of the fact that in the above reported decision, OMR Road, presently called IT Corridor, had already been declared as Highways, and hence, comes under the jurisdiction of Tamilnadu Highways Act and whereas, in *CeeDeeYes Standard Towers (P) Ltd., rep. by its Managing Director, Chennai v. Collector of Chennai and 9 Others* (supra), it is not so, proceeded to quash the notice issued under Section 15(2) of the Act.

5. Earlier, when the present writ petition before me, it was filed for a writ of certiorari, calling for the records of the 2nd respondent in his proceedings in A1/1515/2009, dated 01.11.2010 published, in Tamil Daily Thinanthi, dated 12.11.2010, in so far as the petitioners are concerned and quash the same. Vide

orders in M.P. No. 3 of 2014 dated 21.02.2014, the prayer has been amended as follows:

writ of certiorari, calling for the records of the 2nd respondent in his proceedings in A1/1515/2009 dt. 01.11.2010 published in Tamil Daily Thinathanthi dt. 12.11.2010 and also the further notification issued by the 3rd respondent in his proceedings in R.C. No. B1/1515/2009 dated 04.01.2014 published in Tamil Daily "Thinathanthi" and quash the same.

6. When the matter came up for further hearing, Mr. T.N. Rajagopalan, learned Special Government Pleader brought to the notice of this Court that, when a similar challenge was made in W.P. No. 18050 of 2005 dated 09.08.2006, a learned single Judge of this Court, has negatived such contentions and on appeal, a Hon''ble Division Bench of this Court in R. Kumar and Others v. State of Tamilnadu, rep. by its Secretary to Government, Highways Department, Fort St. George and Others (supra), has confirmed the said decision. With due respect to the learned Judge, who decided CeeDeeYes Standard Towers (P) Ltd., rep. by its Managing Director, Chennai v. Collector of Chennai and 9 Others (supra), he submitted that the dictum laid down in R. Kumar and Others v. State of Tamilnadu, rep. by its Secretary to Government, Highways Department, Fort St. George and Others (supra) has not been applied in CeeDeeYes Standard Towers (P) Ltd., rep. by its Managing Director, Chennai v. Collector of Chennai and 9 Others (supra).

7. Considering the challenge in the present writ petition, let me consider the facts and submissions, as culled out from the Hon''ble Division Bench judgment. Earlier, the appellant, R. Kumar, has filed W.P. No. 18050 of 2005, challenging the order of the first respondent therein, in G.O. Ms. No. 92 Highways (HW1) 25.4.2005, published in Gazette No. 11(2)/HW/(340e-2)/2005 under Section 15(1) of the Tamil Nadu Highways Act, 2001, in so far as it relates to acquisition of the property of the petitioner therein, situate at Government Manavari Survey No. 277-5 (Part) now sub-divided as 277-5B, No. 44 Kottiwakkam Village, Tambaram Taluk, Kancheepuram District, beyond 23 feet, from the existing western boundary of the petitioner''s land, as per the sanctioned plan and the master plan of the second respondent therein. The other five land owners, viz., the appellants in W.A. No. 1071 of 2006, have filed W.P. No. 18051 of 2005, for a similar relief. According to the appellants/petitioners therein, acquisition made in respect of the lands in question, was inconsistent with the petitioners'' lawful right, which had become final under the provisions of the Tamil Nadu Town and Country Planning Act 1971 (for short, "TNTCP Act"), as per the planning permission issued by the second respondent therein.

8. The District Collector, in exercise of the powers vested on him by the Government, in G.O.Ms. No. 206 Highways (HN2) Department dated 29.9.2003, has issued a notification under Section 15(2) of the Tamil Nadu Highways Act, 2001, stating that the lands in Survey No. 277/5 to the extent of 00383 Square Metres, is required for the purpose of development of Old Mahabalipuram Road

(for short, "OMR Road"), into six way Traffic lane, which has been rechristened as I.T. Corridor. Against the said notice, the appellants/petitioners therein, in both the writ petitions, have filed their objections, dated 20.12.2004.

9. The objections raised by the petitioners, in the above writ petition, are reproduced from the Hon''ble Division Bench judgment in R. Kumar and Others v. State of Tamilnadu, rep. by its Secretary to Government, Highways Department, Fort St. George and Others (supra).

14. As per the notification published on 10.12.2004, the acquisition in our land in S. No. 277/5 is to the extent of 383 Sq.m. which implies that a strip of 13.78 M average width is proposed to be acquired from our land, meaning a width of 22.13 M from the centerline for the NOW proposed 41 M wide Highway (the width has arbitrarily been increased progressively from 30.5 M to 35.5 M to 38 M to 41M). This means on the opposite side of existing centerline the acquisition will be only to the distance of 18.87 M. This shows more land is proposed to be acquired on the eastern side than on the western side damaging a legally constructed recently approved building in preference to the opposite side which smacks of mala fide intentions.

15. The constant varying of highway boundary and road width was also not followed by a required notification under Section 8 of the Act, taking into consideration the volume of the traffic in the road and other relevant factors required to change the width of the road three times within a period of six months.

16. We also bring to notice, when the Highways Act provides for even permission of encroachment under Section 26, we do not know how it is justifiable on the part of the Highways authority to unilaterally change the Highway boundary and acquire more land than the one provided for the Highways acquisition as per the sanctioned plan dated 27.5.2003.

17. We, therefore, state in the light of giving respect to another statutory authority namely CMDA and the law regulating development it is just and fair that the acquisition can be made only to the extent of 23 feet from our land as per the sanctioned plan in confirmity of which our development was made.

18. Any additional acquisition other than the one provided for on the date of the sanctioned plan (27.5.2003) will be a clear case of violation of rule of law and principles of harmonious construction of statutes.

10. Thus, it could be seen that one of the grounds, raised before the Hon''ble Division Bench was that procedure required under Section 8 of the Act, has not been followed. The notification issued by the competent authority, under Section 15(1) of the Act, vide G.O.Ms. No. 91, Highways (HW1) dated 25.04.2005, from the reported judgment is reproduced hereunder:

The Governor of Tamil Nadu having been satisfied that the lands specified in the Schedule below are required for the purpose of formation of I.T. Corridor Express

Way (i.e.) to extend to six lane of Old Mahabalipuram Road and it having already been decided that the entire amount of compensation to be awarded to the lands is to be paid out of the funds controlled or managed by the Chief Engineer (General), Highways Department and after having considered the cause shown by the owners or other persons having interest in the said lands, as the case may be, do hereby publish the following notice under Sub-section (1) of Section 15 of the Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34 of 2002).

Notice

Under Sub-section (1) of Section 15 of the Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34 of 2002), the Governor of Tamil Nadu hereby acquires the lands specified in the Schedule below admeasuring 13637 Square metres, to be same, a little more or less are required for the purpose of the formation of I.T. Corridor Express Way to extend the six lane of Old Mahabalipuram Road.

The plan of the lands is kept in the office of the Special Tahsildar, Land Acquisition, Redial Road Scheme, Tambaram, and may be inspected at any time during office hours.

11. The notification clearly states that formation of I.T. Corridor way, i.e., extension of six lanes in Old Mahabalipuram Road. Before the learned Single Judge, Hon''ble Mr. Justice A. Kulasekaran, an argument has been advanced that there was a change in the road alignment, favouring a builder and the action of the respondent therein, amounted to hostile discrimination. Before the learned Single Judge, the petitioner therein, has also made an offer to provide a stretch of land free of cost. After considering the said offer, the Government have declared that the offer made was not acceptable and negated the said offer.

12. Before the Hon''ble Division Bench in R. Kumar and Others v. State of Tamilnadu, rep. by its Secretary to Government, Highways Department, Fort St. George and Others (supra), the plea of discrimination has not been pressed. For better appreciation of the arguments, this Court deems it fit to reproduce the same, from the judgment of the learned Single Judge, Hon''ble Mr. Justice A. Kulasekaran, in W.P. No. 18050 and 18051 of 2005, dated 09.08.2006, as follows:

5.The power of acquisition under Section 15 of the Tamilnadu Highways Act is only in respect of highways declared under Section 3 of the Act, the enlarged boundary not declared under Section 3 of Tamilnadu Highways Act, the power of acquisition cannot be extended; that any acquisition without preceded by a notice under Section 8 of the said Act over and above the existing width is not sustainable. When optimisation as a measure of exercise of quasi judicial jurisdiction is exercised in changing the boundary line in favour of one set of people, the same should be equally applicable to the petitioners as well, but the respondents discriminated the petitioners. Admittedly, the highways authority not made any notification under Section 8 of the Tamilnadu Highways Act. Mr. Vijayan even though not disputed the power of eminent domain but only questioned the exercise of such power in favour of one person by optimisation;

that the eminent domain power does not mean that can override all other statutory provisions like Tamilnadu Town and Country Planning Act, under which, the plan was issued to the petitioners by the second respondent; that the basic principles of statutory provision is to harmonise both the Acts and not to undermine one Act to the other,.....

8.The petitioners stated that on the date of the said notification, the width of the said road was 54 feet, but there was no declaration declaring 136 feet (41 meters), hence, it is not open to them to expand the road or acquire for expansion, when it is not declared under Section 3 of TNH Act; that there is an alteration in the boundary of the said road changing from 54 to 136 feet while issuing notice under Section 15(2) and also final notification under Section 15(1) of TNH Act; that the said change of boundary line was not done by notifying under Section 8 nor with the reference to Section 58 of Tamil Nadu Town and Country Planning Act prior to notice under Section 15(2) of TNH Act, therefore, without preceded by notification under Section 8 of TNH Act, fixing the new boundary line of the said road, the declaration under Section 3 of TNH Act as on 06.10.2003 restricts the power of acquisition only to the old boundary of 54 feet; that the authorities not followed the procedures for the enquiry conducted under Rule 5(2)(3) of Tamilnadu Highways Rules, hereinafter referred to as TNH Rules; that the respondents not furnished the copy of the report submitted to the Government under Section 15(3) of TNH Act; that between notices under Section 15(2) and final order under Section 15(1) of TNH Act, two alignments were marked in the property of the petitioners, the second marking alone cause damage to the petitioners property and failure in making declaration under Section 8 of TNH Act, the petitioners were unable to know to what extent their buildings are to be affected, besides that the petitioners are entitled for exemption under Section 10 of TNH Act since they have constructed the building already.

13. The contention of the petitioners is that if the highway boundary line is declared under Section 8 after calling for objections and thereafter the notification under Section 3 is issued, then the road with the enhanced boundary will come well within the scope of acquisition under Section 15 of TNH Act, in other words, without preceded by a notification under Section 8 fixing the new boundary line, the declaration under Section 3 restrict the power of acquisition only to the extent of old boundary. It is replied by the respondents that Chapter III of the TNH Act dealing with "restriction of ribbon development" i.e., restriction of construction activity on either side of a notified highway; that the power of the State Government to fix such boundary lines etc., is a discretionary power and is not a mandatory one; that the section itself makes it clear that the Highways authority of any division "may" by notification fix boundary lines etc., that sub-section 4 of the said section makes it even more clear that notwithstanding anything contained in Section 1 to 3 the Government may in consultation with the State Highways Authority even refrain from fixing any building line or control line for such highway or portion thereof; that there is no

mandate for the Government or the Highways authorities to take any action under Section 8 prior to section 15(2) of TNH Act; that the action relating to prevention of ribbon development has nothing to do with the acquisition proceedings under Chapter IV, which will be more clear on a perusal of Chapter VI which specifically deals with payment of compensation for any person affected by a proceeding under Chapter III and if the contention of the petitioners are correct, then there is no need for providing any separate clause for compensation since chapter IV contains separate provisions for the same.

15. Chapter IV relates to acquisition of property which contains Sections 15 to 25. Under the said chapter, if the Government are satisfied that any land is required for the purpose of any highway or for construction of bridges, culverts, causeways or other structures thereon or for any purpose incidental or ancillary thereto, in furtherance of the objects of this Act, they may acquire such land by publishing in the Tamil Nadu Government Gazette after entertaining objections from the owners or the interested persons of the land and the land so acquired shall vest with the Government free from all encumbrance. Any land acquired in this Act, the Government may use or cause to be used such land for the purpose of this Act. Every owner or person interested in any land required under this Act shall be entitled to receive and be paid an amount. If any person is aggrieved by the decision of the Collector in determining the amount may within 60 days from the date of such decision seek for reference to civil Court as defined in the Land Acquisition Act, 1894. The said Chapter also deals with apportionment of the amount, payment of amount, investment of amount by depositing in Court, payment of interest and power of entry. Thus, the chapter IV is an independent one for acquisition of property and also for payment of compensation amount to the land owners and therefore the contentions of the petitioners that notification under Section 8 is sine qua non for initiating acquisition proceedings is untenable, hence the said ground is rejected.

18. Whenever the Government proposes to go for the purpose of any highway or for construction or in furtherance of the objects of TNH Act acquire lands in exercise of power under Section 15 of TNH Act. Under Section 17, where any land has been acquired under this Act, the Government may use or cause to be used such land for the purpose of this Act. The power of compulsory acquisition of property which, according to every system of jurisprudence the State possesses, is known as the power of "Eminent Domain." Acquisition generally precedes development and consequently the land in question could be acquired in anticipation of the approval of the State Government for the change of the land use of the master plan prepared by the development authority. Acquisition will be valid if it is for public purpose, even if it is not for the "type of user permitted by the master plan" in force at the time of acquisition is made. It will be for the beneficiary of the acquisition to move the competent authority under the development Act and obtain the sanction of the said authority for suitable modification of the master plan so as to permit the use of land for the public purpose for which acquired. On the principle stated in *Aflatoon and Others Vs. Lt.*

Governor of Delhi and Others, it is clear that acquisition for public purpose and obtaining permission from the competent authority under the development Act concerned for change of land use are different from one another and the former is not dependent upon the "latter" Followed Bhagat Singh Vs. State of U.P. and Others, stated supra, hence, the averment that the alignment provided by the second respondent alone under the Master plan has to be given effect to and not the varying standards adopted by highway department is devoid of merits.

13. The said argument has been specifically defended by the learned Advocate General, for the State. His arguments as summarised, at paragraph No. 14 of the Hon"ble Division Bench judgment, are as follows.

14... According to the Additional Advocate General, the acquisition of property is dealt with in Chapter IV, which is an independent chapter, and once a decision is taken either to form a highway or to widen the existing highway, then the Government can acquire lands under Section 15 of the Tamil Nadu Highways Act and all the land owners, whose lands are taken over, are entitled to compensation in accordance with law. In the present case, once the public purpose is not challenged and the acquisition proceedings by the State is covered by a concept of Ribbon Development, the writ petitioners cannot challenge the acquisition proceedings by addressing argument, which are not valid under law.

14. However, it has been submitted on behalf of the State that OMR had already been declared as State Highways. The Learned Senior Counsel appearing for the appellant/petitioner therein, has submitted that Section 2(19) of the TNTCP Act deals with "high-way", has the same meaning as Section 4 of the National Highways Act, and the term "development" as found in Section 2(13) of the TNT CP Act, means carrying out of all or any of the works contemplated in a regional plan, master plan, detailed development plan or a new town development prepared under the Highways Act and shall include the carrying out of building, engineering, mining or other operations in, or over or under land, or the making of any material change in the use of any building.

15. He has further contended that under Section 17 of the TNTCP Act, when a master plan is prepared, the second respondent, therein, the competent authority, has to fix the highway/Major Road, boundary, etc. Therefore, he has submitted that when the appellants have obtained a planning permission on 27.5.2003, the said road was not declared as a Highway or major road under Section 3 of the Tamil Nadu Highways Act and no revision of boundaries has been made under Section 8 of the Tamil Nadu Highways Act. According to the learned Senior Counsel, the power to fix the width of the road even today vests with the authority under the TNTCP Act.

16. Attention of the Hon"ble Division Bench has also been invited to Section 111 of the Act, which is as follows:

111. Effect of other laws.--[(1) The provisions of this Act shall be read subject to the provisions of the [Chennai] Metropolitan Water Supply and Sewerage Act,

1978 (Tamil Nadu Act 28 of 1978)];

[(2)] Save as otherwise provided in this Act, the provisions of this Act and the rules and regulations made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law, [custom, usage or contract];

[(3)] [Subject to the provisions of Sub-section (1) but notwithstanding] anything contained in any other law--

(a) When permission for development in respect of any land or building has been obtained under this Act, such development shall not be deemed to be unlawfully undertaken or carried out by reason only of the fact that permission, approval or sanction required under such other law for such development, has not been obtained;

(b) When permission for such development has not been obtained under this Act, such development shall not be deemed to be lawfully undertaken or carried out by reason only of the fact that permission, approval or sanction required under such other law for such development has been obtained.

17. The said contention has been opposed by the State, relying on Section 69 of the Tamilnadu Highways Act, 1988, which has an overriding effect, on other laws. Section 69 of the Tamilnadu Highways Act, reads as follows:

69. Act to override contract and other laws, etc.--Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law, custom, usage or contract or decree or order of a court or other authority:

18. In support of the above, the State has relied on the judgment of the Supreme Court reported in *Aflatoon v. Lt. Governor of Delhi* (supra), particularly, to paragraph 23 of the said judgment, which is extracted below:

The planned development of Delhi had been decided upon by the Government before 1959, viz., even before the Delhi Development Act came into force. It is true that there could be no planned development of Delhi except in accordance with the provisions of Delhi Development Act after that Act came into force, but there was no inhibition in acquiring land for planned development of Delhi under the Act before the Master Plan was ready (see the decision in *Patna Improvement Trust Vs. Smt. Lakshmi Devi and Others*, . In other words, the fact that actual development is permissible in an area other than a development area with the approval or sanction of the local authority did not preclude the Central Government from acquiring the land for planned development under the Act. Section 12 is concerned only with the planned development. It has nothing to do with the acquisition of property; acquisition generally precedes development For planned development in an area other than a development area, it is only necessary to obtain the sanction or approval of the local authority as provided in Section 12(3). The Central Government could acquire any property under the Act

and develop it after obtaining the approval of the local authority. We do not think it necessary to go into the question whether the power to acquire the land under Section 15 was delegated by the Central Government to the Chief Commissioner of Delhi.

19. Reliance has also been placed on judgment of the Supreme Court reported in *Bhagat Singh Vs. State of U.P. and Others*, in particular, to paragraph 22 of the said judgment, which is extracted hereunder,

As pointed out in the above judgments, there is no need that the land proposed to be acquired by the Government for a particular public purpose should be for the same purpose or use mentioned in the master plan or Zonal Plan for the said area. Nor will the acquisition be invalid merely because the land proposed to be acquired is for a purpose other than the one permitted by the master Plan or Zonal Plan applicable to that locality. Acquisition will be valid if it is for a public purpose even if it is not for the type of user permitted by the Master Plan or Zonal Plan in force at the time the acquisition is made. It will be for the beneficiary of the acquisition to move the competent authority under the Development Act and obtain the sanction of the said authority for suitable modification of the Master Plan so as to permit the use of the land for the public purpose for which the land is acquired. In fact, it may be difficult for the beneficiary of the acquisition to move the competent authority under the Development Act seeking permission to change of land use even before the land is acquired or before possession is given to the beneficiary. On the principle stated in *Aflatoon and Others Vs. Lt. Governor of Delhi and Others*, , it is clear that acquisition for a public purpose and obtaining permission from competent authority under the concerned Development Act for change of land use are different from one another and the former is not dependent upon the latter.

20. After considering *Aflatoon v. Lt. Governor of Delhi (supra)* and other cases relied by the State, the Hon''ble Division Bench, at paragraph No. 24, held as follows:

It is seen from the above judgment that even though for a planned development of Delhi, Delhi Development Act came into force, but there was no inhibition for acquiring the land for planned development under the Act before the Master Plan was ready. As seen above, the fact that actual development is permissible in an area other than developed area with the approval or sanction from the local authority did not prejudice the Central Government in acquiring the land for planned development under the Act. The Master Plan provided under the TNTCP Act is only concerned with the planned development and has nothing to do with the acquisition of the property. Further, Section 47 of the TNTCP Act exempts the State Government, Central Government and local authorities.

21. At para. 26, in *Aflatoon v. Lt. Governor of Delhi (supra)*, the Hon''ble Supreme Court, has categorically held that the impugned acquisition would not amount to variation of the declared Master Plan of the TNTCP Act and the

development of Highways will not amount to an activity under Section 58 of the TNTCP Act requiring intimation to the planning authorities and approving the proposal only after getting their views/objections of the planning authority.

22. Finally, at paragraph Nos. 28 and 29, the Hon'ble Division Bench, held as follows:

28. In a matter of this magnitude, where the State has undertaken a mega project in providing a Express Highway comprising of six lane with a view to make infrastructure development to IT companies, public interest requires that such an activity should be allowed to proceed and cannot be stultified by the litigation indulged by the appellants, who have expressed their private interest in these appeals.....

29. We find there are no substance in the arguments addressed on behalf of the appellants and hence, both the writ appeals fail and accordingly, they shall stand dismissed. However, the parties are directed to bear their own costs.

23. In *R. Kumar and Others v. State of Tamilnadu*, rep. by its Secretary to Government, Highways Department, Fort St. George and Others (*supra*), one of the grounds urged was that, unless a prior declaration of the road as Highways, was issued, under Section 3 of the Act, acquisition proceedings under the Tamilnadu Highways Act, 2001, cannot be taken. But in the reported judgment, the road, had been already, declared as a Highway.

24. The object of the Tamilnadu Highways Act, 2001, is as follows:

An Act to provide for the declaration of certain highways to be State highways, restriction of ribbon development along such highways, prevention and removal of encroachment thereon, construction, maintenance and development of highways, and levy of betterment charges and for matters connected therewith or incidental thereto.

Whereas it is expedient in the public interest to statutorily declare the State highways and to create Highways authorities for the purpose of construction, maintenance or development of such highways;

Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty Second year of the Republic of India

25. Challenge in the Writ Appeal in *R. Kumar and Others v. State of Tamilnadu*, rep. by its Secretary to Government, Highways Department, Fort St. George and Others (*supra*) case, would disclose that the notification issued, was for the purpose of formation of I.T. Corridor express Way i.e., to extend to six lane of Old Mahabalipuram Road and that the challenge under Section 3 of the Act, has been specifically negated, following *Patna Improvement Trust's* case, which states that acquisition precedes development and other cases.

26. Reverting back to the case on hand, placing strong reliance on *CeeDeeYes Standard Towers (P) Ltd., rep. by its Managing Director, Chennai v. Collector of*

Chennai and 9 Others (supra), Mr. D. Ravichandrar, learned counsel further submitted that when the respondents, require the land in question for widening the Road, as per Section 8 of the Tamil Nadu Highways Act, the Highways Authority has to fix the highway boundary, building line or control line, by issuing a Notification relating to any area in the Division concerned, where the construction or development of a highway is undertaken or proposed to be undertaken.

27. Per contra, Mr. T.N. Rajagopalan, learned Special Government Pleader, with due respect, submitted that in CeeDeeYes Standard Towers (P) Ltd., rep. by its Managing Director, Chennai v. Collector of Chennai and 9 Others (supra), decided on 21.02.2013, the discussion and decision of the Hon''ble Mr. Justice A. Kulasekaran and the Hon''ble Bench, have not been properly highlighted by the respondents in CeeDeeYes Standard Towers (P) Ltd., rep. by its Managing Director, Chennai v. Collector of Chennai and 9 Others (supra). During the course of the hearing of the present W.P. No. 1109 of 2014, before me, it was contended by the learned counsel for the petitioner, that the learned Single Judge in CeeDeeYes Standard Towers (P) Ltd., rep. by its Managing Director, Chennai v. Collector of Chennai and 9 Others (supra) has also considered R. Kumar and Others v. State of Tamilnadu, rep. by its Secretary to Government, Highways Department, Fort St. George and Others (supra) and therefore, the said judgment has to be held, as the law declared.

28. It could be seen that in R. Kumar and Others v. State of Tamilnadu, rep. by its Secretary to Government, Highways Department, Fort St. George and Others (supra), though a specific argument has been advanced by the petitioner therein, that unless a notification is issued under Section 8 of the Tamilnadu Highways Act, 2001, acquisition, by issuing a notice under Section 15(1) of the Act cannot be made, the said argument, has been negatived by the Hon''ble Division Bench.

29. Now let me consider the objects of the Act. Tamil Nadu Highways Act, 2002, has been framed to provide for the declaration of certain highways to be state highways, restriction of ribbon development along such highways, prevention and removal of encroachment thereon, construction, maintenance and development of highways, and levy of betterment charges and for matters connected therewith or incidental thereto. Object of the Act further states that it is expedient in the public interest, to statutorily declare the State highways and to create Highways authorities for the purpose of construction, maintenance or development of such highways. The Act empowers the Government may, by notification, declare any road, way or land to be highway and classify it, as any one of the following, namely:- (i) a State Highway; (ii) a major district road; (iii) other district road; or (iv) a village road: Provided that where such road, way or land whether in whole or in part is owned by any local authority, such notification shall be issued with the concurrence of that local authority by a resolution passed by it in this behalf. Some of the definitions in the Highways Act are reproduced hereunder:

(5) "collector" means the Collector of a district and includes any officer specifically appointed by the Government to perform the functions of the Collector under this Act;

(8) "encroachment" means any unauthorised occupation of any highway or Land where the construction of a highway is undertaken or proposed to be undertaken or part thereof, and includes any unauthorised--

(a) erection of a building or any other structure, balcony, porch or projection on or over or overhanging the highways or part thereof; or

(b) occupation of such highway of such land, after the expiry of the period for which permission was granted for any temporary use under this Act; or

(c) excavation of embankments of any sort made or extended on such highways or part thereof or underneath such highway or part thereof.

(9) "erection" in relation to building, includes the construction, extension, alteration or re-erection of any structure or building.

30. As per Section 6 of the Act, the State Highways Authority shall be responsible for the over all supervision of the construction, maintenance, development or improvement of the highways in the State and for the restriction of ribbon development along the highways. The State Highways Authority shall, from time to time, issue such instructions, as may be necessary to the Highways authorities, for carrying out the purposes of this Act. Every Highways authority may, with the approval of the State Highways Authority, undertake the construction, maintenance, development or improvement of any highway and for restriction or ribbon development along such highway, including for the prevention and removal of encroachments and for all matters necessary or incidental thereto, in its division, in such manner and within such time as may be specified by the State Highways Authority in this behalf. Section 7 of the Act, empowers the Government may, in consultation with the State Highways Authority, enter into an agreement with any person, in relation to the construction, development, maintenance or repair of the whole or any part of any highway.

31. Chapter III deals with Restriction of Ribbon Development. Sections 8 and 9 deal with power to fix highway boundary, building line, control line, etc., and restriction on building respectively. The said Sections are extracted hereunder:

8. (1) The Highways authority of any division may, by notification, in relation to any highway or any area in that division, where the construction or development of a highway is undertaken or proposed to be undertaken, fix--

(a) the highway boundary building line, or control line; or

(b) the highway boundary and the building line; and

(c) the building line and the control line:

Provided that before the publication of the notification under this sub-section, a draft of the said notification shall be published inviting objections, if any, on the proposed fixation.

(2) The draft of the notification under sub-section (1) shall contain--

(a) all details of lands situated between the highway boundary line and control line proposed to be fixed and in the case of new works, the lands and persons benefited by the construction or development of such highway; and

(b) notice requiring all person likely to be affected by such notification, to make their objections or suggestions, if any, in writing, with respect to the issue of such a notification, to the Highways authority within such period as may be prescribed.

(3) After considering the representation, if any, received under sub-section (2), the Highways authority may, with the approval of the State Highways Authority-

(i) drop the proposal to fix the highway boundary, the building line or the control line; or

(ii) publish the final notification under sub-section (1) with such modifications as may be considered necessary.

(4) Notwithstanding anything contained in sub-section (1), (2) and (3), the Government may, in consultation with the State Highways Authority, having regard to the situation or the requirements of any highway or the condition of the area through which such highway passes,-

(a) fix different building line and control line for such highway; or

(b) refrain from fixing the building line or control line for such highway or portion thereof.

9. On or after the date of the publication of the notification under sub-section (1) of section 8 in relation to any highway or any area, no person shall, in such highway or in such area, in respect of any land lying between the highway boundary and the building line or between the building line and the control line, as the case may be,-

(a) erect any building or make or extend any excavation or carry out any mining or other operation in, or over such land or make any material change in the use of, or construct, form or layout nay works on such land; or

(b) construct, form or layout nay means of access to or from such highway, except with the written permission of the Highways authority and in accordance with such terms and conditions, as may be specified in such permission.

32. Section 13 deals with Preparation of Maps and Section 14 deals with Powers of Highways Authority and other officers. Both the Sections are extracted hereunder:

13. (1) The Highways authority of every division shall, within such time as may be prescribed, cause to be prepared a map of that division through which any highway or the construction or development of any highway is undertaken or proposed to be undertaken, showing the highway boundaries, building line and control line of such highway, the boundaries of such area and such other particulars, as may be prescribed.

(2) It shall be open to the Highway Authority to make corrections to the map prepared under sub-section (1) with necessary additions, alterations, omissions or such other modifications as may be considered necessary.

(3) The map shall, after the approval of the State Highways Authority:-

(a) be kept in the office of the Highways Authority, with such particulars as may be prescribed; and

(b) be open to inspection, free of charge during office hours, by any person having interest.

(4) Nothing contained in the Registration Act, 1908 shall be deemed to require the registration of the map prepared under this section and such map shall, for the purposes of sections 53, 54 and 55 of that Act, be deemed to have been duly registered in accordance with the provisions of the Act.

14. (1) For the purpose of carrying out the provisions of this Act, the Highways Authority and any officer or servant authorized by it, shall have power to-

(a) enter upon, survey and take measurement and levels of any land; or

(b) mark such levels, dig or bore into the sub-soil of any land; or

(c) demarcate the boundaries of the highway by planting stones or other suitable marks all along the highway in such a manner that the imaginary line adjoining such stones or marks shows the road boundary correctly; or

(d) give consecutive numbers to such boundary stones or marks and maintain them on the ground as if they constitute part of the highway; or

(e) layout the building line and control line by placing marks and cutting trenches.

(2) For the purpose of making the survey, taking measurements, levels, boundaries or for making lines, the Highways Authority or its officers or servants may cut down and clear away any standing crops, tree, fence, or jungle or any part thereof and do such other acts as may be necessary in this behalf:

Provided that the Highways Authority or its officers or servants shall not enter any premises, except with the consent of the owner or occupier thereof and after giving such person at least forty eight hours notice in writing of their intention to do so, and if the owner or occupier is not available, record the fact in a notice and affix such notice in the place, before carrying any such work.

33. Chapter IV deals with Acquisition of Property and Section 15 deals with the power to acquire land. The said Section is extracted hereunder:

15. (1) If the Government are satisfied that any land is required for the purpose of any highway or for construction of bridges, culverts, causeways or other structures thereon or for any purpose incidental or ancillary thereto, in furtherance of the objects of this Act, they may acquire such land by publishing in the Tamil Nadu Government Gazette a notice specifying the description of such land and the particular purpose for which such land is required.

(2) Before publishing a notice under sub-section (1), the Government shall call upon the owner and any other person having interest in such land to show cause within such time as may be specified in the notice, why the land should not be acquired. The Government shall also cause a public notice to be given in such manner as may be prescribed.

(3) The Government may, after considering the cause, if any, shown by the owner or other person having interest on such land, pass such an order under sub-section (1), as they may deem fit.

34. From the reading of the entire Act, it could be seen that the Tamil Nadu Highways Act, 2001, has been enacted, not only for declaration of certain highways, to be state highways, restriction of ribbon development along such highways, prevention and removal of encroachment thereon, but also enacted for construction, maintenance and development of highways, as well as levy of betterment charges and for matters connected therewith or incidental thereto. For the purpose of construction, maintenance or development of such highways, the Collector or any other officer, specifically appointed by the Government, can perform the functions of the Collector, under the Tamil Nadu State Highways Act, 2001. Appointment of Highways Authority, has been specifically mentioned in Section 5 of the Act.

35. Section 15 of the Act, starts with the opening sentence, "If the Government are satisfied that any land is required for the purpose of any highway or for construction of bridges, culverts, causeways or other structures thereon, or for any purpose incidental or ancillary thereto, in furtherance of the objects of this Act,". The Act cannot be read and interpreted to mean that it does not empower, the Government or the competent authority to acquire lands, for construction of a highways or for widening of any road, unless and until, a road has been declared as Highways, under Section 3 of the Act. The Act manifestly states that for the purpose of construction, maintenance or development of any highway lands can be acquired. The Act provides for construction of a highway. It provides for maintenance. An existing road can also be declared as State Highways, and developed. For the purpose of construction of a highway, maintenance, development, and in sum and substance, for the purpose of giving effect to the Act, all acts can be done by the competent authorities, which includes acquisition of lands also.

36. The contention of the petitioner is something like, "putting the cart before the Horse". The expression in Section 15 of the Act, "For the purpose of any highway", should be read, along with other Sections of the Act. In view of the detailed discussion and decision in *R. Kumar and Others v. State of Tamilnadu*, rep. by its Secretary to Government, Highways Department, Fort St. George and Others (supra), I am of the view that the issue is no more res integra. However, the same issue has been once again raised in *CeeDeeYes Standard Towers (P.) Ltd., rep. by its Managing Director, Chennai v. Collector of Chennai and 9 Others* (supra), and held in favour of the land owners. The relevant discussion and decision in the judgment of the Hon'ble Mr. Justice A. Kulasekaran, in W.P. No. 18050 and 18051 of 2005, dated 09.08.2006 and confirmed by the Hon'ble Division Bench, in *R. Kumar and Others Vs. State of Tamilnadu*, rep. by its Secretary to Government, Highways Department, Fort St. George and Others (supra), have not been highlighted by the respondents in *CeeDeeYes Standard Towers (P.) Ltd., rep. by its Managing Director, Chennai v. Collector of Chennai and 9 Others* (supra).

37. Whether the authorities under the Tamilnadu Highways Act, can acquire lands for widening of a road, if no declaration, under Section 3 had already been issued, has been answered, clearly by the learned Single Judge, Mr. A. Kulasekaran, following the judgment of the Hon'ble Supreme Court in *Patna Improvement Trust Vs. Smt. Lakshmi Devi and Others*, wherein, the Apex Court has held that,

In other words, the fact that actual development is permissible in an area other than a development area with the approval of sanction of the local authority did not preclude the Central Government from acquiring the land for planned development under the Act. Section 12 is concerned only with the planned development. It has nothing to do with the acquisition of property; acquisition generally precedes development. For planned development in an area other than a development area, it is only necessary to obtain the sanction or approval of the local authority as provided in Section 12(3). The Central Government could acquire any property under the Act and develop it after obtaining the approval of the local authority. We do not think it necessary to go into the question whether the power to acquire the land under Section 15 was delegated by the Central Government to the Chief Commissioner of Delhi.

The judgment in *Patna Improvement Trust v. Smt. Lakshmi Devi* (supra) also makes it clear that, acquisition for widening a road, has to precede before development.

38. Reverting back to the case on hand, if Section 8 of the Act has to be interpreted and meant that only after hearing the parties, likely to be affected and only after issuing a notification, under Section 8 of the Act, lands have to be acquired, then there is no reason, as to why, the landowners or interested persons, should be issued with an opportunity once again, under Section 15(2) of the Act. As pointed out in *R. Kumar and Others v. State of Tamilnadu*, rep. by its

Secretary to Government, Highways Department, Fort St. George and Others (supra), acquisition proceeds construction and development.

39. By issuing a notification under Section 8, the Government or the Highways Authority would never be vested with any right over any property, which is required to be acquired, under the Act, for formation or construction of the road. Merely because Sections 8 and 9 of the Act, find a place before Section 15, it cannot be contended that, unless a notification is issued under Section 3 of the Act, acquisition proceedings, cannot be taken under Section 15 of the Act.

40. Section 3 of the Act, enables the Government or the competent authority, by notification, to declare any road, way or land to be highway and classify the same, as State Highway, District Road, Major District Road, Other District Road, and Village Road. The Act does not prohibit, the Government or the Highways authorities, from acquiring any land, for the purpose of construction of any road, which may be declared as a highways, under Section 3 of the Act. Declaration of a road as Highways, is different from acquisition of lands for construction, maintenance and development of a road, under the Tamilnadu Highways Act. For construction i.e., to form a road, acquisition of land, is required to be done. Declaration or classifying any road, as (1) State Highway; (2) District Road; (3) Major District Road; (4) Other District Road; and (5) Village Road, is a different act, to be done by the Government and it has nothing to do with acquisition of land, for formation or construction.

41. The contention of the petitioner is that the Government, should first declare a road, as highways, under Section 3 of the Act and only thereafter, form or construct a road. Lands can be acquired by the Government, for formation of a road, i.e., construction of the road, maintenance and development and simultaneously, the Government, may declare that the road intended to be formed, is a (1) State Highway or (2) District Road or (3) Major District Road or (4) Other District Road or (5) Village Road. When the Government is empowered to acquire the lands, for formation of a road or construction of a road and such road may also be declared as (1) State Highway; (2) District Road; (3) Major District Road; (4) Other District Road; and (5) Village Road. The petitioners have no right to question the authority of the Government. Declaration of any road as highways, is not a sine qua non or it should be anterior to acquisition, for the said purpose. If the power of Government, under "eminent domain" is restricted to mean that, acquisition of lands cannot be done, unless, a road is declared as a Highways, under Section 3 of the Act, then in my humble opinion, it is an untenable argument. Considering the object of the Act, and the provisions of the Act, such a narrow construction would defeat the very purpose and object of the Act, which is intended to be enforced, for construction, maintenance, development, classification and for such other incidental activities, to be carried on, by the Government and the State Highways Authorities. Such a narrow construction would be an infringement to Section 15 of the Act.

42. If the contentions of the petitioners are to be accepted, then there is no

meaning in using the words, "construction, maintenance and development of a road" with reference to the object, for which, the Act has been enacted. Sections 3 and 15 of the Act, operate separately. Section 15 is not dependent on Section 3 of the Act. The Act envisages and empowers the State Highway Authorities, to acquire lands for construction or formation of a road, which may be declared as a State Highway. Powers exercised under Section 3 of the Act, to declare the road, as (1) State Highway; (2) District Road; (3) Major District Road; (4) Other District Road; and (5) Village Road, is independent of Section 15 of the Act.

43. In exercise of powers of eminent domain, the State Government or the competent authority under the Act, can initiate proceedings for acquisition of lands, for formation or construction of a road. The expression, "construction, maintenance and development of a road" cannot be circumscribed and given effect, only to the existing roads, or the roads, already declared as Highways.

44. In W.P. Nos. 18050 and 18051 of 2005, dated 09.08.2005, The Hon'ble Mr. Justice Kulasekaran, at more than one places, has analysed the provisions of the Tamil Nadu State Highways Act, 2001 and categorically held that a notification under Section 8 of the Act, is not a sine quo non, for initiating acquisition proceedings under Section 15 of the Act.

45. Hon'ble Mr. Justice Kulasekaran in W.P. No. 18050 and 18051 of 2005, dated 09.08.2006, while considering, as to whether, requirement under Section 8 of the Tamil Nadu Highways Act, 2001, has to be followed, for initiating any proceedings, under Section 15(2) of the Act, has categorically rejected the same and the said decision has been confirmed in appeal in R. Kumar and Others v. State of Tamilnadu, rep. by its Secretary to Government, Highways Department, Fort St. George and Others (supra). When the Hon'ble Division Bench, has rejected the specific challenge, in my humble opinion, it is the law declared by this Court. As rightly contended by Mr. T.N. Rajagopalan, learned Special Government Pleader, the said aspect, has not been properly highlighted by the respondents, in CeeDeeYes Standard Towers (P) Ltd., rep. by its Managing Director, Chennai v. Collector of Chennai and 9 Others (supra).

46. With great respect to the learned Judge, who decided CeeDeeYes Standard Towers (P) Ltd., rep. by its Managing Director, Chennai v. Collector of Chennai and 9 Others (supra), I am of the view that R. Kumar and Others v. State of Tamilnadu, rep. by its Secretary to Government, Highways Department, Fort St. George and Others (supra), has been decided, the issue, directly and substantially and hence, there is no need for any reference. Had the respondents in CeeDeeYes Standard Towers (P) Ltd., rep. by its Managing Director, Chennai v. Collector of Chennai and 9 Others (supra) properly highlighted the dictum of this Court in R. Kumar and Others v. State of Tamilnadu, rep. by its Secretary to Government, Highways Department, Fort St. George and Others (supra), things would have been different. For the reasons, stated supra, this Court is of the view that there are no merits in the Writ Petition, and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.