

(2003) 08 AP CK 0081

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 10651 and 10652 of 1995

Malladi Krishna Mohan (died) by LRs.

APPELLANT

Vs

State of A.P. and Others

RESPONDENT

Date of Decision : 12-08-2003

Acts Referred:

Land Acquisition Act, 1894 — Section 11A, 17(1), 17(4), 4(1), 5A

Citation : (2003) 5 ALD 452

Hon'ble Judges : V.V.S. Rao, J

Bench : Single Bench

Advocate : N.V. Ranganadham, for the Appellant; Government Pleader for Land Acquisition for Respondent Nos. 1 and 2 and P. Sundaraiah, for the Respondent

Final Decision : Dismissed

Judgement

V.V.S. Rao, J.—W.P. No. 10652 of 1995 was heard on 15-7-2003 and reserved for consideration. The other writ petition being W.P. No. 10651 of 1995 was heard on 29-7-2003 and 6-8-2003. As most of the grounds urged in support of the writ petitions are similar and as both the writ petitions challenge the self-same notification under the Land Acquisition Act, 1894 (the Act"), both the matters are being disposed of by this common order.

2. The petitioners in these writ petitions challenge the notification issued by the District Collector, Krishna District, the first respondent herein, under Sub-section (1) of Section 4 of the Act published in the Gazette on 24-4-1995 and in the Vijayawada edition of Telugu daily newspaper Andhra Jyothi on 11-5-1995. By the said notification, the first respondent proposed to acquire, among other, land admeasuring Acs.15.59 cents in Sy.No. 60/2 and land admeasuring Acs.17.75 cents in Sy.Nos. 61 and 63 of Kanuru Village, Penamaluru Mandal, Krishna District allegedly belonging to the petitioners. With a view to expand Auto Nagar, respondents acquired about Acs.115.00 in Kanuru Village of Krishna District. The notification u/s 4(1) was issued on 24-4-1995 and was published in the local newspapers on 10-5-1995, 11-5-1995 and 12-5-1995. The enquiry u/s 5A was

dispensed with and declaration u/s 6 was made and published in the A.P. Gazette on 28-4-1995 which was also published in the local newspapers on 20-5-1995 and 23-5-1995. Award was passed for major extent of land on 23-5-1996 and possession of the land was taken by respondents 1 and 2 on 14-8-1996. However, by reason of the interim order passed by this Court in W.P.M.P.NO.13091 of 1995, dated 30-5-1995, the petitioners were not dispossessed from the land. The notification u/s 4(1) was subject-matter of challenge in the earlier writ petitions as well.

3. In the affidavit filed by the first petitioner on behalf of the other petitioners in W.P. No. 10652 of 1995, it is alleged as under. The land in question is earmarked for residential purpose in the master plan and only an extent of Ac.1.50 cents is earmarked for industrial purpose. At the instance of the third respondent namely, Automobile Technicians Association, land admeasuring Acs.148.34 cents was sought to be acquired by A.P. Industrial Infrastructure Corporation Ltd. (APIIC) for extension of automobile workshop/Auto Nagar. The respondents, however, excluded the land of an extent of Acs.39.18 cents. The petitioners and others filed W.P.No. 2370 of 1988 and batch before this Court. A learned Single Judge of this Court allowed the writ petitions on the ground that declaration u/s 6(1) of the Act is vitiated for the reason that it was issued after expiry of two years. The matter was carried to the Division Bench. By judgment reported as The Andhra Pradesh Industrial Infrastructure Corporation Ltd. Vs. Chalasani Vijaya Lakshmi and others, the Division Bench held that acquisition proceedings lapsed by operation of Section 11-A of the Act. Immediately thereafter, the third respondent Association made a representation on 20-12-1992 to the Government to arrange acquisition of land to establish small scale units in an extent of Acs.153.53 cents. It is also alleged that the third respondent suggested petitioners' land which is earmarked for residential purpose. The respondents sought to acquire the land earmarked for residential purpose in the master plan excluding the land meant for industrial purpose. The acquisition proceedings lapsed and acquisition sought to be made is mala fide to deprive the petitioners' of their property. The first respondent sought to acquire the petitioners' land though there is no need to acquire the same and that the land cannot be used for industrial purpose.

4. The petitioners also alleged that the Government acquired land at Ibrahimpatnam for APIIC for establishment of industries. The land was developed with all infrastructure like water, electricity, roads, communication etc. and the land is very nearer to Kondapally Railway Station and national highway and suitable for establishment of small scale industries. The first respondent has not applied mind while invoking the powers u/s 17(4) of the Act. Though there is no urgency, enquiry u/s 5A of the Act was dispensed with. It is colourable exercise of power. The third respondent is a company and, therefore, the procedure stipulated under Sections 38A - 448 of the Societies Registration Act have to be followed. There is no necessity to acquire the land earmarked for residential purpose for the benefit of the third respondent Association. The acquisition is

mala fide and violative of Article 300-A of the Constitution of India.

5. The averments and allegations in the affidavit accompanying W.P. No. 10651 of 1995 are almost similar. It may, however, be noted that petitioner, who died during the pendency of the writ petition and whose legal representatives were brought on record as petitioners 2, 3 and 4; claims to be half share holder in the total extent of land in Sy.Nos. 61 and 63 and that he has undivided share in the land along with his brother. The entire extent of land was acquired. Though all the grounds raised herein are similar, as seen presently, a contention is raised in relation to Section 11A of the Act.

6. Briefly stated, the averments in the counter-affidavit filed on behalf of respondents 1 and 2 are as follows. The entire area which was acquired is declared as industrial area in the master plan. The land is sought to be acquired for expansion of existing Auto Nagar for upliftment of workers working in Auto Nagar and to shift some of them from the existing Auto Nagar to the expanded area to reduce congestion in the present Auto Nagar. The District Collector who is the authority to initiate proposals ascertained information and examined whether the proposed land is ear-marked for industrial use or residential use and initiated proposals. The land in question is ear-marked for industrial purpose only.

7. In the year 1968, Government of Andhra Pradesh established Auto Nagar with 1174 plots and 73 sheds. All of them were allotted to various entrepreneurs and auto technicians. Auto Nagar was subsequently transferred to APIIC. All the allottees of plots constructed buildings to run their activity and sub-let a portion to the interlinked traders like painters, welders, tinkers, blacksmiths etc. Auto trade activity is interdependent and each category of workers are essential for regular work and, therefore, every auto technician has to let out premises to persons who carry on these trades. As there is no land, the workers engaged in these trades are undertaking work on the road margin due to increase of automobile industrial activity in Vijayawada. APIIC proposed for acquisition of land at the request of the third respondent to accommodate its members in the expanded area of Auto Nagar.

8. APIIC has established industrial development area over an extent of Acs.439.19 mainly to cater to the needs of large and medium scale industries. If auto industry is shifted to Kondapally, it is difficult to attract workers to Kondapally. As such, it is proposed to acquire the land in Kanuru village, which is nearer to Chennai to Kolkata National Highway. As the existing Auto Nagar is over crowded with flow of vehicles and as they are being repaired on the road margin, it is proposed to acquire the land in Kanuru village. The allegation that the District Collector has not applied mind is denied.

9. Learned Senior Counsel, Sri N.V. Ranganadham, submits that initiation of proceedings under the Act are not warranted as there is no public purpose, that the District Collector has not applied mind before invoking the powers under Sub-section (4) of Section 17 of the Act and in dispensing with the enquiry u/s 5A of

the Act, that there is no urgency for dispensing with the enquiry because even as on today the land is vacant and it has not been utilized for setting up small scale auto industrial units and that the land of the petitioners is earmarked for agricultural purpose in the master plan and, therefore, the same should not have been acquired for industrial purpose. The learned Counsel also raised a ground in relation to W.P.No. 10651 of 1995 that as the total extent of land comprised in Sy.Nos. 61 and 63 is Acs.17.45 and as there is no stay of dispossession or stay of further proceedings in respect of petitioner's brother half share, the land acquisition proceedings lapsed as per the provisions of Section 11-A of the Act

10. Learned Government Pleader for Land Acquisition and learned Counsel for the third respondent Association opposed the writ petitions. It is submitted that the impugned notification was subject-matter of proceedings before this Court where all the points now urged were argued before the learned Single Judge and the Division Bench. All the points raised were answered both by the learned Single Judge as well as the Division Bench against land owners upholding the notification issued u/s 4(1) of the Act. Such being the case, it is again not open to the petitioners to raise the same contentions to invalidate the impugned notification. Learned Counsel also placed before me all the judgments and orders passed by this Court.

11. In reply, Sri N.V. Ranganadham, learned Senior Counsel for the petitioners, submits that questions raised in these writ petitions were not answered by this Court in the earlier proceedings. The petitioners are not barred from questioning the notification insofar as their land is concerned.

12. At the outset, the objection raised by the learned Government Pleader may be noticed, that all the grounds in support of the writ petitions were answered by this Court. The answer to the question requires a reference to (i) Judgment and order dated 20-11-1999 in W.P. No. 16028 of 1999 passed by me in the writ petition filed by Dasari Ammaji challenging the notification u/s 4(1) of the Act; (ii) Judgment and order of the Division Bench in Writ Appeal No. 1951 of 1999 which affirmed the judgment and order in W.P. No. 16028 of 1999; (iii) Judgment and order dated 29-9-2000 in W.P. No. 14612 of 1996 delivered by His Lordship Hon"ble Sri Justice Ghulam Mohammed; (iv) Judgment and order dated 18-3-2002 in Writ Appeal No. 229 of 2002 passed by the Division Bench affirming the judgment and order in W.P. No. 14612 of 1995; (v) Judgment and order dated 12-7-2001 in W.P.No. 19290 of 1996 delivered by His Lordship Hon"ble Sri Justice G.Bikshapathy and (vi) Judgment and order dated 24-9-2001 in Writ Appeal No. 1428 of 2001 delivered by the Division Bench to which I was a member (affirming the judgment and order dated 12-7-2001 in W.P.No. 19290 of 1996).

13. One Dasari Ammaji filed the said writ petition. She had also filed W.P. No. 7039 of 1998, but this Court declined to quash the notification u/s 4(1) and declaration u/s 6 of the Act, but directed the authorities to verify whether the award was passed after serving notice to the petitioner therein. Again she filed

W.P. No. 16028 of 1999 challenging the same notification and this Court negated all the contentions and declined to quash the notification. Before the Division Bench in W.A. No. 1951 of 1999 filed against the judgment and order in W.P. No. 16028 of 1999, learned Senior Counsel who is appearing in this case appeared for the appellant Dasari Ammaji.

14. In W.P. No. 16028 of 1999, it was inter alia contended that dispensing with the enquiry u/s 5A of the Act by invoicing the powers u/s 17 of the Act is not warranted and the same is illegal. However, the question was not pressed and it was argued that the award passed is not within two years and, therefore, the proceedings have lapsed. This Court negated both the contentions having regard to the judgment and order in W.P.No. 7039 of 1998 wherein it was directed to issue notice to the petitioner therein before passing the award. Before the Division Bench in W.A. No. 1951 of 1999 filed against the judgment and order in W.P. No. 16028 of 1999, the only submission that was pressed is that as the award was not passed within two years, the acquisition proceedings have lapsed. The Division Bench, while affirming the judgment and order of the learned Single Judge did not accept the contention of the appellant therein.

15. Again in W.P. No. 14612 of 1996 challenging the same notification, a contention was raised that dispensing with enquiry u/s 5A of the Act is without jurisdiction and that the authorities have no such power to dispense with the enquiry. The submission was negated by this Court. The Division Bench in W.A. No. 229 of 2002 affirmed the judgment and order in W.P. No. 14612 of 1996. It was observed as under:

.....Later, in the second round of litigation, fresh notification was issued in the year 1995 u/s 4(1) of the Act and thereafter, declaration u/s 6 of the Act was also issued. The respondents, showing urgency in the matter, invoked the provisions u/s 17(4) of the Act while dispensing with the enquiry u/s 5A of the Act and completed the other formalities including passing of the award. It is to be noted that the land has been valued at Rs. 3 lakhs per acre which is evident as per the counter filed on behalf of the respondents. In the counter, the respondents have pleaded that since the appellants claimed to have purchased the lands from third parties, in the revenue records their names were not found and as such no notices could be given to them. According to the respondents, almost all the land owners whose lands were acquired for the purpose of developing the industrial belt, participated in the proceedings and consented to receive Rs. 3 lakhs towards compensation per acre and thus the award has also been passed in the year 1996. In view of this categorical assertion of the respondents in the counter-affidavit, it is difficult for us to appreciate that the appellants-petitioners were denied of any opportunity to participate in the proceedings which has resulted in grave injustice to them.

16. Learned Senior Counsel relied on the judgment of a Division Bench of this Court in Chevuru Suryanarayana Reddy and Others Vs. Government of Andhra Pradesh and Another, , in support of the contention that if possession of the land

is not taken within the time stipulated after dispensing with the enquiry u/s 5A, it should be inferred that there was no urgency at all. After perusing the said judgment, I am convinced that it is of no assistance to the petitioners. In the said case, no enquiry u/s 5A was dispensed with and possession was not taken. In the present case, an extent of about Acs.115.00 was acquired and possession was immediately taken. The petitioners were not dispossessed by reason of the interim orders of this Court dated 30-5-1995 in W.P.M.P. No. 13091 of 1995. A person who obtained interim order cannot be heard to say that the land acquisition proceedings are illegal for the reason that possession was not taken immediately in spite of dispensing with the enquiry. By reason of the interim orders passed by this Court, the respondents could not have taken possession.

17. The other land owners again challenged the notification u/s 4(1) of the Act in W.P, No. 19290 of 1996. A submission was made that dispensing with enquiry u/s 5A is illegal. The Court did not accept the same. The judgment and order of the learned single Judge dated 12-7-2001 in W.P. No. 19290 of 1996 was affirmed by the Division Bench to which I was a member in W.A. No. 1428 of 2001. Therefore, the submission of the learned Senior Counsel for the petitioners that this point was not urged before this Court in earlier proceedings cannot be accepted. On three occasions, the notification u/s 4(1) of the Act was challenged on similar grounds and this Court on all the four occasions negated the contentions. Therefore, there is no force in the submission of the learned Senior Counsel. Even otherwise, whether there was urgency and whether enquiry u/s 5A has to be dispensed with or not is a matter of subjective satisfaction of the competent authority. When the land is acquired for industrial purpose i.e., expansion of Auto Nagar, it can be presumed that there was urgency for acquiring the land.

18. In *First Land Acquisition Collector v. Nirodhi Prakash Gangoli*, 2002 (2) Supreme 320, the Supreme Court observed as under:

The question of urgency of an acquisition u/s 17(1) and (4) of the Act is a matter of subjective satisfaction of the Government and ordinarily it is not open to the Court to make a scrutiny of the propriety of that satisfaction on an objective appraisal of facts. In this view of the matter when the Government takes a decision, taking all relevant considerations into account and is satisfied that there exists emergency for invoking powers u/s 17(1) and (4) of the Act, and issues Notification accordingly, the same should not be interfered with by the Court unless the Court comes to the conclusion that the appropriate authority had not applied its mind to the relevant factors or that the decision has been taken by the appropriate authority mala fide. Whether in a given situation there existed urgency or not is left to the discretion and decision of the concerned authorities. If an order invoking power u/s 17(4) is assailed, the Courts may enquire whether the appropriate authority had all the relevant materials before it or whether the order has been passed by non-application of mind. Any post Notification delay subsequent to the decision of the State Government dispensing with an enquiry

u/s 5(A) by invoking powers u/s 17(1) of the Act would not invalidate the decision itself specially when no mala fides on the part of the Government or its officers are alleged.....

19. The submission that there is total non-application of mind by respondents 1 and 2 cannot be accepted. Be it noted that the contention that the District Collector did not apply mind and that all the material was not placed before the District Collector is categorically denied by respondents 1 and 2.

20. It is nextly contended by the learned Senior Counsel that the petitioners' land is earmarked for residential and agricultural purposes in the master plan. The respondents excluded the land ear-marked for industrial purpose and included the petitioners' land in the acquisition proposals with mala fide intention to benefit the members of the third respondent Association. This point also stands concluded by the judgment and order of this Court in W.P.No. 14612 of 1996. It was contended before this Court that the land was declared as residential zone and that proposed acquisition is vitiated by the approved plan. This was negated by this Court holding thus:

Thus, in the absence of documentary evidence and also the master plan, I am not inclined to agree with the contention of the petitioners that the area in question is located in residential zone. And with regard to the contention that no notice was given to the petitioners, I do not find any substance in the said contention, since they have not effected mutation in the revenue records and the authorities concerned issued notice u/s 9(3) and 10 of the Act to the pattedars and enjoyers of the land as per the records. Further, I am not inclined to accept the contention of the petitioners that the land in question is a very small extent and located in a corner and that the same has to be excluded. In my view, it is for the authorities to examine the proximity or otherwise of the land.

21. Learned Senior Counsel, however, contends that the Government of Andhra Pradesh in exercise of their power under subsection (2) of Section 12 of the A.P. Urban Areas (Development) Act, 1975 issued preliminary notification vide Memo dated 21-12-2001 published in the A.P. Gazette dated 22-12-2001 and final notification vide G.O. Ms. No. 9, Municipal Administration and Urban Development (12) Department, dated 16-1-2002 (Gazette notification not produced though) treating land in Kanuru and Poranki villages as ear-marked for residential purpose. He submits that the land ear-marked for residential purpose cannot be acquired for industrial purpose. The notification in question is in variation ordered by the Government to the master plan for Vijayawada, Guntur, Tenali and Mangalagiri urban area (VGTM urban area). A reading of the same would not support the contention of the learned Senior Counsel that the land in R.S. No. 60/2 of Kanuru was also earmarked for residential purpose. Indeed, there is no variation insofar as R.S. No. 60/2 is concerned. Variation to master plan ordered by the Government is subject to many conditions. Whoever is the owner of land can get the benefit of variation orders subject to the provisions of Urban Land (Ceiling & Regulation) Act, 1976 and subject to payment of

conversion charges. Petitioners have not placed any proof before this Court regarding payment of conversion charges to Vijayawada, Guntur, Tenali and Mangalagiri Authority (VGTM Authority) nor did they produce necessary orders from the Special Officer & Competent Authority of Vijayawada Urban Agglomeration. If the petitioners land is also covered by variation orders, they ought to have paid conversion charges to the VGTM Authority and ought to have obtained necessary orders from Urban Land Ceiling authorities. They did neither. Even otherwise, assuming that petitioners' land use is changed, it is a curable irregularity and the same does not confer a right on the petitioners. In this context, a reference may be made to the judgment of the Supreme Court in B.K. Srinivasan and Others Vs. State of Karnataka and Others, , wherein it was held that a defective publication which has otherwise served its purpose is not sufficient to render illegal what is published. It was held:

.....In the present case the situation may not be the same but there certainly was an effort to birth the Plan and Regulations to the notice of the public by giving notice of the Plan in the official gazette. Non-publication of the Plan in the Official Gazette was therefore a curable defect capable of being cured by Section 76 J. It is here that the failure of the appellants to plead want of publication or want of knowledge in the first instance assumes importance. In the answer to the writ petitions, the appellants took up the substantial plea that they had complied with the requirements of the Outline Development Plan and the Regulations but not that they had no knowledge of any such requirement. It can safely be said that the defect or irregularity did not affect the merits of the case.

22. Even if it is an incurable defect, the two notifications; preliminary and final notifications u/s 12(2) of the A.P. Urban Areas (Development) Act would not give any right to the petitioners to get their land excluded from the land acquisition proposals. Be it noted that the notification u/s 4(1) was issued on 24-4-1995 and final notification u/s 12(2) of the Urban Areas (Development) Act was issued on 16-1-2002. The very fact that a draft variation is issued would negative the case of the petitioners that the land was ear-marked for agriculture/residential purpose in 1995.

23. It is lastly contended that though the land acquisition proposals were initiated in 1995, the land has been kept vacant and, therefore, the acquisition proceedings are illegal. The third respondent in its counter stated that after the Government handed over possession of the land to the APIIC, an application was made to VGTM Authority to issue a provisional layout. The third respondent entered into an agreement for development of the land estimated at Rs. 3.35 crores. Plots were ear-marked as per the layout and the third respondent allotted the same in the presence of the District Collector, Krishna District on 20-4-2000. Plots were allotted to 751 members and 717 members paid the entire cost of the plot and development charges. On 28-6-2003, APIIC addressed a letter to the VGTM Authority for release of final layout. Some of the allottees have started their establishments. This shows that after acquiring the land it was developed

and allotted to the members of the third respondent Association. Therefore, it cannot be said that the land has been kept vacant because approval of layout by VGTM Authority, and development of land took considerable time. Construction of sheds for auto repair shops is not an overnight business. Even otherwise, the land was immediately handed over to APIIC which in turn allotted plots to the members of the third respondent Association and, therefore, the submission that the land has not been utilised is devoid of merits.

24. That takes me to the submission made by the learned Senior Counsel that the land acquisition proceedings lapsed by reason of Section 11A of the Act. Be it noted, if an award is not passed within a period of two years from the date of two years from the date of last publication of declaration u/s 6(1) of the Act, the land acquisition proceedings would lapse. In computing the period of two years, the time during which stay granted by this Court operates has to be excluded. The submission of the learned Senior Counsel is that as there is no stay in relation to half of the land comprised in Sy.Nos. 61 and 63 and as no- award was passed within two years from the date of declaration u/s 6(1) i.e., 28-4-1995, the land acquisition proceedings are lapsed. This is refuted by the learned Government Pleader, Sri P.Rajagopala Rao. His contention is that the petitioner's share has not been delineated and that if an award is not passed within two years, the aggrieved person is his brother and, therefore, the contention cannot be entertained at the instance of the person who obtained stay in relation to his undivided half share. Alternatively, he submits that when a notification is issued showing the joint ownership of two brothers, even if there is an order of stay in relation to any portion of the land, the same would operate as stay of the proceedings in relation to other portion of the land. Reliance is placed by the learned Government Pleader on the decisions of the Supreme Court in *State of Tamil Nadu v. Mahalakshmi Ammal*, AIR 1996 SC 866, and *Abhey Ram (dead) by LRs. and others Vs. Union of India and others*, .

25. The submission of the learned Senior Counsel cannot be accepted. In the affidavit accompanying W.P. No. 10651 of 1995, the petitioner admits that he owns half share in Acs.5.33 cents comprised in Sy.No. 61 and half share in Acs.11.42 cents in Sy.No. 63 of Kanuru village. He also admits that he has an undivided share. Indeed, the notification issued u/s 4(1) by the District Collector would show that in respect of the land comprised in Sy.No. 61 as well as Sy.No. 63, the name of the petitioner and the name of his brother Malladi Lakshminarayana are shown. There is no sub-division nor there is partition of undivided share. Therefore, there is force in the submission made by Sri P.Rajagopala Rao that when there is joint ownership, stay granted in favour of one joint owner will also operate as stay in respect of other land.

26. In *Abhey Ram v. Union of India* (supra), a notification u/s 4(1) of the Act for acquiring large extent of 50,000 big has situated in several villages was challenged inter alia on the ground that declaration u/s 6(1) published after three years is barred by law. A Full Bench of Delhi High Court upheld the validity

of the notification on the ground that some of the land owners whose land also was proposed for acquisition approached the High Court and obtained stay of further proceedings as a consequence of which the period of stay stood excluded by operation of Explanation II to Section 6(1) of the Act. Accordingly, the declaration was upheld. Subsequently, a Division Bench passed an order validating the notification against which an appeal was carried to the Supreme Court. Before the apex Court, it was contended that as the appellants had not obtained any stay pending the writ petition qua the appellants, there was no prohibition for the Government to proceed further for publication of declaration u/s 6 and, therefore, the declaration made after three years is invalid in law. The Hon'ble Apex Court rejected the contention and dismissed the appeal of the land owners. It is Apposite to excerpt the following observations on the declaration of law by the Supreme Court:

.....The question that arises for consideration is whether (he stay obtained by some of the persons who prohibited the respondents from publication of the declaration u/s 6 would equally be extendible to the cases relating to the appellants. We proceed on the premise that the appellants had not obtained any stay of the publication of the declaration but since the High Court in some of the cases has, in fact, prohibited them as extracted hereinbefore, from publication of the declaration, necessarily, when the Court, has not restricted the declaration in the impugned orders in support of the petitioners therein, the officers had to hold back their hands till the matters were disposed of. In fact, this Court has given extended meaning to the orders of stay or proceeding in various cases, namely, Yusufbhai Noormohmed Nendoliya Vs. State of Gujarat and another, , Hansraj H. Jain Vs. State of Maharashtra and Others, , Sangappa Gurulingappa Sajjan Vs. State of Karnataka and Others, , Gandhi Grah Nirman Sahkari Samiti Ltd. ect. etc. Vs. State of Rajasthan and others, , G. Narayanaswamy Reddy (dead) by L.Rs. and another Vs. Government of Karnataka and another, , and Roshnara Begum N. Union of India, (1986) 1 Apex Dec 6. The words "stay of the action or proceeding" have been widely interpreted by this Court and mean that any type of the orders passed by this Court would be an inhibitive action on the part of the authorities to proceed further. When the action of conducting an enquiry u/s 5-A was put in issue and the declaration u/s 6 was questioned, necessarily unless the Court holds that enquiry u/s 5-A was properly conducted and the declaration published u/s 6 was valid, it would not be open to the officers to proceed further into the matter. As a consequence, the stay granted in respect of some would be applicable to others also who had not obtained stay in that behalf.

27. There is yet another reason to reject the contention of the learned Senior Counsel on this aspect. As held by the Supreme Court in *State of Tamil Nadu v. Mahalakshmi Ammal* (supra), if a large extent of land is acquired and in relation to some extent of the land an award is passed within a period of two years, any delay in passing the award in relation to other land would not render the award invalid. It was held:

It is well-settled law that publication of the declaration u/s 6 gives conclusiveness to public purpose. Award was made on 26/9/1986 and for Survey No. 2/11 award was made on August 31, 1990. Possession having already been undertaken on November 24, 1986, it stands vested in the State u/s 16 of the Act free from all encumbrances and thereby the Government acquired absolute title to the land. The initial award having been made within two years u/s 11 of the Act, the fact that subsequent award was made on 31st August, 1990 does not render the initial award invalid. It is also to be seen that there is stay of dispossession. Once there is stay of dispossession, all further proceedings necessarily could not be proceeded with as laid down by this Court. Therefore, the limitation also does not stand as an impediment as provided in the proviso to Section 11-A of the Act. Equally, even if there is an irregularity in service of notice under Sections 9 and 10, it would be a curable irregularity and on account thereof, award made u/s 11 does not become invalid.

28. In view of the above, the submission of the learned Senior Counsel is liable to be rejected as without any merit.

29. In the result, for the above reasons, the writ petitions fail and are accordingly dismissed with costs assessed at Rs. 5,000/- in each case payable to the first respondent. Respondents 2 and 3 will bear their own costs.