

**(2008) 06 MAD CK 0089**

**In the Madras High Court**

**Case No :** Writ Petition No's. 16922, 29294, 29090, 29113, 29707, 29708, 29709, 29710, 30019, 30020, 30021, 29575, 30255, 30256, 33294, 30062 and 32290 of 2007

M. Haridass and Others

APPELLANT

Vs

The State of Tamil Nadu and Others

RESPONDENT

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**Date of Decision :** 03-06-2008

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Order 2 Rule 2  
Companies Act, 1956 — Section 51  
Constitution of India, 1950 — Article 14, 21, 226, 254, 254(2)  
Land Acquisition Act, 1894 — Section 11, 16, 17(1), 4, 4(1)  
Special Economic Zones Act, 2005 — Section 2  
Tamil Nadu Acquisition of Land for Industrial Purpose Act, 1997 — Section 14, 15, 18, 2, 21  
Tamil Nadu Acquisition of Land for Industrial Purposes Rules, 2001 — Rule 3, 4, 6  
Transfer of Property Act, 1882 — Section 108A

**Citation :** (2008) 5 MLJ 1174

**Hon'ble Judges :** P. Jyothimani, J

**Bench :** Single Bench

**Advocate :** R. Krishnamoorthy for V. Ayyadurai, in W.P. No. 16922/07, for the Appellant; G. Masilamani, General Assisted by M. Devaraj, for R2 and A. Vijayakumar, GA for R1 and R3 to R5 in W.P. No. 16922/07, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

P. Jyothimani, J.—In all these cases the common issue involved relates to the challenge of G.O.Ms. No. 139, Industries (MIG-2) Department, dated 03.11.2006 and the consequential acquisition proceedings initiated in terms of the provisions of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (Tamil Nadu Act 10/1999) and consequently to forbear the respondents from proceeding with the land acquisition pursuant to the G.O. in respect of the respective lands of the petitioners. In some of the cases declaration u/s 3(1) of the Tamil Nadu Act 10/1999 has been passed and published in the Tamil Nadu Government Gazette.

2. In all these cases, the respective petitioners are owning approved housing plots, running shops, running small industries etc, in respect of various portions of the land situated in Oragadam Village, Sriperumbudur Taluk, Chingleput District. As it is stated in some of the cases, enquiry notice issued u/s 3(2) of the Tamil Nadu Act 10/1999 have been challenged and in some other cases G.O.Ms. No. 139, Industries (MIG-2) Department dated 03.11.2006, granting administrative sanction for requisition of land for the State Industries Promotion Corporation of Tamil Nadu (for short SIPCOT) expansion have been challenged.

3. The case of the petitioners is that they are middle class people either owning house sites or sites in which they are running various shops which are the only source of livelihood and the Government has issued administrative sanction order to acquire an total extent of 395.87.5 hectares of land in Oragadam and Sennakuppam villages respectively.

4. The Tamil Nadu Act 10/1999 has come into force with effect from 21.09.2001. The State Government has announced industrial policy of Special Economic Zone in the year 2003 to generate additional economic activity, promote exports of goods and services and to promote investment from domestic and foreign sources to create employment opportunities and develop infrastructure facilities.

5. The Government of India has passed Special Economic Zone Act 2005 (Central Act 28/2005) which was assented by the President on 23.06.2005, with an object to provide for establishment, development and management of Special Economic Zones for the promotion of exports and for matters connected therewith. The said Act provides for setting up of Special Economic Zones by State Governments or its Agencies such as SIPCOT. It was pursuant to the said power, the State Government has passed the Tamil Nadu Special Economic Zones (Special Provision) Act 2005, which came into effect from 08.08.2005. Under the provisions of the said Act, the State Government is empowered to acquire lands for establishment of Special Economic Zones by exercising power under Tamil Nadu Acquisition of Land for Industrial Purposes Act (Tamil Nadu Act 10/1999). Therefore, according to the petitioners, the State Government while establishing Special Economic Zones for providing infrastructural facilities for the industries must obtain the approval of the Board or Central Government under the Central Act 28/2005.

6. The SIPCOT is a State owned institution established in the year 1972 for identifying, developing, maintaining industrial areas in the State of Tamil Nadu and therefore, it is the Agency of the State Government within the meaning of Section 2(v) of the Central Act 28/2005. The acquisition in these cases are stated to be initiated on the basis of request of SIPCOT for expansion of SIPCOT Oragadam Industrial Complex. It is the case of the petitioners that the respondents in order to meet requirements of some Multi National Companies which requested lands for locating their industrial units and accordingly as per its direction, SIPCOT has identified the lands situated at Oragadam. It is the case of the petitioners that neither in the G.O.Ms. No. 139, dated 03.11.2006, in which

administrative sanction has been granted for acquisition nor in the counter affidavit it is disclosed that the lands in the present case are identified under the Central Act 28/2005 or under the Tamil Nadu Act 18/2005 dealing with Special Economic Zones. Nothing is stated about the approval of Board as required under the Central Act 28/2005 and therefore the initiation of acquisition proceedings under G.O.Ms. No. 139, dated 03.11.2006 is without any authority and void ab initio.

7. It is also the case of the petitioners that the Government has already acquired an extent of 636.88.0 hectares (1573.09.36 acres) by invoking urgency clause of Section 17(1) of the Land Acquisition Act, 1894 in and around Oragadam and eight other villages in the year 1997 for setting up SIPCOT Industrial Complex. Out of the said extent of 1575 acres sanctioned for acquisition in the year 1997, only 1507.34 acres were acquired and more than 70 acres of land have not been acquired despite sanction granted under G.O.Ms. No. 125, Industries Department, dated 09.05.1997. It is the case of the petitioners that if the balance 70 acres of land covered under the earlier administrative sanction under G.O.Ms. No. 125, dated 09.05.1997, were acquired, the lands of the petitioners would not have been required for the present purpose. There is no need for acquiring the lands of the petitioners.

8. Further, it is the case of the petitioners that District Collector, Kancheepuram in December 2005 conducted local enquiry preceded by the public notices and it is insisted that the acquisition itself is to enable unjust enrichment of some real estate business people and the District Collector, Kancheepuram in his report dated 22.06.2006, has given his recommendation based on which administrative sanction has been granted in G.O.Ms. No. 139, dated 03.11.2006, to acquire 395.87.0 hectares of lands. According to the petitioners administrative sanction itself was issued subject to the objection of the local people to consider the relevant factors at the time of enquiry after notices u/s 3(2) of the Tamil Nadu Act 10/1999 are issued. The Notices u/s 3(2) of the Tamil Nadu Act 10/1999 in Form "A" were signed by the Special Thasildar (LA), Oragadam Industrial Complex Expansion at Sriperumbudur, who has been made as one of the respondents in these writ petitions. While admitting some of the writ petitions viz., 3112/07, 4953/07, 4954/07 etc. interim orders have been passed stating that acquisition will be subject to the result of the writ petitions and ultimately, those writ petitions were withdrawn.

9. During April 2007, the requisition body viz., SIPCOT has offered compensation at the rate of Rs. 20 lakhs per acre. It is also admitted that many of the owners after announcement of compensation have either withdrawn the writ petitions or not challenged the acquisition proceedings. The present writ petitions are filed on the basis of violation of Articles 47, 51A(g) of the Constitution of India. It is also the case of the petitioners that enquiry conducted u/s 3(2) of the Tamil Nadu Act 10/1999 is a farce and the remarks of the requisitioning body on the objections of the land owners were not furnished as required under Rule 6 of the Rules

framed under Tamil Nadu Act 10/1999. Some of the petitioners have submitted their objections within the time stipulated in the public notice issued in Form-B and after issuance of Form-A to individuals.

10. The main crux of the objections are that house sites have been approved by the authorities and acquisition of such house sites will defeat the very purpose of Tamil Nadu Act 10/1999, when alternative suitable dry lands are available and therefore acquiring house sites violates Article 14 and 21 of the Constitution of India. Subjective satisfaction of the authority is vitiated by ulterior motive and shown favouritism. Exclusion of nearly 70 acres sanctioned in the year 1979 in S. Nos. 58 and 50 at Oragadam Village and proceedings with the present acquisition amounts to authorities misusing the powers. Notice in Form-A was given by an incompetent officer and therefore it violates the provisions of Tamil Nadu Act 10/1999. No locality publication has been made as per Rule 4 and that there has been mis-description of property.

11. In some of the cases like W.P. No. 16922 of 2007, the District Collector, on receipt of such objections from the owners, has issued communications dated 01.03.1997 and 15.03.1997 to the learned Counsel for the petitioners stating that the objections were forwarded to the requisition body viz., SIPCOT calling for the remarks and the petitioners have not received the remarks. While so, the enquiry notice was served, posting enquiry on 20.03.2007 and 26.03.2007 and on the dates of the said enquiry, hundreds of owners and some along with their counsels have participated in the enquiry in the Office of the District Collector, Kancheepuram and there was no enquiry conducted and all the objectors were asked to assemble in the meeting hall and there was a speech given by the District Collector quoting the price of the land and those who were willing were directed to fill up the cyclostyle form and signature of the owners have been obtained. Immediately, the counsels have submitted memo stating that enquiry has not been conducted. Therefore, some of the owners have also requested the State Government to change the District Collector on the score that the acquisition proceedings has been done with bias. There was a news item in "Thinathanthi" newspaper on 21.04.2007, stating that the respondents are willing to pay Rs. 2.5 lakhs per ground in respect of the land situated near the road and Rs. 2 lakhs fixed for other approved house sites, directing the owners to establish their ownership on or before 07.05.2007, stating that on execution of Sale Deed, amount will be paid and that was in the form of private negotiations. Therefore, according to the petitioners, issuance of such notice amounts to pre-determining the issue. That apart, notice issued u/s 3(2) is without jurisdiction contravening the requirements of law.

12. The acquisition proceedings are challenged on various grounds including that as per the Central Act viz., Special Economic Zones Act 2005 (Central Act 28/2005) and the Tamil Nadu Act 18/2005, the acquisition relating to those lands are not in conformity with the said Acts and therefore the acquisition is bad. The administrative sanction issued under the impugned G.O.Ms. No. 139, dated

03.11.2006, is opposed to the constitutional scheme provided for maintenance of eco-environmental system and suffers from vices of non-application of mind, want of good faith, arbitrary exercise of power etc., The Form-A notice issued u/s 3(2) of Tamil Nadu Act 10/1999 read with Rule 3 of Tamil Nadu Acquisition of Land for Industrial purposes Rules, 2001 is without jurisdiction and the same has been signed by the Special Tahsildar (LA), Oragadam Expansion Project, since it requires the District Collector to sign. The notice issued u/s 3(2) is invalid and in violation of Sections 15 and 25 of the Tamil Nadu Act 10/1999, which contemplates the rule making power of the Government with regard to authentication of orders and other instructions of the District Collector and the manner of issuance of public notice.

13. The SIPCOT, being a requisitioning body cannot act as an acquiring authority. When there is no enquiry pursuant to notice u/s 3(2) of the Act and when there was no notification in terms of Section 2(c), the conduct of the respondents in acquiring the land which is used for small industrial purpose to be given to Multi National Companies and thereby permitting the private companies to occupy, is not permissible in law.

14. The subjective satisfaction has not been properly used. That the respondents have not acquired 70 acres of land which was already sanctioned in 1997 and depriving the petitioners right to live in the approved house sites violates Article 14 and 21 of the Constitution of India. No proper notice has been served to the owners or other subsequent purchasers or original owners. That there is no notification declaring the area as "industrial area" and the enquiry stated to have been conducted is a farce.

15. The State Industries Promotion Corporation of Tamilnadu (SIPCOT) and the Special Tahsildar(LA), SIPCOT Oragadam Industrial Expansion Scheme have filed counter affidavit.

16. It is the case of the Special Tahsildar (LA) that the Government issued administrative sanction by G.O.Ms. No. 139, Industries MID-2 Department, dated 03.11.2006 to acquire an extent of 360.97.5 hectares of patta lands and 34.90.0 hectares of Government poramboke lands in Oragadam and Sennakuppam villages at Sriperumbudur under the provisions of the Tamil Nadu Act 10/1999 for expansion of the Oragadam Industrial Complex by SIPCOT. It was pursuant to the said administrative sanction order of the Government, land acquisition proceedings under the Tami Nadu Act 10/1999 have been initiated. In that respect all lands in S. No. 190/5 measuring an extent of 10,050 sqmt, stands in the name of Thiru. Jayaraman to whom notice was served u/s 3(2) and there was no response and in respect of lands covered under the said Survey numbers, there was no owners response, in spite of public notice. It is also stated that in spite of the fact that revenue accounts standing in the name of the original owner, the Land Acquisition Authority have collected particulars from the Sub-Registrar's Office and on subsequent verification included the names of subsequent purchasers in the notification u/s 3(1) and public notice was

published on 02.02.2007 as per Section 3(2) of the Act. When objections were received from the owners, they were sent to the requisitioning body namely the SIPCOT and their opinion has been obtained and after receiving the said opinion, enquiry was conducted in the District Collector's Office on 20.03.2007 and 26.03.2007. By G.O.Ms. No. 102, Industries (SIPCOT-LA) Department, dated 16.04.2007, the Government has approved fixing of land value for various categories of lands fixing the amount of Rs. 2,50,000/- per ground etc., and specific notices were sent to the owners asking for their willingness and no one of the owners were compelled to accept the amount. After considering the objections received from the land owners and also the remarks offered by SIPCOT, Special Tahsildar (LA) has sent the proposal u/s 3(1) of the Act to the Government. The Government have approved the proposal and issued Government Order by way of notification u/s 3(1) published in Government Gazette on 04.07.2007. The fixation of price by negotiation was passed by the State Level Committee and option was given to the owners and therefore there was no pre-determined intention.

17. It is the case of the Special Thasildar (LA) that notification u/s 3(1) was issued strictly as per Tamil Nadu Act 10/1999 and the administrative sanction issued under the Government order is not in violation of the Constitutional provisions and that the entire proceedings were made in accordance with law. It is also stated that about 6000 land owners are involved in the land acquisition proceedings and determining of the market value has nothing to do with the acquisition proceedings u/s 3(1) of the Act. It was only to speed up the acquisition process, the value was fixed under negotiation and in cases where no agreement was reached, proceedings u/s 7(3) of the said Act will be followed. It is also stated that acquisition is for larger industrial purpose and the writ petitioners are very few persons who have objected to the acquisition while majority of the land owners have accepted the acquisition and also the compensation amount.

18. It is the case of the requisitioning body SIPCOT in the counter affidavit that the present acquisition is for larger extent of 395.87.5 hectares and in respect of the remaining 70 acres based on the acquisition proceedings of an earlier proposal is not dropped and an extent of 18.56 acres is in the process of acquisition. In respect of 22 acres possession could not be taken in view of pending litigation. A smaller extent of 5.97 acres of adi dravida habitations were deleted during acquisition. It is also the case of the SIPCOT that the land in question have been vacant for a very long period and approval was granted during 1987 and no construction has been put up. It is also denied that real estate people are influencing the authorities to acquire the lands. It is only the SIPCOT which is playing the major role in the concept of industrialisation of the State by establishing industrial complexes / parks / growth centres etc., and therefore 6000 acres of land in the Sriperumundur Taluk was considered for acquisition. It is also stated that SIPCOT is establishing industrial complexes in various places at Gummidipoondi, Irungattukottai, Sriperumbudur, Siruseri and

Oragadam which are in very close proximity to Chennai. The industrialization is required for economic development of the State of Tamil Nadu which is considered as a preferred destination for large-scale investments, especially for information and technology related industries and automobile sector and in fact many giant industrial units and Multi National Companies are locating their industrial units in Chennai and therefore the situation automatically warrants expansion of the existing complexes around Chennai, wherever possible. In respect of W.P. No. 3112 of 2007 etc batch which were withdrawn and hence the same were dismissed are not on the basis of offer of Rs. 20,00,000/- per acre. Most of the owners have given their willingness accepting the amount of compensation offered as per Rule 6 of the Rules framed under the Act. No remarks of the requisitioning body need to be sent to the objectors. It is stated that not only the petitioners but also all interested persons assembled for the enquiry on 20.03.2007 & 26.03.2007 and most of the land owners were willing to give their lands for the price offered and in respect of those persons who objected their objection were received and they will be dealt with by the competent authority as per law. Notification u/s 3(1) of the Act in respect of acquisition already issued and objection as well as the remarks from the requisitioning body has been considered. It is also the case of the SIPCOT that the very purpose of the Tamil Nadu Act 10/1999 is to provide suitable sites for location of industries which is a pre-requisite for quick establishment of industries. As per Section 3 of the Act any land can be acquired for industrial purpose and the classification of the land as residential or institutional does not prevent such acquisition.

19. Mr. R. Krishnamoorthy, learned senior counsel and Mr. V. Ayyadurai, learned Counsel appearing for some of the petitioners have submitted that the petitioners have given their objections pursuant to the notice issued u/s 3(2) of the Act by elaborately giving various reasons stating that as per the earlier acquisition there were 75 acres of land which are yet to be acquired. It is also stated that in respect of S. Nos. 58, 49 and 50 Oragadam village objections were called for by Special Tahsildar in October 2005 and the Government sanctioned only in respect of few Survey numbers leaving other Survey numbers viz., 58 and 50. The District Collector has referred the objections of the petitioners to SIPCOT for its remarks and such remarks have never been communicated to the petitioners. On the date of enquiry, there was only a statement made by the District Collector and no individual enquiry was conducted at all. Letters has been given to assert ownership and give indemnity. It is their contention that earlier writ petitions in W.P. Nos. 3111 to 3113 of 2007 were permitted to be withdrawn and mere permission by this Court to proceed with the acquisition proceedings does not mean that the property vest with the Government and after withdrawal, the present writ petitions were filed.

20. It is their further contention that in the counter affidavit filed in the earlier writ petitions in W.P. Nos. 3111 to 3113 of 2007, the Tahsildar has specifically stated that subsequent to the notice issued u/s 3(2) of the Act, enquiry was

conducted and the land owners participated in the enquiry and submitted their objections and authorities will certainly provide opportunity to the petitioners while issuing the notification u/s 3(1) of the Act. The petitioners can raise their objections for not acquiring the land or even request to exclude the lands from the acquisition proceedings with sufficient cause. Therefore, according to the learned senior counsel, in spite of the undertaking given in the earlier counter affidavit, the respondents have not followed the procedure. Their contention is that as per the said Tamil Nadu Act 10/1999, until the area is declared as an industrial area or chosen by the Government as industrial estate, the proceedings under the Act cannot be initiated and therefore notice u/s 3(2) has no jurisdiction. It is their submission that a reading of the objects and reasons of the Act with reference to Section 22 which gives an overriding effect to the Act and therefore the enquiry conducted and procedure contemplated must be scrupulously followed since the Act is draconian in nature. It is also their case that Form-A issued under Rule 3 has been signed by the Special Tahsildar stating that he has issued the same by order of the Collector, whereas, he has no jurisdiction to issue the same, since it is the District Collector who is the authority to issue such notice under the Act. It is also their case that the Special District Revenue Officer (LA) has not been authorised by the Government. It is also their submission that in respect of the lands where houses have been built up on the approved lay out issued by the competent authority under the Town and Country Planning Act, treating it as residential zone and therefore the said lands cannot be acquired for industrial purpose.

21. According to the learned senior counsel, the administrative sanction order issued under G.O.Ms. No. 139, dated 03.11.2006 is illegal and without fulfilling the requirements and in violation of the Act. When there are distinction between Form-A and Form-B, which provides for notice to parties and public notice respectively while Form-A states that objection should be given within 30 days from the date of public notice by the District Collector, it is not know as to when the public notice will be issued in Form-B and therefore there is ambiguity.

22. Further according to the learned senior counsel SIPCOT being the requisitioning authority has no authority to allot to third parties like Multi National Companies after acquiring from the owners. The purpose of acquisition in this case being made to give to private entrepreneurs which cannot be the object of the Act, since the basis must be for public purpose. In as much as many of the buildings are in residential approved plan unless they are notified as industrial area under the Town and Country Planning Act and reclassified, the acquisition is bad. They would also rely upon the judgment reported in State of Punjab v. Sanjeet Singh Grewal (2007) 3 CLT 132 and therefore their submission is that the administrative sanction is arbitrary since the relevant facts have not been taken into consideration and it is without jurisdiction.

23. Form-A given u/s 3(2) of the Act is illegal and without jurisdiction and the Special Tahsildar is not the authority to sign by the orders of the District

Collector. According to them even the District Collector is not the authority to initiate acquisition since the Special District Revenue Officer (LA) is the authority to send necessary alienation proposal to the Government. The sanction order does not confer any special authority but enables the Special District Revenue Officer to send proposal. It is also their submission that the impugned sanction order has been passed by the Government and the Government has not filed any counter affidavit with regard to the impugned sanction order and hence the counter affidavit of the other respondents have to be ignored. They would rely upon the judgment reported in *Hindustan Petroleum Corporation Ltd. Vs. Darius Shapur Chenai and Others*, . The District Collector being a delegatee from the Government, cannot further sub-delegate to Special Tahsildar and therefore, Section 3(2) notice is bad in law.

24. Even otherwise there is no power to authenticate any other officer other than the District Collector, since u/s 25(2)(b) of the Act, which enables the Government to make rules, no rules have been framed and the Special Tahsildar has no jurisdiction with authenticity. They would also rely upon the the judgment reported in *D.C. Aggarwal Vs. State Bank of India and others*, to substantiate their contention that Form-A notice issued u/s 3(2) of the Act 10/1999 is without jurisdiction. They further relied upon the judgment reported in *Competent Authority Vs. Barangore Jute Factory and Others*, that when once notice u/s 3(2) is held invalid all consequent proceedings are also liable to be set aside.

25. Even in case of non filing of objection by owners a duty is cast on the respondents to issue enquiry notice and decision cannot be arrived at ex-parte. They would also rely upon the judgment reported in *Tamil Nadu Housing Board v. A.P. Damodarasamy* (2007) 3 MLJ 189 and contend that notice issued u/s 3(2) is unauthorised. It is their further contention that in as much as no valid enquiry being conducted in such expropriatory law like that of Tamil Nadu Act 10/1999, the entire proceedings should be set aside. It is their further contention that the petitioners have given elaborate objections and in fact no reply was communicated to the petitioners and thereafter the remarks have not been furnished about which a detailed memo has been filed and therefore it has not followed Rule "6" and report has not been provided.

26. According to their submissions, power of eminent domain does not mean that no valid enquiry need be conducted. It is their contention that the Government ought to have excluded the house sites situated in an extent of 28 acres of total area, especially in the impugned administrative sanction in G.O.Ms. No. 139, dated 03.11.2006, itself states that 68 acres have not been acquired in spite of sanction granted in 1999.

27. It is also their case that requisition for exemption in the enquiry was not considered and therefore the respondents have not acted in a fair and expected manner as per law in respect of expropriatory law like that of Tamil Nadu Act 10/1999. The manner of enquiry and application of mind and substantial compliance of every procedure even in discretionary matter has to be made and

Courts have got right of final review. They relied upon the judgment of the Hon'ble Supreme Court reported in Hindustan Petroleum Corporation Ltd. Vs. Darius Shapur Chenai and Others, , Kewal Chand Mimani (d) by Lrs. Vs. S.K. Sen and Others, and Devinder Singh v. State of Punjab (2008) 1 SCC 728.

28. In respect of W.P. No. 33294 of 2007 the petitioner is himself carrying on business of carriers of container abetting the main road and they should have been exempted. It is their further contention that the provisions of the Central Land Acquisition Act have to be in pari-materia apply to Tamil Nadu Act 10/1999 also.

29. Mr. C. Ravichandran, learned Counsel appearing for the petitioner in W.P. No. 29294 of 2007, while adopting the arguments of the learned senior counsel Mr.R.Krishnamoorthy would submit that industrial purpose u/s 3 means larger extent. It is his contention that if industrial purpose is for larger extent, there must be a scheme or plan of action and the scheme must provide the entire procedure apart from objects etc., He would also submit that no enquiry was conducted. He relied upon the decision of the Full Bench of this Court reported in Sharp Tools v. The State of Tamil Nadu 2006 (4) CTC 785 to substantiate his contention that authority must give reasons and he would rely upon the term "after hearing" in Rule 6, which connotes a full fledged enquiry. He would submit that the impugned G.O. Ms. No. 177 (Industries) (SIPCOT L.A) dated 04.07.2007, where notice issued u/s 3(1) of the Act in the said writ petition is liable to be set aside as the procedure contemplated under the Act has not been followed and that the respondents have pre-determined the acquisition calling for private negotiation and that the provisions of Section 7 has been violated. It is also his submission that the enquiry is a farce.

30. Mr. S.D.S. Phillip, learned Counsel appearing for the petitioners in W.P. Nos. 29090, 29707 to 29710, 30019 to 30021, 30255 and 30256 of 2007 submitted that the Tamil Nadu Act 10/1999 is an expropriatory and draconian law and the owner has got only one chance under Sections 3(2) and 3(3) of the Act and in as much as the law is having overriding effect and no Civil Court has got any jurisdiction to enter into the matter, the procedure contemplated under the Act has to be scrupulously followed. He would also submit that on receipt of the Form-A the owners have to give objection within 30 days from the date of issuance of Form-B and that would deprive the right of owners to defend their case. He would also submit that as per Rule 4 no notice was issued in the village and locality publication has not been made as per Rule 4. He would also submit that the enquiry was only a private negotiation and pre-determined in nature. He would also submit that for acquisition for industrial purpose for larger extent there should be a scheme and it must be for a particular project and that project must be related to public purpose. Even if it is industrial purpose, that has to be made known and in the absence of any opinion framed in appropriate manner, according to him, acquisition proceedings are invalid. It is his case that by reading the object of the Act, vast lands are acquired for Multi National

Companies in under contemplation. Multi National Companies are only interested in private employment and the units are likely to vanish in course of time, by which employment opportunities will be affected, which according to him violates Article 38 and 39 of the Constitution of India. He would also submit that in as much as some of the areas have been excluded among the house owners, there is discrimination and it violates Article 14 of the Constitution of India. He would also submit that when application u/s 23(A) for exemption is pending with the Government, the proceedings under the Act ought not have been initiated. They were under the impression that when some owners are voluntarily surrendering on payment of compensation, it is their legitimate expectation that remaining lands will be left out.

31. In W.P. No. 29090 of 2007, it is his contention that the property was purchased by the petitioner on 16.08.2005, and he has received no notice, even though it is the case of the respondents that when notice was served, no one was available. Further in Section 3(1) notification his name is not found, therefore his submission is that notice u/s 3(2) is mandatory and he would also submit that exemption has been granted to a Temple, Rice Mill, Kalyana Mandapam under S. Nos. 454 and 455 and the same has not been considered in his case which has a small Church. He would also submit that the Government Order in G.O.Ms. No. 1630 Revenue dated 26.09.1984, states that as far as possible temples and all other places of worship should be exempted. His contention is that if the petitioner being a local residence must know about the public notice, there is no meaning for the mandatory issue of notice and therefore according to him the entire enquiry is a farce.

32. He would submit that in respect of W.P. Nos. 29708 to 29710 notice was not served to the petitioners in spite of the fact that the petitioners have purchased the property. He would submit that in W.P. No. 30019 of 2007 it is a rice mill and other writ petitioner is running a small scale industry in garment and has obtained approval as SSI. He would submit that the petitioners in W.P. Nos. 30020 and 30021 of 2007 are non-residents, one is residing at Kerala and the other in Hyderabad and there is no possibility for them to know when Form-B will be issued. He would rely upon the judgments reported in

- (1) Hindustan Petroleum Corporation Ltd. Vs. Darius Shapur Chenai and Others,
- (2) Gunasekaran, Subramaniam, Chandrasekaran and Panneerselvam Vs. State of Tamilnadu,
- (3) A. Douloth Nisha v. The District Collector, Pasumpon Mutharamalinga Devar District and Ors. 2006 (1) CTC 738
- (4) V. Sarangapani (deceased) and Others Vs. The Collector and The Special Tahsildar, (Adi Dravidar Welfare),

He would also submit that Survey number is given wrongly and proceeding must be held to be vague and he relied upon the Judgment reported in Om Prakash

Sharma and Ors. v. M.P.Audyogik Kendra Vikas Nigam (2005) 10 SCC 306. He would submit that the petitioners name stood in the revenue records and no notice was given and it would vitiate the entire proceeding and relied upon the judgment reported in I.I.S. Employees" House Building Coop. Society Ltd. v. State of Karnataka (2005) 12 SCC 483.

33. Mr.P.Seshadri, learned Counsel appearing for the petitioner in W.P. No. 32290 of 2007, while adopting the arguments of the learned senior counsel, would submit that u/s 3(3) the term "after hearing" connotes private enquiry and the petitioner has purchased the property in 1989 for the purpose of running industry viz., a catering unit measuring an extent of 10,000 sq.ft and is adjacent to the road and that it has to be exempted.

34. The other learned Counsels appeared for the petitioners in other writ petitions adopted the arguments of the learned senior counsel as stated above.

35. Mr.G.Masilamani, learned Advocate General appearing for the respondents would submit that out of 17 writ petitions, writ petitioner in W.P. No. 29575 of 2007 has accepted the acquisition proceeding and the counsel has not appeared and argued and hence the same has to be dismissed as infructuous.

36. In respect of 16 writ petitions, he would submit that writ petitioners in W.P. No. 33294/07 M/s.Triway Container Freight Station Private Limited is a subsequent purchaser. The original owner has also been made as the second respondent in the writ petition. His submission is that when the petitioner company itself has purchased the property on 07.05.2007, notice u/s 3(2) was issued on 20.02.2007 and therefore the purchase is after the acquisition proceedings have been initiated. It is his contention that the second petitioner in the said writ petition Mr.Venkatapathy Naidu has earlier filed a writ petition in W.P. No. 3111 of 2007, which was dismissed as withdrawn without any specific leave from the Court. The present writ petition in W.P. No. 33294 of 2007, according to the learned Advocate General is liable to be dismissed. It is also his case that while in the said writ petition No. 33294 of 2007 seven survey numbers have been given namely 69/2B, 69/3, 69/4, 69/6, 71/8A1, 70/1 and 153/7A, in the earlier writ petition in W.P. No. 3111 of 2007, he has included all five survey numbers except S. Nos. 153/3 and 70/1. The said W.P. No. 3111 of 2007 was dismissed as withdrawn due to the reason that the petitioner has accepted the compensation and dismissal was without any leave, to file a fresh writ petition. Therefore, the writ petition is liable to be dismissed in respect of the said five survey numbers except S.No153/3 and 72/4. Even in respect of the above said two survey numbers, before filing of earlier W.P. No. 3111 of 2007, notice u/s 3(2) have been issued to the original owner namely Mr.Venkatapathy Naidu and after the notice u/s 3(2) was issued which was on 20.02.2007, previous owner Mr.Venkatapathy Naidu, the second petitioner in W.P. No. 33294/07, has sold the property to the petitioner company on 07.05.2007 and therefore the writ petitioners have not come to this Court with clean hands and in respect of the said five survey numbers they are hit by Res judicata and the other two survey

numbers are covered by constructive Res judicata and therefore, according to the learned Advocate General, W.P. No. 33294/07 is not maintainable. The said second petitioner Mr.Venkatapathy Naidu has also accepted the compensation offered by the respondents and hence the first petitioner was not served.

37. The learned Advocate General while referring to the scope of the Act 10/1999 would submit that the basis of acquisition under the Act is for industrial purpose as defined u/s 2(e) which is not only inclusive but also contains various components. According to him by virtue of the word "industrial purpose" u/s 2(e) and "land" u/s 2(f), the scope of the Act has been narrowed down especially in the circumstances that Section 3(1) of the Act uses only the words "industrial purpose". The word which are not found in Section 3(1) of the Act cannot be imported from any other Act because the object of the Act is only to development of industrial purpose and therefore, the meaning elsewhere in the Central Land Acquisition Act either for public purpose or any other purpose cannot be brought within the ambit of Tamil Nadu Act 10/1999. His submission is that the Statement of Objects makes it very clear that it is for speedy industrial growth of the State.

38. His further submission is that what is contemplated u/s 3(2) of the Act is only a show cause notice and in the absence of any procedure to be followed for the purpose of such notice u/s 3(2) of the Act, either for issuance of a show cause notice to individual owner or public notice either under Form-A or Form-B, the Government is empowered to delegate its powers u/s 3(2). He would submit that pursuant to the power given u/s 23(A)(1) of the Act, the Government by G.O.Ms. No. 513, Revenue (LAI 1) dated 02.09.2005, has delegated its powers to the Collector of the District concerned. As far as the public notice to be given u/s 3(2), Section 15 prescribes the method, the term "officer concerned" u/s 15 is the Collector and all public notice have been issued in this case under the signature of the District Collector. As far as the show cause notice, the owner or any person interested to whom notice in Form-A has to be issued. Since 6,500 owners have to be issued with such show cause notice, the District Collector has signed in the first and the last page in the originals and thereafter the Tahsildar under the orders of the District Collector has signed the show cause notice and sent the same to the individual owners which according to the learned Advocate General would amount to substantial compliance of the provision of Section 3(2) of the Act. He would submit that the word "shall" used in Section 3(2) of the Act is for the purpose of giving opportunity to the owners and not for the purpose of signature of the Collector or any other person. He would submit that when the Government have called upon any person interested, it is not the Government which signs but any other authority and therefore the concept of Section 3(2) being part of principles of Natural Justice, signing of show cause notice to the owners by the Tahsildar under directions from the Collector does not vitiate the proceedings, since the signature is by an order of the Collector and the original has been signed by the District Collector.

39. In respect of show cause notice issued to the parties, there are cases where persons have received and cases where persons who have not received. It is his submission that in respect of persons who have received show cause notice u/s 3(2) of the Act in Form-A, none of the recipients have rejected the notice as bad in law. According to him, issuance of such a notice is not a fundamental right or human right and it is not inalienable. Notices having been signed by the Tahsildar, there is no violation of public policy especially in the circumstances that notice signed by the Tahsildar have been received by the owners without any objection. Therefore, according to the learned Advocate General, any infraction of procedure cannot make the acquisition invalid.

40. In respect of the persons who have not received notice, they cannot question the validity of the notice. It is his contention that the procedure of giving notice being a beneficial provision, by signing in the said notice by the Tahsildar no prejudice or injustice has been caused on account of the same. It is not as if by Tahsildar signing the said Form-A notice under the orders from the District Collector, owners are unable to give their explanation. He would submit that considering the totality of the situation, the purpose of acquisition for industrial purpose which is in public interest and therefore the procedural infirmity which are not prejudicial to the owners cannot stand in the way of acquisition proceedings and on that basis the acquisition proceedings cannot be struck down.

41. As far as the contention of the learned Counsel for the petitioners regarding G.O.Ms. No. 139, Industries (MIG-2) Department, dated 03.11.2006, that as per the said G.O. itself the person authorised is not the District Collector but Special District Revenue Officer (LA), submission of the learned Advocate General is that the said G.O. is administrative in nature. By that G.O. no acquisition is made, it is only an administrative sanction which has been given before the starting of acquisition proceedings and it can only be treated as a preliminary report. The Special District Revenue Officer (LA) has given a proposal for acquisition. Therefore, according to him G.O.Ms. No. 139 is not intended to substitute the District Collector or the Government u/s 3(2) of the Act. The intention of the G.O. is not to take away the statutory powers of the District Collector u/s 3(2) and 23(A) of the Act. Therefore, the Special District Revenue Officer (LA) was not performing powers of acquisition under any statutory provisions.

42. To substantiate his contention that provisions of the Central Act 1/1894 cannot be imported under the Tamil Nadu Act 10/1999, he would rely upon Section 21 which specifically states that Land Acquisition Act does not apply to Tamil Nadu Act 10/1999. After the present Act of 10/1999, acquisition in respect of the property under the said Act within the State of Tamil Nadu has to be restricted only under the State Act and in so far as the State of Tamil Nadu is concerned, the Central Act is not applicable in that regard. He would also submit that Section 21 read with Section 22 gives an overriding effect to any other law. Even though Section 22 gives overriding effect to Act 10/1999 from any other law, Section 21 need not be there, but still the law makers have included it as a

matter of abundant caution. To insist that any Central Act or any procedure contemplated under the Central Act, can be brought within the preview of the Tamil Nadu Act 10/1999, will be against the terms of the Act. He would submit that the right to property not being a fundamental right, there is no question of Natural Justice coming in and the opportunity which is required in respect of acquisition should be only as per the extent given under Act 10/1999 and in as much as such procedure under the Act has been followed, the acquisition proceedings will not be affected. He would submit that merely because the rules framed under the Central Land Acquisition Act is in pari martia, same as rule under Act 10/1999, it does not mean that the rules under the State Act must have the same meaning, which has to be construed only in accordance with Act 10/1999, especially when the rule making power is only a subordinate legislation. He would submit that rules were framed in 2001, in G.O. No. 366, Revenue Department, dated 21.09.2001. Rule 3 speaks about the show cause notice to the owners in Form-A and public notice in Form-B as required u/s 3(2) of the Act. In respect of both notices and as far as larger extent is concerned, it is stated that notice shall be published at common places in the locality and copies fixed in the office of Collector and Tahsildar. In the present case, according to the learned Advocate General, notices were published in seven places. He would submit that as per Rules the term "hearing" and "objections" cannot be equated to the enquiry contemplated under Rule 5(A) of the Central Act. He would also state that under Rule 6(b) there is a provision which states that in cases where owners do not object, no enquiry is necessary. In the absence of any provision in the State Act that the Central Act should be followed in respect of conducting enquiry there is no scope to apply the Central Act. He further submitted that as per the Rules under the Act 10/1999, there is no mandate that copies of the answers given by the requisitioning body be sent to the owners. In the absence of any mandatory provision under the rules warranting copies of the remarks be submitted to the objectors and thereafter fix further date of enquiry, it cannot be said that the owners are entitled for copies of the remarks. He would submit that Rule 5(A) of the Central Act, 1894 relates to the opportunities of being heard. Section 3(2) of Act 10/1999 only relates to show cause notice and therefore it is totally different from Section 5(A) enquiry.

43. The term "hearing" under Rule 6, according to the learned Advocate General has to be in consonance with Section 3(2) of the Act 10/1999 and there need not be any elaborate enquiry. He would submit that indications in Form-A notice that objections can be filed within 30 days from the date of Form-B notice, does not cause any prejudice to land owners at all. There is no impediment for the land owners to file objection within 30 days from the date of service of Form-A notice itself, since Form "B" has to be necessarily be published after Form-A notice. Even though in respect of issue of notice in Form-B, Section 15 prescribes a procedure, there is no procedure prescribed as far as Form-A is concerned since it is only a show cause notice. He would also submit that no one of the petitioners have challenged Form-A or Form-B notices.

44. As far as the objections of the petitioners that the Act must be construed based on a scheme for industrial purpose, it is his contention that Act does not visualise the allotment of land since the acquisition has to be tested based on the provision of the Act, which must be for industrial purpose. Merely because some of the petitioners have purchased approved plots as housing sites, the same is not a bar for acquisition. He would submit that if it is the petitioners view that lands acquired are not going to be used for industrial purpose but for some other purpose not required under the Act, it is for the petitioners to workout their remedies especially after the introduction of Right to Information Act. The learned Advocate General has also produced the map prepared by SIPCOT which shows the total extent of land acquired and how the lands of the 17 petitioners are situated here and there in small patches and therefore, he would submit that in the interest of the larger industrial development, any such cases of individual rights have to be given up. As far as the plea of exemption of various lands are concerned, it is the submission of the learned Advocate General that whether a particular land is required or not it is for the the Government to decide.

45. As far as the writ petitioner company in W.P. No. 33294 of 2007 is concerned, apart from his submission that the writ petition is not maintainable, mere operating a carrier unit does not mean that they should be given exemption. After acquisition process is over, it is always open to such petitioner to make proper representation to SIPCOT which may allot any place, if it is satisfied that the petitioner require space for industrial purpose. His submission is that it is open to any private entrepreneur to approach SIPCOT for the purpose of allotment of land. He has also made his submission in respect of individual cases.

46. His further submission is that show cause notice u/s 3(2) has been sent to persons whose names found place in the revenue records and as far as W.P. No. 33292 of 2007 is concerned, he being a subsequent purchaser and after initiation of proceedings u/s 3(2) of the Act, he is not entitled for notice and non-issuance of notice does not affect the acquisition proceedings.

47. The learned Advocate General concluded his arguments by stating that out of 6500 persons whose lands have been acquired only 17 persons are before this Court and that too among them one person has accepted the land acquisition proceedings and only 16 persons are before this Court now. The learned Advocate General has also produced the entire files relating to individual cases.

48. The learned Counsels appearing for the petitioners by way of reply have insisted that industry means only public purpose and Constitutional right under Article 300(A) if it is violated, such affected party has got right to approach the Court especially when the Act is expropriatory in nature and the learned Counsels would rely upon the judgment reported in 2008 (1) SCC 728. The other submission is that industry means it must be Government related and not private enterprises. It is their further submission that if land acquisition is for a larger extent, there must be a scheme. They also reiterated that enquiry contemplated is mandatory in nature and purport of the Central Act in so far as it relates to

public interest has to be imported into the provisions of Tamil Nadu Act 10/1999 and insisted that the provisions under Rule 6 have not been followed. They would also submit that as far as authenticity u/s 25(2)(b) is concerned, the Government has to make rules and in the absence of such rules there is no question of authenticity of District Collector's proceedings.

49. I have heard the learned senior counsel and other counsels appearing for the respective petitioners and the Learned Advocate General and perused the relevant records. Before advertng to various contentions raised in respect of the land acquisition proceedings in question, it is relevant to refer to some of the provisions of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (Tamil Nadu Act 10/1999). Originally the matter relating to acquisition and requisitioning of property was incorporated as Entry No. 33 of List I-(Union List) of the Seventh Schedule to the Constitution of India and it was subsequently omitted from List-I by Constitution (Seventh Amendment) Act, 1956, by which the matter relating to the said acquisition and requisitioning of property was made in List III - (Concurrent List) as Entry No. 42. By virtue of Article 254 of the Constitution of India, in respect of the matters enumerated in the Concurrent List, the law made by the Parliament whether passed before or after the law made by the State Legislature of any State shall prevail and the law made by the Legislature of the State to that extent of repugnancy, would be void. Likewise in respect of the matters in Concurrent List when the Legislature of the State makes law and if such law is repugnance to the provisions of the earlier law made by the parliament with respect of the said matter, the State law would prevail in that State, if such law has been reserved for the consideration of the President and such accent has been received. It is true in respect of the matters in the Concurrent List the Parliament will have a right of enacting law at any time in respect of the same matter wherein the State Legislature has made law either by adding to, amending, varying or repealing the same. Since the matter relating to acquisition and requisitioning has been brought under the Concurrent List as Entry No. 42, both the Parliament as well as the State Legislature have simultaneous powers to make law.

50. At the time when the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (hereinafter referred to as Tamil Nadu Act 10/1999), was enacted by the Tamil Nadu Legislature, there was in existence a Central law made by Parliament viz., Land Acquisition Act, 1894. The Tamil Nadu Act 10/1999, having been enacted by the Tamil Nadu State Legislature and received the assent of the President of India has come into force on 21.09.2001 as per G.O.Ms. No. 365, Revenue, (LAI(1)), dated 21.09.2001. By virtue of Article 254(2) of the Constitution of India, the Tamil Nadu Act 10/1999 would prevail in the State of Tamil Nadu by virtue of the legislative competency of the State Government.

51. As per the statement of objects and reasons leading to the passing of the Tamil Nadu Act 10/1999 it enshrines for the speedy industrial growth of the State and felt that lands for industrial purposes have to be acquired speedily so as to

achieve the object, since the provision of suitable site of locality of industries is a pre-requisite for quick establishment of industries. It was with that intention, the Government has made the Tamil Nadu Act 10/1999 to provide special provisions for speedy acquisition of lands for industrial purpose by enacting the special legislation.

52. On the other hand the basic object of Land Acquisition Act 1894 (Central Act 1/1894) is to provide law for the acquisition of land needed for public purpose and for companies and for determining the amount of compensation to be made on account of such acquisition. Therefore, the object of the Tamil Nadu Act 10/1999 is distinct from the object of the Central Act 1/1894 in the sense that the basis for passing Tamil Nadu Act 10/1999 is to provide speedy acquisition of land for industrial purposes in the State of Tamil Nadu.

53. The term "industrial purpose" which is the core of the Tamil Nadu Act 10/1999 is defined u/s 2(e), is as follows:

Section 2(e) "Industrial purpose" includes the starting of a new industry, expansion of an existing industry, the development of an industrial area and establishment and management of an industrial estate.

It denotes not only what an industrial purpose is, but it is an inclusive definition which comes under broadly four categories viz.

- (i) starting of a new industry,
- (ii) expansion of an existing industry,
- (iii) the development of an industrial area and
- (iv) establishment and management of an industrial estate.

Therefore, the term "industrial purpose" for which the law is enacted can come under any one of the above said four categories apart from any other industrial purpose which may not come under the above said four categories. Out of the above said four narrated industrial purpose, in respect of "development of industrial area", it is no doubt necessary that the Government has to declare by notification the said area to be an industrial area. The term "industrial area" is defined u/s 2(c) which is as follows:

Section 2(c), "Industrial area" means any area declared by the Government, by notification, to be an industrial area

Likewise, the industrial purpose relating to establishment and management of "industrial estate" means an area selected by the Government, wherein the Government builds factories and connected buildings and make them available for any industries as it is defined u/s 2(d) which is as follows:

Section 2(d), "Industrial estate" means any site selected by Government, where the Government builds factories and other buildings and makes them available for any industry;

Therefore, for the purpose of establishment and management of industrial estate, the Government has to select the place, built factories and make them available for any industry which can be give to private entrepreneurs also. However, in respect of the industrial purpose of starting a new industry or expansion of an existing industry there is no necessity for the Government to have a declaration to that effect or for the Government to choose the place for making it as an industrial estate.

54. On the face of definition clause, it is clear that for the purpose of starting new industries or expansion of existing industries it is not necessary for the Government to declare or to build factories by itself.

55. Section 3 of the Act deals with the power to acquire land which is as follows

Section 3. Power to acquire land:- (1) If, at any time, in the opinion of the Government, any land is required for any industrial purposes, or for any other purpose 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 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, who in the opinion of the Government may be interested 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 pass an order under Sub-section (1) after hearing and considering the cause, if any, shown by the owner or person interested.

Section 3(1) postulates that if in the opinion of the Government any land is required for any industrial purpose or any other purpose, which is as per the main object of the Act, a publication could be effected specifying the particular purpose for which such land is required. Therefore, on a reading of Section 3(1) along with the definitions as stated above, it is clear that if the Government in its opinion requires any land for industrial purpose for starting new industry or expansion of existing industries, there is no need for the Government to actively involves itself by declaration as Industrial Area or Industrial Estate and the purpose of such acquisition for starting a new industry or expansion of existing industry can also be for the purpose of giving to private entrepreneurs. It is in this way two of the components for industrial purpose viz., development of industrial area and establishment and management of industrial estate are totally different from starting of a new industry or expansion of existing industry. Therefore, as long as the lands are required for industrial purpose in the opinion of the Government, it is immaterial as to whether the Government itself does various activities for the promotion of industrial development or give to individual entrepreneurs for industrial development as long as the same comes under the term industrial purpose of starting of new industry or expansion of existing industry. Therefore, the element of public purpose as it is understandable under

the Central Act 1/1894 may not have strict application in respect of the Tamil Nadu Act 10 of 1999. However, it is true that the consequence of industrial purpose is to develop industrial growth in the State of Tamil Nadu which will ultimately be helpful to the public at large.

56. Again, u/s 3(2) of the Tamil Nadu Act 10/1999, the Government has a duty to call upon the owners or any other person in the opinion of the Government has interest in the said lands to show cause as to why the land should not be acquired. In addition to the above said show cause notice, which is given to the owner or any other person interested in the land as per the opinion of the Government, the Government shall also cause a public notice in the manner prescribed.

57. Thus Section 3(2) relates to giving of opportunities to the owners or persons interested and hearing them before passing notification u/s 3(1) of the Act. In respect of the said two facets of Section 3(2) viz., issue of show cause notice to the owners and persons interested and public notice, Rule (3) and (4) of the Tamil Nadu Land Acquisition of Land for Industrial Purpose Rules, 2001 which came into force on 21.09.2001, states as follows:

Rule 3: Issue of show cause notice by the Government - The show cause notice specified in Sub-section (2) of Section 3 shall be in Form-A.

Rule 4: Publication of public notice - The Government shall cause a public notice of the substance of the show cause notice issued under Sub-section (2) of Section 3 in Form-B. The notice shall be published at convenient places in the locality and copies thereof fixed up in the offices, of the Collector and the Tahsildar.

Therefore, Form-A prescribed under Rule(3) has to be served on the owner or person interested and it is in the form of show cause notice. The contents of Form-A is as follows:

Form-A (See rule 3)

SHOW CAUSE NOTICE UNDER Sub-section (2) OF SECTION 3 OF THE TAMIL NADU ACQUISITION OF LAND FOR INDUSTRIAL PURPOSES ACT, 1997 (TAMIL NADU ACT 10 OF 1999)

Whereas it appears to the Government of Tamil Nadu that the land/lands specified in the Schedule below and situated in the...village...taluk.... District is/ are needed for an industrial purpose to wit for.... Notice to that effect is hereby given to all whom it may concern in accordance with the provisions of Sub-section (2) of Section 3 of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (Tamil Nadu Act 10 of 1999) to show cause within thirty days from the date of giving public notice why the land/lands should not be acquired.

Thus Form-A, makes it clear that owner is directed to show cause as to why the land should not be acquired within 30 days from the date on giving public notice.

58. The term public notice mentioned in Form-A drafted as per Rule 3, connotes Form -B drafted as per Rule 4 of the Rules. While Form-A is to be served on the individual owners or persons interested in the opinion of the Government, Form-B is to be published at convenient places in the locality by fixing a copy of Form-B in the offices of the Collector and the Tahsildar. Form-B, states that all persons interested are to lodge before the concerned department within 30 days from the date of publication of notice a statement in writing and their objection, if any, to the acquisition of the said lands.

59. Section 15 of the Tamil Nadu Act 10/1999 provides the manner by which public notice is to be made in Form "B", which is as follows:

Section 15:- Public notices how to be made known- Every public notice given under this Act or any rule made thereunder shall be in writing over the signature of the officer concerned and shall be widely made known in the locality to be affected, thereby affixing copies thereof in conspicuous public places, within the said locality, or by publishing the same by beat of drum or by advertisement in a local newspaper, or by any two or more of these means, and by any other means that the officer may think fit.

Therefore, it is made clear that a public notice in writing with the signature of the officer concerned be made widely known in the locality by affixing in the conspicuous public places or publishing the same by beat of drum or by advertisement in a local newspaper, etc., It is significant to note that as far as issuance of show cause notice to the owner or person interested in the opinion of the Government, neither the Act nor the Rules prescribe any method to be followed, which means that if such show cause notice is sent to the owner or persons interested in any acceptable form, the same is certainly a proper method of service. Even in this way service of show cause notice and public notice, under Tamil Nadu Act 10/1999 is totally different from Section 4(1) of the Central Act 1/1894 which contemplates the notification to be published in the Official Gazette stating that it appears to the appropriate Government that such land in the locality is needed for public purpose in addition to that, it is the duty of the Government to publish the same in two daily newspapers circulating in that locality of which at least one should be in regional language. In addition to that, it is the duty of the District Collector to cause public notice of substance of such notification at convenient places in the said locality. Such stringent provisions is not available either u/s 3(2) of Tamil Nadu Act 10/1999 or under Rules 3 & 4 of the Rules framed thereunder.

60. Now coming to the third aspect of the power to acquire land which is dealt with u/s 3(3) of the Tamil Nadu Act 10/1999, it enables the Government to pass notification u/s 3(1) and after hearing and considering the cause, if any, shown by the owner or person interested. The term "hearing" as contemplated u/s 3(3) of the Act cannot be equated to the term "hearing of objections" u/s 5-A of the Central Act 1/1894. Section 5-A(2) states as follows:

## Section 5-A. Hearing of Objections:

(1) ...

(2) Every objection under Sub-section (1) shall be made to the Collector in writing, and the collector shall give the objector an opportunity of being heard in person or by any person authorised by him in this behalf or by pleader and shall, after hearing all such objections and after making such further enquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified u/s 4, Sub-section (1), or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government. The decision of the appropriate Government on the objections shall be final.

Thus Section 5-A(2) mandates the District Collector to give opportunity of being heard either in person or by pleader etc., and after hearing all objections and making such further enquiry as the District Collector deems fit. In the absence of any such stringent provision as it is seen in the Central Act 1/1894 especially u/s 5-A(2), in the Tamil Nadu Act 10/1999, there is no difficulty in coming to the conclusion that the intention of the law makers in respect of Tamil Nadu Act 10/1999 while taking into consideration the basic object of enacting such law, is not to have an enquiry of the sort provided for under the Central Act 1/1894, but passing orders after hearing and considering the objections.

61. It is true as contented by Mr.R.Krishnamoorthy, learned senior counsel appearing for the petitioners that Rule 4 of the Land Acquisition (Tamil Nadu) Rules framed by the Government of Tamil Nadu in accordance with the power u/s 55(1) of the Land Acquisition Act, 1894 (Central Act 1/1894) which is as follows:

Rule 4 - (a) If a statement of objections is filed by a person who is not interested in the land, it shall be summarily rejected.

(b) If any objections are received from a person interested in the land and within the time prescribed in Sub-section (1) of Section 5-A, the Collector shall fix a date for hearing the objections and give notice thereof in Form "B" to the objector as well as to the department or company requiring the land. Copies of the objections shall also be forwarded to such department or company. The department or company may file on or before the date fixed by the Collector, a statement by way of answer to the objections and may also depute a representative to attend the enquiry.

(c) On the date fixed for enquiry or any other date to which the enquiry may be adjourned by the Collector, the Collector shall hear the objector, or a person authorised by him in this behalf, or his pleader and the representative, if any, of the department or company and record any evidence that may be produced by both in support of the objections and in support of the need for acquiring the land.

is in pari materia the same as Rule 6 of the Rules framed by the State Government under the Tamil Nadu Act 10/1999 which reads as follows:

Rule 6 : Hearing of objections by the Government -

(a) If a statement of objections is filed by a person who is not interested in the Land, it shall be summarily rejected.

(b) If any objection are received from a person interested in the land, within the time prescribed in rule 3 or 4, the Government shall fix a date for hearing the objections and give notice thereof to the objector or as well as to the department or company requiring the land. Copies of the objections shall also be forwarded to such department or company. The Department or company may file on or before the date fixed by the Government, a statement by way of answer to the objections and may also depute a representative to attend the enquiry.

(c) On the date fixed for enquiry or any other date to which the enquiry may be adjourned by the Government, the Government shall hear the objector, or a person authorised by him in this behalf, or his pleader and the representative, if any, of the department or company and record any evidence that may be produced by both in support of the objections and in support of the need for acquiring the land.

But the said Rule 6 framed under Tamil Nadu Act 10/1999 has to be construed only in the context of Tamil Nadu Act 10/1999 taking into consideration the basic Object of the Act and it cannot be construed based on the object of the Central Act 1/1894. Therefore, the hearing of objections by owners or persons interested under the Tamil Nadu Act 10/1999 is to give opportunity to the owners and not for conducting an elaborate enquiry which certainly would not enable the Government for speedy acquisition of land for industrial purposes. Nevertheless, following of the basic principles of natural justice is to be read as forming part of any statute, of course, including Tamil Nadu Act 10/1999 which can never be dispensed with but the nature of hearing contemplated under Act 10/1999 is different from the nature of enquiry contemplated u/s 5-A of the Central Act 1/1894 and the Rule 4 of the Tamil Nadu Rules framed thereunder. Again a reference to Section 5-A(2) of the Central Act 1/1894 specifically mandates the District Collector to give the objectors an opportunity of being heard, while such stringent provisions is not available under Tamil Nadu Act 10/1999, even though the Rules framed under the said Act especially Rule 6, in pari materia is same as that of Rule 4 framed by the Tamil Nadu Government under Central Act 1/1894.

62. As far as forwarding of objections of land owners to the requisitioning authority and obtaining answers to the objections, there is no provision under the Act or Rules mandating the Government to forward copies of such answers to the objections before the date of hearing. However, it does not mean that enquiry should be dispensed with. It is also made clear that any statement of objections filed by person who is not interested in the land has to be summarily rejected and such person who is making such statement of objections must

mention how the objector is interested in the land.

63. Section 4 of the Tamil Nadu Act 10/1999 postulates as follows:

Section 4 : Land acquired to vest in Government free from all encumbrances -

(1) When a notice under Sub-section (1) of Section 3 is published in the Tamil Nadu Government Gazette, the land to which the said notice relates shall, on and from the date of such publication, vest absolutely in the Government free from all encumbrances:

Provided that if before actual possession of such land is taken by, or on behalf of, the Government, it appears for the Government, that the land is no more required for the purpose of this Act, the Government may, by notice published in the Tamil Nadu Government Gazette, withdraw the land from acquisition. On the publication of such notice, the land shall revest with retrospective effect in the person from whom it was divested on the issue of order under Sub-section (1) of Section 3, subject to such encumbrances, if any, as may be subsisting at that time:

Provided further that the owner and other persons interested shall be entitled to payment of an amount as determined in accordance with the provisions of Section 7 for the damage, if any, suffered by them in consequence of the acquisition proceedings.

(2) Where any land is vested in the Government under Sub-section (1), the Government may, by order, direct any person who may be in possession of the land to surrender or deliver possession thereof to the Collector or any person duly authorised by him in this behalf within thirty days of the service of the order.

(3) If any person refuses or fails to comply with an order made under Sub-section (2), the Collector may take possession of the land, and may, for that purpose, use such force as may be necessary.

Therefore as per Section 4(1) of the Act, when once a notice u/s 3(1) is published in the Gazette, the land to which such notice relates absolutely vest with the Government free from all encumbrances. On the other hand, u/s 16 of the Central Act 1/1894 which is as follows:

Section 16. Power to take possession - When the Collector has made an award u/s 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.

It is only after the District Collector ultimately makes the Award u/s 11 and take possession of the land and thereafter vesting takes place to the Government free from encumbrances. Under Tamil Nadu Act 10/1999 after vesting of possession u/s 4(1) of the Act, the determination of amount of compensation u/s 7 comes into operation.

64. Section 18 of the Tamil Nadu Act 10/1999 deals with bar of jurisdiction of

Civil Courts which is as follows:

Section 18. Bar of Jurisdiction of Civil Courts - Save as otherwise expressly provided in this Act, no Civil Court shall have jurisdiction in respect of any matter which the Government or the Collector is, empowered by or under this Act, to determine and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Thus Section 18 bars any jurisdiction of Civil Court in respect of the matter which the Government or District Collector is empowered to determine under the Act. Again Section 21 of the Act which reads as follows:

Section 21. Land Acquisition Act not to apply - Save as otherwise provided in this Act, the provisions of the Land Acquisition Act, 1894 (Central Act I of 1894) shall cease to apply to any land which is required for the purpose specified in Sub-section (1) of Section 3 and any such land shall be acquired by the Government only in accordance with the provisions of this Act.

Thus Section 21, explicitly makes it clear that the provisions of the Land Acquisition Act, 1894 cease to apply to any land which is required as per notice u/s 3(1) of Tamil Nadu Act 10/1999. It is also made abundantly clear that in respect of Section 3(1) of Tamil Nadu Act 10/1999, the acquisition shall be only in accordance with the provisions of the State Act and thereby exclusively excluding Land Acquisition Act 1/1894. Again as correctly submitted by the learned Advocate General Section 22 of the Act 10/1999 overrides other law, which reads as follows:

Section 22. Act to override other laws - The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time in force, or any custom, usage, or contract or decree or order of a Court or other authority.

Thus Section 22 gives overriding effect to the Tamil Nadu Act 10/1999 from any other law, any custom, usage, or contract or decree or order of a Court or other authority. Even if Section 22 can be taken as a matter of abundant caution, the wordings of the said Section are sweeping in nature. Therefore, it is clear the provisions as stated above would necessarily lead to an irresistible conclusion that Tamil Nadu Act 10/1999 is a self contained code and the provisions are to be applied only as per the terms of the Act and not as per any other law including the Central Act 1/1894. Of course, it is true the principles of natural justice are in-built in any law. Therefore, the general contention of the learned Senior Counsel appearing for the petitioners that the enquiry as contemplated under the Tamil Nadu Act 10/1999 is to be the same as that of the hearing contemplated under the Central Act 1/1894 read with rules made thereunder deserves to be rejected.

65. There is one other point raised by the learned senior counsel appearing for

the petitioner about the notice issued u/s 3(2) of the Act. In respect of the notice to be issued u/s 3(2) as I have enumerated above, two sorts of notice are issued viz.,

(i) Notice to owners or persons interested in the opinion of the Government i.e. Form-A for which there is no procedure for service contemplated under the Act as well as the Rules.

(ii) Public notice issued u/s 3(2) for which Section 15 of the Act, itself makes the necessary procedure to be followed and such notice is issued under Form-B.

66. Form-A notices issued to the owners or persons interested as per Rule 3 or the rules framed under Tamil Nadu Act 10/1999 in all these cases are as follows:

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67. A reference to the original files submitted by the respondents in respect of all cases show that the original of Form-A has been signed by the District Collector in all these cases enclosing the details of all the properties covered in the acquisition process. It is also seen that Form-B are issued which are as follows:

VERNACULAR (TAMIL) PORTION DELETED

It clearly shows that Form-B has been signed by the District Collector, Kancheepuram on 06.02.2007. A copy of the original of Form-A signed by the District Collector has been sent to the individual owners by the Special Tahsildar (LA), Oragadam Industrial Expansion Scheme - I, Sriperumbudur, Kancheepuram district. Therefore the Special Tahsildar has only communicated the original copy of the notice in Form-A signed by the District Collector. As far as Form-B is concerned, the original has been signed by the District Collector and the same has been directed to be published as per Section 15 of the Act. It is seen that the Special Tahsildar (LA), Oragadam Industrial Expansion Scheme I, Sriperumbudur, in his letter dated 17.04.2007, addressed to the District Collector has stated that Form-B has been published on 06.02.2007, in the following places viz.,

1. Office of the VAO, Oragadam
2. Office of Block Development Officer, Padappai
3. Office of Sub-Registrar, Walajabad
4. Collector's Office, Kancheepuram
5. Sub-Inspector's Office, Manimangalam
6. Taluk Office, Sriperumbudur
7. DRO's Office, Kancheepuram

The files also contain the necessary certificates issued by the Deputy Tahsildar, Village Administrative Officer, Executive Officer, Officials of the District Collector's Office, Officers of the Kundrathur Panchayat Union, Sub Inspector of Police-

Manimangalam Police Station, District Revenue Officer, Kancheepuram, Sub Registrar, Walajabad with all particulars relating to the entire properties.

68. On the factual assertion from the files, it is clear that Form-A as per Rule 3 of the Rules framed under the Tamil Nadu Act 10/1999 has in fact been signed by the District Collector and by his order, the same has been communicated to the objectors numbering about 6,500 by the Special Tahsildar under his signature and "By order" of the District Collector. As far as Form-B public notice is concerned the same has been in fact signed by the District Collector and has been published as per Rule 4 at least in seven places as it is seen in the original records.

69. It is brought to the notice of this Court by the learned Advocate General that by virtue of the powers conferred u/s 23(A) of Tamil Nadu Act 10/1999, the Government has issued G.O.Ms. No. 513, Revenue (LAI 1) dated 02.09.2005, directing the District Collector to exercise powers except those which are excluded u/s 23(A) of the Act. The said notification is as follows:

REVENUE DEPARTMENT DELEGATION OF POWERS OF GOVERNMENT TO DISTRICT COLLECTORS UNDER THE TAMIL NADU ACQUISITION OF LAND FOR INDUSTRIAL PURPOSES ACT, 1997

[G.O.Ms. No. 513, Revenue (LAI (1), 2nd September 2005.]

No. II (2) / REV / 716 (d) 2005 - In exercise of the powers conferred by Section 23-A of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (Tamil Nadu Act 10 of 1999), the Governor of Tamil Nadu hereby directs that all the powers exercisable by the Government under said Act except the powers excluded in the said Section 23-A shall be exercised by the Collector of the district concerned.

(2) The notification hereby issued shall come into force on the 2nd of September, 2005.

[published in Part II - Section 2 of the Tamil Nadu Government Gazette (Extraordinary), dated 2nd September 2005, Issue No. 199).

Section 23(A) which deals with delegation of powers is as follows:

Section 23-A. Delegation of powers - The Government may, by notification, direct that all the powers under this Act except the powers, -

(1) to issue notice under Sub-section (1) of Section 3 ;

(2) to withdraw the land from acquisition under the first proviso to Sub-section (1) of Section 4 ; and

(3) to make rules u/s 25,

shall, subject to such conditions, if any, as may be specified in the notification, be exercised by the Collector.

70. The said Section enables the Government to notify delegation of powers to the District Collector except the powers u/s 3(1), 4(1) and Section 25 which are exclusively reserved for the Government. Section 3(1) deals with notice of acquisition to be published by the Government, Section 4(1) first proviso deals with the power of the Government to withdraw the land from the acquisition, and Section 25 deals with power of the Government to make rules which is as follows:

Section 25. Power to make rules - (1) The Government may make rules for carrying out all the or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for or regulate -

(a) all matters expressly required or allowed by this Act to be prescribed ; and

(b) the manner of authentication of orders and other instruments of the Collector.

71. Therefore, Form-A and Form-B which are the subject matter u/s 3(2) of the Act by delegation has been directed by the Government to be issued by the District Collector. On perusal of the original documents it is clear that the District Collector has in fact signed the originals. However, in respect of Form-A as per the direction of the Collector, communicated by the Special Tahsildar (LA) to 6,500 owners and in respect of Form-B, public notice has been published in the manner explained u/s 15 and the rules framed under Act 10/1999.

72. On facts, it is clear that as far as Form-B public notice is concerned, the same has been issued as per the terms u/s 15 of the Act read with Rule 4. As far as Form-A notice to individual owners a copy of the notice, original of which, has been signed by the District Collector has been only forwarded by the Special Tahsildar (LA) by the orders of the District Collector to the individual owners.

73. The word "shall" used in Section 3(2) of the Act is intended for the purpose of giving proper opportunity to the owners to participate in the hearing apart from filing objections and merely because under the orders of the District Collector, the Special Tahsildar (LA) has signed Form-A and communicated the same to the parties, original of which has been signed by the District Collector, it does not in any way infringe the principles of natural justice which is the basis of issuing such notice.

74. It is also relevant to consider the contention of the learned Advocate General that no one of the persons who have received Form-A notice have raised any objection that Form violates the provisions of the Act or public policy and having received such notices, the owners have in fact submitted their objections. The purpose of giving notice in Form-A is to give opportunity for filing objections and then participate in the hearing and by communication of Form-A signed by the Special Tahsildar under the orders of the District Collector, the principles of natural justice have not been infringed and even assuming that there is any technical error in the signing by the District Collector, in as much as in the originals the District Collector has signed the same, there is substantial

compliance of the provisions of the Act. Further, by Special Tahsildar communicating Form-A signed by the District Collector under his orders, no prejudice or injustice has been caused to any one of the owners. The said technicality cannot be a ground to set aside the land acquisition proceeding as a whole.

75. In respect of service of notice, objections have been raised that some of the petitioners have not received notices issued u/s 3(2) of the Act, especially in Form-A. Section 14 of the Act provides the mode of service of notice which is as follows:

Section 14. Service of notices, etc., (1) All notices, orders and other documents required by this Act or any rule made thereunder to be served upon any person shall, save as otherwise provided in this Act or such rule, be deemed to be duly served,-

(a) where the person to be served is a company, the service is effected in accordance with the provisions of Section 51 of the Companies Act, 1956 (Central Act I of 1956);

(b) where the person to be served is a firm, if the document is addressed to the firm at its principal place of business, identifying it by the name or style under which its business is carried on, and is either-

(i) sent under a certificate of posting or by registered post, or

(ii) left at the said place of business;

(c) where the person to be served is a statutory public body or a corporation or a society or other body, if the document is addressed to the Secretary, Treasurer or other head officer of that body, corporation or society at its principal office and is either-

(i) sent under a certificate of posting or by registered post; or

(ii) left at that office;

(d) in any other case, if the document is addressed to the person to be served and -

(i) is given or tendered to him; or

(ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or building to which it relates; or

(iii) is sent under a certificate of posting, or by registered post to that person.

(2) Any document which is required or authorised to be served on the owner or occupier of any land or building may be addressed "the owner" or "the

occupier", as the case may be, of that land or building (naming that land or building) without further name or description, and shall be deemed to be duly served.

(a) if the document so addressed is sent or delivered in accordance with Clause (d) of Sub-section (1); or

(b) if the document so addressed or a copy thereof so addressed, is given or tendered to some person on the land or building or, where there is no person on the land or building to whom it can be delivered, is affixed to some conspicuous part of the land or building.

(3) Where a document is served on the firm in accordance with this section, the document shall be deemed to be served on each partner.

(4) For the purpose of enabling any document to be served on the owner of any property, the occupier (if any) of the property may be required by notice in writing by the Government, to state the name and address of the owner thereof.

A reference to the files show that notices have been in fact sent for which evidence of certificate of posting and in some cases registered post are there. Therefore, the contention in that regard is liable to be rejected. The files also reveal that in fact the respondents have taken steps to verify from the records of Sub-Registrars to know about the name of the owners in whose name the respective properties stood and individual objections were considered.

76. In respect of the next submission relating to the hearing conducted by the District Collector as stated u/s 3(3) of the Act, due to the reason that u/s 23(A), the Government by G.O.Ms. No. 513, Revenue (LAI 1) dated 02.09.2005 has delegated the power to the District Collector, the District Collector has jurisdiction to conduct the hearing.

77. It is admitted in all these cases that the petitioners have been called for hearing by the District Collector on two days viz., 20.03.2007 and 26.03.2007. The notice fixing the date of enquiry by the District Collector as it is filed in the typed set of papers by some the writ petitioners is as follows:

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After the said dates of enquiry it is seen that Special Tahsildar (LA), Oragadam Industrial Expansion Scheme I, Sriperumbudur, has signed notices dated 30.04.2007 which is as follows:

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SPECIAL TAHSILDAR (L.A.) SIPCOT - ORAGADAM EXPANSION SCHEME UNIT SRIPERUMBUDUR

VERNACULAR (TAMIL) PORTION DELETED

78. The said notice which is certainly not forming part of the acquisition

proceedings can at the best be taken as a proposal intimating that the Government has fixed the compensation of Rs. 2,50,000/- per ground and stating that those owners who are willing can prove their identity by filling up the Form, in which event, as per the willingness of the owners, compensation will be paid in course of time. Issuance of such letter which may be for private negotiation in respect of the owners of the property who are really willing to give the property for the industrial purpose, does not affect the land acquisition proceedings especially in the circumstances that it is not in dispute that majority of the owners in the area accepted to surrender possession for the compensation fixed by the Government. It is seen that out of 6,500 owners and occupants of portion in the said area, it is only 17 persons who are before this Court who have raised objections about the acquisition proceedings. Therefore, by such notice issued by the Special Tahsildar, which is only to enable the willing owners to surrender the property if they accept voluntarily the compensation fixed by the Government. In any event such notice has not taken away the power and right of the petitioners before this Court to question the validity of acquisition which is being considered in these cases.

79. It is the case of all the petitioners that on the date of hearing, actually there was no hearing took place even though large number of people have assembled and therefore according to the learned senior counsel appearing for the petitioners, it will not amount to proper enquiry.

80. It is seen in the proceedings of the District Collector forwarded to the Commissioner of Land Administration, that District Collector has conducted hearing on 20.03.2007 and 26.03.2007 and the District Collector has also considered the response of SIPCOT the requisitioning body wherein the SIPCOT has stated that the proposed expansion of industrial complex for automobile industry is highly desirable and inevitable. In the existing Industrial Complex at Oragadam, several automobile units have been allotted lands by SIPCOT. A National Automotive Testing Research and Development Infrastructure Project (NATRIP) has also been created in the existing Industrial Complex and the proposed expansion of Industrial complex will not only result in the overall economic development of State, but also would provide job opportunities either direct or indirect to the local people. The economic status of the people in the surrounding will also improve and SIPCOT requires the land only for expansion of the existing industrial complex and there is no other suitable land available.

81. It was considering the said response, the District Collector has requested the Government to issue notification u/s 3(1) of the Tamil Nadu Act 10/1999. On the date of hearing, it is seen that the District Collector has considered the written objections given by the petitioners and others who have participated in the enquiry and also the declaration submitted by various owners for private negotiation accepting to deliver or surrender possession on receipt of compensation fixed by the Government.

82. In the light of the Division Bench judgment in K.Ramakrishnan v. The

Government of Tamilnadu rep. by its Secretary to Industries Department (2007 WLR 565) upholding the validity of Act 10/1999, I am of the considered view that the procedure followed for the purpose of acquisition as per Act 10/1999 is in substantial compliance of various requirements of the Act as well as the Rules framed thereunder.

83. Considering the contents of the files and also the admitted fact that notice under Form-A has been received but the only reason given to question the same is that it was not signed by the District Collector, which for the reasons I have substantiated above, makes it clear that there is substantial compliance. On the contention of the learned Counsel appearing for the petitioners that Form-A and Form-B are not in accordance with the Act has no basis and the contentions in this regard are liable to be rejected. Further, the hearing conducted by the District Collector cannot be said to be opposed to the principles of Natural Justice especially in the circumstances that out of the total extent of 395.87.5 heaters equivalent to 977.81 acres of land which include 891.61 acre of Patta land and 86.20 acres of Poromboke land, the lands of the 17 writ petitioners who challenge the acquisition proceedings covered only in respect of 14 acres alone and a reference to the sketch provided by the learned Advocate General makes it very clear that vast extent of lands acquired and the lands of the 17 petitioners which are forming part of small patches here and there and that the earlier writ petitions filed were withdrawn in view of the compensation offered by the Government and accepted by the land owners, I am of the considered view that the writ petitioners do not raise any substantial issue to be considered for the purpose of setting aside the acquisition proceedings.

84. The next point which has been urged on behalf of the petitioners is about the validity of the administrative sanction issued by the Government in respect of the acquisition of lands for the purpose of Tamil Nadu Act, 10/1999. The said impugned G.O.Ms. No. 139, Industries (MIG-2) Department, dated 03.11.2006, a reading of which states that before the Tamil Nadu Act 10/1999 came into existence there was an earlier administrative sanction by G.O.Ms. No. 125, dated 09.05.1997, to acquire an extent of 636.88.0 hectares equivalent to 1573.01 acres by invoking urgency provision of Section 17(1) of the Land Acquisition Act, 1894 and to transfer an extent of 190.34.0 hectares of poramboke lands in favour of Tamil Nadu Corporation for Industrial Infrastructure Development Limited (TACID) which has been subsequently merged with SIPCOT for setting up Industrial Complex at Oragadam. It is also stated that out of the said 1573.01 acres for which sanction was given, an extent of 1507.34 acres were actually acquired. The said G.O. also states that lot of applications were received for allotment of remaining areas and SIPCOT has decided to take up expansion of existing 395.87.5 hectares of patta and poramboke lands in Oragadam and Sennakuppam villages in Sriperumbudur Taluk.

85. In respect of those portion of the G.O. Mr. V. Ayyathurai, has raised objection that under the earlier acquisition proceeding the Government has not taken steps

to acquire remaining 65 acres of lands. While so, the lands of the petitioners which are only 17 acres should not have been acquired and instead the Government should have taken steps to acquire 65 acres of land as per the earlier acquisition proceedings under the Central Act. This contention deserves to be rejected at the outset. The present proposal is for the expansion of the existing Oragadam Industrial Complex for which SIPCOT has identified the requirement of 395.87.5 hectares of land and merely because a smaller extent of land remain to be acquired under the earlier acquisition proceedings, it cannot be said that the present acquisition for expansion of existing industrial complex should also be held invalid. In any event, if the petitioners are of the view that their lands are to be exempted, it is not as if they have no right under the Act. In fact the Government has got the power to withdraw acquisition proceedings under proviso to Section 4(1) of the Act.

86. The impugned order while granting administrative sanction for acquisition of 91.07.0 hectares of wet lands, 269.90.5 hectares of dry lands and alienation of 34.90.0 hectares of Poramboke lands in Oragadam and Sennakuppam village, Sriperumbudur Taluk, Kancheepuram District, under the provisions of Tamil Nadu Act 10/1999 for expansion of the Oragadam Industrial Complex by SIPCOT, and stated in paragraph 10 of the impugned order which is as follows:

10. The Special District Revenue Officer (Land Acquisition) is requested to send necessary land acquisition proposals for acquisition of the above said lands under the provisions of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (Tamil Nadu Act, 10/1999) immediately. The Special District Revenue Officer (Land Acquisition) is also requested to send necessary alienation proposal to Government in Revenue Department through the Special Commissioner and Commissioner of Land Administration separately.

87. The objections raised in respect to the said portion is that while under the Tamil Nadu Act 10/1999, the District Collector and the Government is the Authority, the Government Order pertaining to the acquisition has invested the powers to the Special District Revenue Officer (Land Acquisition), who is not the Collector and therefore the Government order is against the provisions of Tamil Nadu Act 10/1999. This argument is fallacious.

88. The Act deals about the acquisition proceedings which are started by giving notice as per Section 3(2) of the Act to owners and persons interested and followed by public notice. The G.O. which is in question dated 03.11.2006, is much before the initiation of acquisition proceedings under Tamil Nadu Act 10/1999, granting administrative sanction for the purpose of proposed acquisition and for that purpose the Special District Revenue Officer (LA) is directed to send proposals to the Government so as to enable the Government to proceed for acquisition of the lands.

89. The intention of the impugned G.O.Ms. No. 139, dated 03.11.2006, is not to substitute Special District Revenue Officer (LA) in the place of District Collector in

initiating and conducting acquisition proceedings under Tamil Nadu Act 10/1999. It does not mean that the Special District Revenue Officer (LA) is entrusted with the powers to give notice u/s 3(2) of the Act. Since it is at the stage of proposal, it has not taken the statutory form. Therefore authority by sending proposal namely Special District Revenue Officer (LA) does perform any statutory function under Act 10/1999.

90. As correctly pointed out by the learned Advocate General that it is a preliminary report for enabling the Government to start acquisition proceedings through the authorities contemplated under the Tamil Nadu Act 10/1999, as per the provisions, especially Section 3(2) read with Section 23(A) of the Act. Therefore, the Special District Revenue Officer (LA) is not empowered to perform the statutory functions under the provisions of the Tamil Nadu Act 10/1999 and therefore, the contention raised by the learned senior counsel appearing for the petitioners as if extraneous persons are entrusted with the acquisition proceedings are liable to be rejected.

91. After arriving at to the conclusion as stated above, the individual writ petitions are considered shortly which is as follows:

(i) W.P. No. 29575 of 2007: In respect of W.P. No. 29575 of 2007, it is submitted by the learned Advocate General that the petitioner has received the compensation and delivered possession of the land. There is no representation on behalf of the petitioner also. In view of the same the said writ petition deserves to be dismissed as infructuous.

(ii) W.P. No. 33294 of 2007: The first petitioner is M/s. Triway Container Freight Station, while the petitioners 2 to 4 are the vendors of the first petitioner, the second petitioner Venkatapathy Naidu is the original owner who has previously filed W.P. No. 3111 of 2007 challenging the G.O.Ms. No. 139, dated 03.11.2006. As it is admitted in the affidavit filed in support of the present writ petition, the second respondent has included five out of seven items of property mentioned in this writ petition viz., S. Nos. 69/2B, 69/3, 69/4, 69/6 and 71/8A1. In respect of other two number viz., S. Nos. 153/3 and 70/1 including the other five S. Nos. Form-A notice was issued on 26.01.2007 and Form-B was published on 29.01.2007 and the earlier writ petition having been filled on 12.01.2007 and the same was dismissed as withdrawn. It is stated that in the said writ petition counter affidavit dated 03.02.2007 was filed stating that objections filed by the petitioners will be considered at the time of Section 3(2) notice and subsequently the same was dismissed as infructuous on 26.04.2007. In the counter affidavit filed by the respondents in this writ petition, it is stated that the second petitioner who was the original owner has filed W.P. No. 3111 of 2007, in respect of five items of properties comprised in S. Nos. 69/2B, 69/3, 69/4, 69/6 and 71/8A1. The writ petition came to be dismissed as infructuous on 26.04.2007 and it was thereafter, the first petitioner company has purchased the present seven items mentioned in the present writ petition which includes five items, subject matter of previous W.P. No. 3111 of 2007. The purchase was on

07.05.2007, i.e., after the notice issued u/s 3(2) and also hearing conducted by the Collector. It is not in dispute that the above writ petition filed by the second petitioner was dismissed without any liberty to file fresh writ petition. It is the contention of the learned Advocate General that the purchaser viz., the first petitioner has clandestinely joined his vendors as petitioners 2 to 4 and filed the present writ petition for the same relief, however, including two more properties viz., S. Nos. 153/1 and 70/1 and therefore according to him, the writ petition is liable to be dismissed on the principles of res judicata and as far as other two survey numbers are concerned, the petitioners have not come with clean hands and it is also liable to be rejected. It is also stated that the person interested has not filed any objections. Even assuming that the first petitioner having prior interest based on an alleged lease deed, it is specifically stated in the counter affidavit that W.P. No. 3111/2007 was dismissed as infructuous on 26.04.2007 as the petitioner accepted the compensation offered by the respondent. The said categorical statement of the respondent in the counter affidavit has not been controverted by the petitioners especially the second petitioner. In view of the same it is clear that the writ petition is not maintainable both on the ground of filing of the earlier writ petition by the second petitioner for the same relief which was dismissed without liberty and also on the ground that the writ petitioners have come to the Court without clean hands. On this score alone, the writ petition is liable to be dismissed.

(iii) W.P. No. 16922 of 2007: The specific contention raised by the learned Counsel appearing for the petitioner that the present acquisition proceedings are hit by Special Economic Zone Act, 2005. It is also not in dispute that originally there were seven writ petitioners and subsequently petitioners 6 & 7 have withdrawn. In view of the admitted position, writ petition has to be dismissed as far as petitioners 6 and 7 are concerned. It is not in dispute that the present acquisition in question is for expansion of existing industry by SIPCOT and therefore the Special Economic Zone does not arise. It is not even the case of the petitioners that the said SEZ Act 2005 has superseded the Tamil Nadu Act 10/1999. Therefore, the said contention is not tenable. In fact in this case on behalf of the petitioners the learned Counsel has filed memo dated 20.03.2007, and submitted to the Enquiry Officer viz. the District Collector and the said memo does not contain any objection regarding the notice and the counsel only requested time for furnishing various documents. Therefore, it cannot be said as if the petitioner was not given opportunity. The further contention about legal impediment with regard to classification that the petitioner's property are classified as residential and therefore the conversion into industrial zone will result in legal impediment is also not sufficient for the purpose of setting aside the acquisition proceeding. The contention that it is colourable exercise of power also has no meaning.

(iv) W.P. No. 29113 of 2007: The petitioner has admittedly received Form-A notice whereas he has admittedly sent objections only on 27.04.2007, which is beyond the time granted in Form-A notice. Further in the present writ petition for

the first time the petitioner has chosen to state about the objections stated to have been filed on 15.02.2007 and the same is specifically denied by the respondents and the petitioner is not able to produce any proof except the xerox copy of the courier. In the absence of any acceptable proof shown by the petitioner for having sent the objections on 15.02.2007, it is not possible to accept the contention that objections of the petitioner has not been considered by the respondents. In this case also it is seen that the petitioner has earlier filed W.P. No. 18034 of 2007 challenging the G.O.Ms. No. 139 dated 03.11.2006, in respect of S. Nos. 70/8, 70/3, 70/18, 70/7, 70/17, 70/13C, 70/10, 70/13B, 70/9 and 70/14. That case was dismissed by this Court by an order dated 02.11.2007, which is as follows:

In view of the fact that W.P. No. 29113 of 2007 has been filed by the very same petitioner, seeking larger relief, which is inclusive of the relief sought for in this writ petition, this writ petition is dismissed. No costs. Consequently, the connected MP is closed.

Section 3(2) notice in Form-A was issued on 26.01.2007. The earlier writ petition was filed on 09.05.2007, admittedly after receipt of Form-A notice, however stating that objections were sent on 27.04.2007. In view of the withdrawal of the writ petition, the learned Advocate General would submit that these writ petitions are not maintainable. On the other hand, it is the contention of Mr. V. Ayyathurai, learned Counsel appearing for the petitioners that by leaving a portion, earlier writ petition was filed and it does not prevent the same petitioner to file another writ petition with larger extent of properties, by relying upon Order II Rule 2 of C.P.C. Order 2 Rule 2 C.P.C. which contemplates relinquishment. Even if a portion of his claim is relinquished, under Order II Rule 2 C.P.C. where a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished. Even though the provisions of Order II Rule 2 may not be strictly applicable to the proceedings under Article 226 of the Constitution of India, the fact remains that the petitioner having filed earlier writ petition and withdrawn the same without liberty cannot be permitted to file the present writ petition on the same cause of action. It is also relevant to point out that the writ petitioner is one of the Director in M/s. Triway Container Freight Station Pvt. Ltd. who is the petitioner in W.P. No. 33294 of 2007 as stated above.

(v) W.P. No. 29090 of 2007: The main contention is that no show cause notice u/s 3(2) was received by the petitioner. However, it is seen from the records that larger extent of property including the present property in dispute in the said writ petition stands in the name of one Mr. Jayaraman and notice was issued to him. In the absence of any change in the revenue records in the name of the writ petitioner, service of notice to previous owners Mr. Jayaraman is sufficient service in Form-A and in respect of Form-B reveled from the records, the respondents have taken enormous steps for the purpose of publishing public notice through out the area since almost the entire village was sought to be acquired and it

cannot be presumed that the petitioner was not aware. In respect of the contention of the petitioner that he has dedicated the property to Christian Trust an extent of 1800 sq.ft., for which the respondents have filed counter stating that the endowment of trust is subsequent to the proceedings of the land acquisition under Tamil Nadu Act 10/1999. As it is found from various provision of Act 10/1999 the petitioner is claiming exemption or withdrawal of the acquisition on the basis that the Government has a policy that religious places should be exempted. It is for the petitioners to approach the Government and it is open to the Government to decide the same and that will not stand in the way of the acquisition proceedings.

(vi) W.P. No. 29707 of 2007: Here the contention is that Section 3(2) notice was not served to him even though he has purchased the property on 22.12.2004. In this case also revenue records stood in the name of Mr.Jayaraman and notice was issued to him and the petitioner if really residing in the said locality, it cannot be said that he was not aware of the public notice. It is also seen that the petitioner is running a saloon in the locality where large number of persons gather and therefore it cannot be presumed that the petitioner was not aware, especially in the circumstances as I have elaborated above, on the basic of records, elaborate steps have been taken by the respondents to publish Form-B notice.

(vii) W.P. No. 29708 of 2007: The petitioner also raised the issue of non receipt of Section 3(2) notice and the respondents case is that the property stands in the name of previous owner Mr.Jayaraman and he was served with notice. The petitioner has purchased the property only on 12.01.2007, while the administrative sanction was issued on 03.11.2006, being the subsequent purchaser of the property i.e. before 20 days before Section 3(2) notice in Form-B the original owner was served with notice.

(viii) W.P. No. 29709 of 2007. It is also the case where the petitioners have not received Section 3(2) notice at all. It is the case of the respondent that the petitioners wife one of the co-owner gave consent for acquisition by letter dated 24.07.2007 and it was after that, the objections were sent belatedly viz., on 12.05.2007, by which time enquiry was completed. It is also stated that in the revenue records the property stood in the name of Mr.Jayaraman, to whom notice was served.

(ix) W.P. No. 29701 of 2007: The petitioner has purchased the property on 12.01.2007 and complained that he has not received notice u/s 3(2). It is also stated that in the revenue records the property stood in the name of Mr.Jayaraman, to whom notice was served. The respondents have categorically stated that the objections stated to have been sent by the petitioners have not been received. Even otherwise, acknowledgment shows that the same was served on 16.05.2007, by that time, enquiry was completed.

(x) W.P. No. 30019 of 2007: The petitioners has obtained the property through settlement deed dated 06.06.2006 and obtained patta on 18.09.2006 and

constructed a shopping complex and having a SSI unit doing embroidery work and her case is that she has not received Section 3(2) notice. In this case also the property stands in the name of Mr.Jayaraman and show cause notice was issued to him and public notice in the locality was published on 02.02.2007. The contention of the petitioner that she was doing industrial activity by registering with the Industry and Commerce Department from Government of India and it is not the ground for the purpose of setting aside the land acquisition proceedings in the present case.

(xi) W.P. No. 30020 of 2007: The petitioner's mother is stated to have purchased the property under a sale deed dated 29.03.1990 and the same was inherited by the petitioner after her death. Coming to know about the acquisition rumors, he had obtained Section 3(2) notice in Form-A on 26.02.2007 and submitted his objections on 26.02.2007. The petitioner attended the hearing and enquiry on 20.03.2007. According to him there was no such enquiry. It is the case of the respondents that the petitioner's objections dated 26.02.2007 was received belatedly on 08.03.2007. The allegation that further notice will be sent for enquiry is denied by the respondents and according to them enquiry was conducted on 20.03.2007. The case of the petitioner is that he intends to put up a structure.

(xii) W.P. No. 30021 of 2007: Here also the petitioner purchased the property on 29.03.1990 and after coming to known about the acquisition received Form-A notice on 21.02.2007, submitted his objections on 26.02.2007. According to the respondents, objection was received belatedly on 08.03.2007, beyond the time and therefore it needed no consideration.

(xiii) W.P. No. 30255 of 2007 : The petitioner obtained the property through partition deed dated 06.01.2004 and he had put up a commercial complex and about 200 persons are either directly or indirectly employed in the said premises. In this case also no notice u/s 3(2) was served on the petitioner. It is stated that in the revenue records the property stood in the name of Mr.Jayaraman, to whom notice was served. It is the case of the respondents that the petitioner's objections were received belatedly.

(xiv) W.P. No. 30256 of 2007 : The petitioner obtained the property through partition deed dated 04.12.2003. In this case also no notice u/s 3(2) was served on the petitioner. It is stated that in the revenue records the property stood in the name of Mr.Jayaraman, to whom notice was served. It is the case of the respondents that the petitioner's objections were received belatedly.

(xv) W.P. No. 32290 of 2007: The contention of the petitioner is that he purchased the property on 24.02.1988 and on receipt of notice u/s 3(2), objection were sent stating that the petitioner needs the land for starting industrial catering service and objected the acquisition. It is the case of the respondents that petitioner's land was notified u/s 3(1) of the Act on 04.07.2007 and the same has not been questioned. Once the acquisition proceedings are not

challenged, the vesting takes place and the petitioner has no right to challenge the administrative sanction and Section 3(2) notice. As far as the contention of the petitioner that he is an entrepreneur doing industrial catering service and hence his property should not be acquired, it is always open to the petitioner to approach the SIPCOT for the purpose of allotment and in such case, it is for the SIPCOT to decide and there is also a remedy available for him to request the Government to drop the acquisition proceeding for the reason stated therein and it cannot be a ground to set aside the acquisition proceedings.

(xvi) W.P. No. 30062 of 2007: It is the case of the petitioner that he purchased the property on 18.05.2006, for developing printing industry and according to the petitioner notice u/s 3(2) of the Act was not served. It is the case of the respondents that as per revenue records, the properties stand in the name of Sathyanathan and Sundar Rao Sumathi and notice was served on them and thereafter public notice was also given on 02.02.2007.

(xvii) W.P. No. 29294 of 2007: The petitioner purchased the property by sale deed dated 27.06.2005. The contention of the petitioner is that Section 3(2) notice dated 06.02.2007 was received on 15.02.2007 and objection were filed and notice to attend personal hearing on 26.03.2007 was also received. The contention of the petitioner is that on the date of enquiry he participated and shown the originals and the District Collector had not conducted any enquiry. It is also his case that compensation awarded is not adequate. The respondents case is that if the compensation is not accepted to him he can resort to the provision of the Act which enables him to claim enhanced compensation after reference.

92. The learned senior counsel and the other learned Counsels appearing for the petitioners relied upon the following judgments to substantiate their submission:

(i) Mr. V. Ayyathurai learned Counsel relied upon the judgment of Hon"ble Supreme Court reported in *Devinder Singh v. State of Punjab* (2008) 1 SCC 728. In that judgment apart from the fact that it relates to Central Act 1/1894, there is absolutely no dispute about the proposition laid down by the Hon"ble Supreme Court in para 42 and 43 which is as follows:

42. It is furthermore trite that the Land Acquisition Act is an expropriatory legislation. (See *Hindustan Petroleum Corporation Ltd. v. Darius Shapur Chenai* and *Indore Vikas Pradhikaran v. Pure Industrial Coke & Chemicals Ltd.*)

43. Expropriatory legislation, as is well known, must be strictly construed. When the properties of a citizen are being compulsorily acquired by a State in exercise of its power of eminent domain, the essential ingredients thereof, namely, existence of a public purpose and payment of compensation are principal requisites therefor. In the case of acquisition of land for a private company, existence of a public purpose being not a requisite criterion, other statutory requirements call for strict compliance, being imperative in character.

Even though the concept of public purpose may not be applicable as far as the

present proceedings under Tamil Nadu Act 10/1999, industrial purpose is the main criterion for acquisition. It is no doubt true that being expropriatory law procedure are to be scrupulously followed, as I have enumerated above, in fact the procedure under the Act has been followed.

(ii) A reference to the judgment of the Division Bench of this Court reported in Tamil Nadu Housing Board v. A.P. Damodaraasamy (2007) 3 MLJ 189 which relates to enquiry u/s 5-A of the Central Act 1/1894 and this judgment has no application as I have already held that "hearing" contemplated under Tamil Nadu Act 10/1999 is not relateable to the "enquiry" contemplated u/s 5-A of the Central Act 1/1894.

(iii) Mr.S.D.S.Philip, learned Counsel relied upon the judgment of the Hon''ble Supreme Court reported in I.I.S. Employees' House Building Coop. Society Ltd. v. State of Karnataka (2005) 12 SCC 483, where acquisition proceedings have been initiated against dead person. The Hon''ble Supreme Court has held that after the death, the son's name was already entered in the revenue records and the authority should have issued notice to the son and it was in those circumstances held that acquisition proceedings are not valid, while quashing Section 4(1) notification and Section 6 declaration. However, the facts of the present case does not relate to acquisition made against dead persons.

(iv) The Judgment relied upon by Mr. S.D.S. Philip, learned Counsel in V. Sarangapani (deceased) and Others Vs. The Collector and The Special Tahsildar, (Adi Dravidar Welfare), , relates to Tamil Nadu Acquisition of Lands for Harijan Welfare Schemes Act, 1978 wherein the satisfaction of the District Collector for the purpose of requirement for Harijan Welfare is condition precedent. In the context of the present Act 10/1999 the said judgment is not applicable to the facts of the case on hand.

(v) Likewise, the Judgment of this Court in M. Nagu and Others Vs. The District Collector and The Special Tahsildar (ADW), , which also relates to Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, is not applicable to the facts of the present case. That was because, instead of the District Collector who has to satisfy himself for Harijan Welfare Scheme, the State Government has formed its satisfaction and this Court has held that the acquisition is bad.

(vi) The Judgment relied upon by Mr. S.D.S. Philip, learned Counsel in Om Prakash Sharma and Ors. v. M.P.Audyogik Kendra Vikas Nigam (2005) 10 SCC 306, relates to Section 4(1) notification under the Central Act 1/1894, wherein Section 4(1) notification was held to be vague and the said judgment has no application to the facts of these cases.

(vii) In the judgment of the Hon''ble Supreme Court in Competent Authority Vs. Barangore Jute Factory and Others, , wherein the acquisition was under the National Highways Act and in as much as the notification has not contained specific portion of the property which was sought to be acquired and therefore there was dispute regarding the identity of the land under acquisition. The

Hon''ble Supreme Court on the said facts has ultimately held that acquisition is bad. However, in no one of the present case any such point of vagueness has been raised by the petitioners and therefore the settled proposition of law as laid down by the Hon''ble Supreme Court in the said judgment is of no use to the petitioners.

(viii) The Full Bench judgment of this Court reported in Sharp Tools, Kalapatty Village, Coimbatore v. The State of Tamil Nadu 2006 (4) CTC 785 relates to the Central Act 1/1894. Form-B notice under Land Acquisition (Tamil Nadu) Rules, 1991 which prescribes further time beyond the time granted u/s 4(1) of the Act viz., 30 days from the date of notice is in violation of Rule 4(b) and held that portion of Form-B has to be ignored. However, the said ruling of the Full Bench has no application to the facts of the present cases which are totally different.

(ix) The judgment of the Hon''ble Supreme Court rendered in State of Sikkim Vs. Dorjee Tshering Bhutia and others, relates to Civil Services recruitment, wherein it was held that any order, instruction, direction or notification issued in exercise of the executive power of the State which is contrary to any Statutory provisions is without jurisdiction and it is nullity. The said judgment which relates to service jurisprudence has no application to the facts of the present case.

(x) Likewise, the judgment of the Hon''ble Supreme Court in D.C. Aggarwal Vs. State Bank of India and others, which also relates to service jurisprudence which states that final order had to be passed by the competent authority on recommendation of the committee. Such officer, it is stated, is always higher in rank than Deputy Managing Director and on that basis the order passed by the inferior authority which was against the guidelines and it was held that the order of punishment was not sustainable. On the facts and circumstances of the present case the above judgment has no application.

(xi) The judgment relied upon by the learned senior counsel in Hindustan Petroleum Corporation Ltd. Vs. Darius Shapur Chenai and Others, , relates to land acquisition under the Land Acquisition Act, 1894 and enquiry u/s 5-A of the Act stating that acquisition under Land Acquisition Act, 1894 for public purpose and Land Acquisition Act is an expropriatory legislation and it should be strictly construed. It has no application to the facts of the present case. The Hon''ble Supreme Court while dealing about action under the Central Act 1/1894, which has to be by the State Government, held that due to the long passage of time and that subsequent affidavit filed by the Government stating that records have been lost, the District Collector was not authorised to act on behalf of the State. However, in the present case, as per the Tamil Nadu Act 10/1999, as I have elaborately discussed, the District Collector is the authority who has been delegated for the purpose of conducting hearing u/s 3(2) of the Act by the State Government in accordance with Section 23(A) of the Act by a Gazette Notification.

(xii) Mr.Ayyathurai, learned Counsel appearing for the petitioner relied upon the

judgment of the Hon''ble Supreme Court reported in Kewal Chand Mimani (d) by Lrs. Vs. S.K. Sen and Others, , which relates to the concept of justice oriented approach. The Hon''ble Supreme Court has held that justice is the goal of jurisprudence - processual/procedural, as much as substantive. The relevant para 27 is as follows:

27. The issue, however, involved in the present context centres round Section 108(A) of the Transfer of Property Act which provides the rights and liabilities of the lessee on the determination of the lease. The statute has been rather specific to the fact that there is existence of a bounden obligation to put the lessor in possession of the property, and it is on this score that Mr Nariman, the learned Senior Advocate appearing for one of the respondents very strongly contended that the statute has created an enforceable obligation and question of acting contra to the provisions of law does not and cannot arise. It is on this score, the issue of complete justice between the parties has been brought to our notice. It is trite knowledge that presently, the law courts are being guided by a justice-oriented approach, since the concept of justice is the call of the day and the need of the hour. Justice is the goal of jurisprudence - processual/procedural, as much as substantive. Puritan approach has lost its significance in the present-day context; since justice ought to be the end product of equity and go to the roots. It is this complete justice between the parties which stands statutorily recognised in Section 108(A) as noticed above (please see the observations of Krishna Iyer, J. in Ahmedabad Municipal Corporation v. Ramanlal Govindram).

(xiii) The judgment of the Hon''ble Supreme Court relied upon by the learned Counsel for the petitioner rendered in State of Punjab v. Sanjeet Singh Grewal III (2007) CLT 132 relates to land acquisition proceedings wherein the State Government has proceeded to acquire land without obtaining permission from the competent authority under the provision of the Punjab New Capital (Periphery) Control Act, 1952 and the Rules framed thereunder. Under such circumstances, it was held in para 30 & 31 as follows:

30. The learned Additional Solicitor General also submitted that the High Court proceeded on the erroneous basis that a scheme should first be formulated in detail before acquisition of land. We do not find that the High Court has committed such error. The High Court did not hold the acquisition to be bad on the ground that a detailed scheme had not been prepared, but on the ground that there was no valid scheme at all, and consequently no valid public purpose justifying the acquisition.

31. It was then contended that the State in exercise of its power of eminent domain may acquire lands u/s 4 of the Land Acquisition Act and it is not denuded of its power to acquire land merely because under the scheme of some other Act a certain procedure has been prescribed for acquisition of land. In the facts of this case we are not persuaded to accept this submission. In the instant case, the lands were sought to be acquired for the purpose of implementation of a New Town Scheme and, therefore, the procedure laid down in the Act of 1995 had to

be followed. The learned Additional Solicitor General submitted that if this be the correct legal position the State may be powerless in case the Board under the Act of 1995 did not select a site for a new town. This submission also has no force because under Sub-section (2) of Section 14 of the Act of 1995, if required by the State Government the Board is bound to select a site for a new town. In the instant case, the State never called upon the Board to select a site, and instead a New Town Planning and Development Authority was constituted u/s 31 of the Act which arrogated to itself the powers and functions of the Board to select a site and make a recommendation to the State Government.

As far as the present cases are concerned, the acquisition is for industrial purpose under a specialized Act 10/1999. There is no question of any scheme to be formulated.

(xiv) In *G. Dharani v. State of Tamil Nadu*, rep. by the Secretary to Government, Industries Department reported in 2003 3 L.W.777, this Court has considered the issue as to whether after Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 came into force, the State Government is empowered to acquire lands under the Central Act. It was held in para 4 as follows:

4. A plain reading of the above said Section discloses that after the Act has come into force, the acquisition proceedings shall be initiated in the event for the purpose of setting up of Industrial Complex only under the provisions of the said Act and not under the Central Act 1 of 1894. Of course, u/s 23 of the Act, certain proceedings which were initiated prior to the Act came into force, were excluded from the purview of this Act.

93. The learned Advocate General relied upon the following judgments to substantiate his submissions:

(i) The Supreme Court in *Bhola Shanker Vs. The Distt. Land Acquisition Officer, Aligarh and Others*, , while dealing with the acquisition under the Central Act 1/1894, has held that when the notice u/s 9(3) was given to the original owner and not to the subsequent purchaser after Section 4(1), the same was held as sufficient notice.

(ii) It was held in *W.B. Housing Board and Others Vs. Brijendra Prasad Gupta and Others*, by the Hon"ble Supreme Court while dealing with West Bengal Land (Requisition and Acquisition) Act, 1948, that in cases where a person has already sold the land to another person prior to requisitions, but name of the purchaser has not been entered in the Records of Right, despite mutation, service of order to the previous owner was held valid holding that the District Collector has no obligation to make roving enquiry about the ownership of the land. The relevant para 8 is as follows:

8. The principal question that arises for consideration is if it were the writ petitioners who were entitled to notice u/s 3(2) of the Act or that this provision stood complied with by serving notice on the recorded owners of land in the

Record of Rights maintained u/s 50 of the West Bengal Land Reforms Act. We are of the view that the provisions of service of notice stood complied when notices were served on the persons recorded as owners in the Record of Rights. Record of Rights is a statutory document maintained by the prescribed authority u/s 50 of the Act and it is a notice to the public at large as to who are the owners of the land in the records of the authorities. That would be the reason as to why the writ petitioners themselves applied for mutation of the lands in their names in the year 1990 when in fact they had purchased the same in 1988. u/s 3 of the West Bengal Land Reforms Act, 1955, the Act overrides other laws if there is anything inconsistent with what is stated in the Act. Section 50 of the Act provides for maintenance of the Record of Rights by the prescribed authority by incorporating therein the changes on account of mutation of names as a result of transfer or inheritance or partition, exchange etc. Under Sub-section (9) of Section 51A every entry in the Record of Rights shall be presumed to be correct until it is proved that the entry in the Record of Rights is incorrect, proceedings for that, however, will have to be initiated under the Act itself. Otherwise there is every presumption about the correctness of the Record of Rights. As noted above mutation was effected in September 1995. The Division Bench has observed that the Collector would have been aware of the pendency of the applications of the writ petitioners for mutation of lands in their names when the same were pending in his office. The Bench in effect observed that it was a case where the right hand did not know what the left hand was doing. This observation sounds good, but knowing the working of the government offices it appears to have no place. Of course, the Collector could have asked for a report from the prescribed authority concerned if any application for mutation of the land was pending with him. But that would be expecting too much from the Collector. It is no part of the duty of the Collector to make a roving inquiry into ownership of the persons. We are of the opinion that the requirements of the law were met when notices were served upon the recorded owners as per the Record of Rights. Again we do not think in a case like the present one, it is for the Collector to make enquiries from the registration office to find out if the land had since been sold by the recorded owners. In *Winky Dilawari v. Amritsar Improvement Trust* this Court observed that the public authorities were not expected to go on making enquiries in the Sub-Registrar's office as to who would be the owner of the property. The Collector in the present case was thus justified in relying on the official record being the Record of Rights as to who were the owners of the land sought to be requisitioned and prudence did not require any further enquiry to be made. We are therefore of the view that notices were properly served u/s 3(2) of the Act on the owners of the land.

The said dictum laid down by the Hon'ble Supreme Court when applied to the facts and circumstances of the present case. It is seen from the records that in fact the respondents have taken steps to verify from the Sub-Registrar's Office about the particulars of the owners in respect of various survey numbers apart from referring to the revenue records and gave notice to the persons in whose

name the property stood as on date and therefore, it cannot be said that notice given in these cases are not valid.

(iii) The Hon''ble Supreme Court has held in *Nandatai Vs. State of Maharashtra and Others*, , while dealing with the Central Act, 1894 that holder on record was given notice and heard and omission to give notice to the subsequent purchaser would not vitiate the enquiry u/s 5 of the Central Act 1/1894. The relevant portion is as follows:

1. ...The omission to give notice to the petitioner who subsequently became owner of the property does not vitiate the enquiry conducted u/s 5-A nor is the enquiry violative of Sub-section (2) of Section 5-A. The High Court, therefore, was right in refusing to interfere with the declaration published u/s 6 and notification published u/s 4.

(iv) The same view was taken by the Hon''ble Supreme Court in *Ahuja Industries Ltd. Vs. State of Karnataka and Others*, . It was further held in that case that the District Collector is not obliged to make a roving enquiry about the ownership of the land. The relevant para 13 is as follows:

13. It could be seen from the above order that service of notice on a person shown as owner or occupier in the record-of-rights is sufficient even though the said person had already sold the land prior to the said notification unless it is substantiated otherwise that the authorities concerned had knowledge of the rights or interest of any person other than those found recorded as owner/occupier in the revenue records. It is further held that the Collector is not obliged to make a roving enquiry about the ownership of the land. If the name of the purchaser is not yet entered in the record-of-rights then non-service on such a person does not vitiate the acquisition proceedings. Admittedly, the appellant had not got his name entered in the revenue records as owner or occupant of the said land and therefore he could not complain about non-service of notice on him nor about the failure to grant a hearing to him. Contention that as per provision of the Land Revenue Act there was no obligation on his part to either inform the Revenue Authorities about the sale in his favour or to request them to transfer the katha in his name cannot stand as it has not been brought on record with reference to any pleadings with supporting documents that in fact the appellant had made payment for making the necessary entries in the record-of-rights and the register in his name at the time of registration of the sale deed in his favour. This apart, failure to make entries on the part of the Revenue Authorities by itself would not cast any obligation on the authorities under the Act to make a roving enquiry and try to locate an owner who may have subsequently purchased the land from the previous owner. Failure on the part of the Revenue Authority to make entry in the register of mutation in favour of the subsequent owner would not render the acquisition proceedings bad in law on account of non-issuance of notice inviting objections to the acquisition proceedings or service thereof.

(v) The Hon''ble Supreme Court in *State of Karnataka and Another Vs. All India*

Manufacturers Organization and Others, , while dealing with the provisions of Land Acquisition and Requisition - Karnataka Industrial Areas Development Act, 1966, has considered "No Prejudice" theory and held in para 75 as follows:

75. It is difficult to accept that the landowners were not aware of the purpose of the acquisition nor can it be accepted that they were unable to file their objections on this ground. As a matter of fact, as the High Court has concurrently found, they did file their objections before the competent authorities. We do not see any prejudice caused to them as a result of the wordings of the notification of acquisition. The authority concerned also heard them on the objections filed after affording them an opportunity to file such objections u/s 28(2) of the KIAD Act. Thus, there is no substance in the contention of the appellants that the notification was vague and hence that the State did not comply with the principles of natural justice.

(vi) Regarding the mode of publication, the Hon"ble Supreme Court has held that when once the mode specified for giving notice is complied with, the onus is on the persons notified to prove that they were not aware of the subject matter of the notice. That was in *Rai Vimal Krishna and Others Vs. State of Bihar and Others*, , wherein while dealing with law of Municipal Taxes the Hon"ble Supreme Court has held in paras 26 and 27 as follows:

26. The third submission of the appellants relates to the mode of publication of the assessment lists. That the mode of publication is a procedural provision is self-evident. But is it a mandatory provision? The High Court's finding as to the nature of the provision for publication under Sub-section (1) of Section 149 is somewhat contradictory. While holding that the manner of publication was mandatory and had to be complied with in terms thereof, in a subsequent portion of the judgment, it was held that it was a mere irregularity which could be waived. As we read Sub-section (1) of Section 149, the Chief Executive Officer is bound to give public notice of the assessment list. The word "shall" makes that clear. However, the word "shall" does not qualify the next phrase which is separated from the words "public notice" by a comma. The phrase separated is "by beat of drum and by placards posted in conspicuous places throughout Patna". Generally speaking, the object of giving a notice is to draw the attention of the persons sought to be affected to the matter notified. The purpose of specifying a particular mode of giving notice is to raise a legal presumption against such person, of knowledge of the subject of the notice. In other words, once the mode specified for giving notice is complied with, the onus is on the persons notified to prove that they were not aware of the subject-matter of the notice. There is otherwise no special sanctity given to the mode of service of notice. The appellants have contended that even though owners were served with individual notices u/s 149(2), unless publication was made in the manner provided in Section 149(1) the occupants who were liable to pay water tax and latrine tax would be seriously affected and would not have an opportunity of challenging the imposition of the tax on them. Incidentally, in the objections filed

by the appellants their contention is that the holdings owned by them were not liable to payment of latrine tax or water tax because neither of the services were available. However, the matter has to be decided as a principle and not with reference to the appellants' case.

27. Nobody disputes that publication and the giving of notice to persons likely to be affected by the assessment list is a must. The appellants have admitted publication of the assessment lists in three newspapers. It is not their case that such publication did not serve the purpose of notifying those who might be affected by the assessment lists, of their existence. Indeed it appears to us that the requirement to notify people by beat of drum is an anachronism which appears to be inappropriate in the present day and age in a large city like Patna. The High Court's apprehension that

holding this provision as directory is likely to cause confusion and mischief in future and it is not for this Court to substitute the wisdom of the legislature with its own by holding that notice by newspaper will be sufficient in place of notice of the spot by beat of drum and placards

is unfounded both in law and in fact. It is an elementary principle of interpretation that words in statutory provisions take their colour from their context and object, keeping pace with the time when the word is being construed. When or where no other means of effective publication is available, no doubt, announcing the assessment list by beat of drum and by displaying placards would have to be complied with. Where equally efficacious, if not better, modes of publication are available, it would be ridiculous to insist on an obsolete form of publication as if it were a ritual. Had the High Court found that publication by newspapers was not effective enough to notify the public, the assessment list could not be given effect to unless publication was properly made. There is no such finding. On the other hand, publication through newspapers is now an accepted form of giving general notice. Therefore, we have no hesitation in holding that the portion of Section 149(1) which deals with the manner of publication, as opposed to the requirement for publication per se, is directory. Since there has been sufficient compliance in effecting the intention of the legislature to give notice to the public at large in the city of Patna, we cannot hold that the assessment lists prepared on the basis of the 1993 Rules are required to be set aside.

Applying the analogy to the facts of the present case, public notice given under Form-B, especially in the circumstances that the entire village of Oragadam and Sennakuppam are sought to be acquired, cannot be said to be not proper and that some of the petitioners were not aware.

(vii) While dealing with the provisions of the Central Act 1/1894 along with the Rules made thereunder, the Full Bench of this Court in *Sharp Tools, Kalapatty Village, Coimbatore v. The State of Tamil Nadu*, rep. by its Secretary, Housing and Urban Development Department reported in 2006(4) CTC 785 has laid down

various principles for the purpose of enquiry under the Central Act 1/1894 which is as follows:

12. ...(I) Objections to the acquisition are to be submitted by the persons interested in the lands within 30 days from the date of publication of the Notification as provided by Sub-section (1) of Section 5-A of the Act.

(II) The 30 days" period is to be reckoned from the last mode of publication as contemplated u/s 4(1) of the Act.

(III) In all cases where objections are filed within 30 days as provided u/s 5-A(I); hearing the objectors and Department/Company and further enquiry are mandatory.

(IV) The Collector shall have to fix the date of hearing the objections. He has to give notice in Form-B to the Objector as well as to the Department. The Department or Company may file a statement by way of answer to the objections before the date fixed by the Collector. The Department may also depute their Representation to attend the enquiry.

(V) If objections are not filed within the time, but the person interested/land owner appears before the Collector pursuant to the Notice in Form-B and makes any objection orally, it is incumbent on the part of the Collector to hear the objector, however, conducting further enquiry is not obligatory but it is only a discretion of the Collector. To put it clear, "personal hearing" is mandatory and "further enquiry" is discretionary depending upon the submission of objections within 30 days of the last mode of the publication.

(VI) Rule 4(b) is mandatory and to be followed essentially. In terms of Rule 4(b), Form-B is only a Notice to the objectors and the Department to appear for the hearing and it is not a notice for filing the objections.

In my view, the said principles which are applicable to the Central Act 1/1894 cannot be applied to Tamil Nadu Act 10/1999.

94. In view of the above said facts and circumstances and totality of the situation that there has been substantive compliance of service of notice, conduct of hearing and also taking into consideration the larger industrial development of the State and on the basis of the Object of the Act, apart from the fact that out of 6,500 land owners, except 16 writ petitioners (since the writ petitioner in W.P. No. 29575 of 2007 has accepted the compensation and the said writ petition is dismissed as infructuous) all other persons have either accepted the compensation or surrendered the lands by accepting the acquisition proceedings, I am of the considered view that the petitioners in these writ petitions are not entitled for any relief as claimed for. Accordingly, the writ petitions fail and the same are dismissed. However, in respect of cases where specific plea is raised about the occupation of specified portions for religious purposes or small scale industry purpose, it is always open to the said petitioners to make proper representation to the Government either for the purpose of withdrawal of the

lands from acquisition proceedings or for any other relief. In that case, it is always open to the Government to consider the same in accordance with law and on merits. It is also made clear that in cases where the petitioners are already carrying on some industrial activities, which may be referred to as "industrial purpose" under the Tamil Nadu Act 10/1999, it is always open to the said petitioners to make proper representation to SIPCOT after the acquisition proceedings are over, for the purpose of allotment. In such event, it is for the SIPCOT as well as the Government to consider their case in accordance with law and on merits and pass appropriate orders. Consequently, the connected Miscellaneous Petitions are closed. No costs.