

(1998) 07 MAD CK 0145

In the Madras High Court

Case No : Writ Petition Nos.7388, 8216, 9968, 13044, 13077, 13474, 14105, 14106 of 1986, 2917, 3406, 4196 and 11697 of 1987 and W.M.P. Nos.15547, 15549, 15550 to 15553 of 1997

Murugesha Naicker and two others

APPELLANT

Vs

The Special Tahsildar, Land Acquisition (IV), Maraimalai Nagar Scheme, Kattankolathur, Chingleput District and another

RESPONDENT

Date of Decision : 30-07-1998

Acts Referred:

Constitution of India, 1950 — Article 226, 32

Land Acquisition Act, 1894 — Section 10, 11, 16, 18, 28

Citation : (1998) 3 CTC 293

Hon'ble Judges : P. Sathasivam, J

Bench : Single Bench

Advocate : Mr. S. Arunagirinathan, Mr. M.S. Subramaniam, R. Subramanian, Mr. Satish Sudar for Mr. K. Rajkumar Advocates, for the Appellant; Mr. R. Krishnamoorthy, for Mr. M.S. Govindarajan and Mr. V. Rajavelu, Special Govt. Pleader for Land Acquisition, for the Respondent

Final Decision : Dismissed

Judgement

1. In all the above writ petitions the challenge is only with regard to acquisition of lands for development of a new satellite town near Madras known as Maraimalai Nagar by the Madras Metropolitan Development Authority (now known as Chennai Metropolitan Development Authority). Since similar points have been taken in all the writ petitions, the same may be disposed of by the following common order:-

2. Though various contentions have been raised by the petitioners, for the convenience and for the present I shall refer the facts leading to the filing of the first writ petition, namely, W.P. No.7388 of 1986. According to the petitioner, they are the owners of the land measuring a total extent of 17 acres 70 cents comprised in S.No.238/17A measuring 5 acres 90 cents, and S.No.238/17B

measuring 5 acres 90 cents, and S.No.238/17C measuring 5 acres 90 cents respectively in No.83, Sengundram Village, Chingleput. They made improvements in the lands for the purposes of cultivation. They reclaimed the lands at a cost of more than Rs. 1,50,000. In G.O.Ms. No. 1198 Housing and Urban Development dated 7.7.1979, the second respondent issued a Notification u/s 4(1) of the Land Acquisition Act for acquisition of certain lands including the aforesaid land of the petitioners for the development of a new satellite town known as Maraimalai Nagar by the Madras Metropolitan Development Authority. The first respondent has been authorised to perform the functions of a Collector under the Act. It is stated that the particulars regarding ownership and extent furnished in the 4(1) Notification are incorrect. They did not publish the substance of the Section 4(1) Notification either in the locality or in the daily newspapers. However, the first respondent called upon the petitioners to state their objections if any for the said proposal. They submitted their objections and requested the respondents to drop their lands from acquisition. Thereafter, according to the petitioners, they did not hear anything in the matter and therefore they were under the impression that the respondents have deleted their lands from acquisition. But after 7 years, the petitioners were shocked to receive a notice u/s 9(3)(10) of the Land Acquisition Act informing that an Award Enquiry will be held on 30.7.1986. It is stated that no notice for an enquiry u/s 5-A of the said Act was ever served on the petitioners. The failure to comply with the said mandatory provisions vitiates the entire acquisition proceedings. In such circumstances, they have approached this Court by way of the present writ petitions.

3. On behalf of the respondents, the second respondent has filed a counter affidavit denying various averments made by the petitioners. It is stated in the counter affidavit that the Government in their G.O.Ms. No. 1198, Housing and Urban Development Department, dated 7.7.1979 have approved the notification u/s 4(1) of the Land Acquisition Act, 1894 and the same has been published at pages 11 to 15 in supplement to Part-II-Section 2 of the Tamil Nadu Government Gazette dated 15.8.1979 for acquisition of 172.54 acres of land in Sengundram village for a public purpose to wit for the development of a new satellite town near Madras known as "Maraimalai Nagar" by the Madras Metropolitan Development Authority. The land belonging to the petitioners was also included in the said notification. Enquiry u/s 5A was conducted on 5.12.79 and 9.1.80, First petitioner attended the enquiry on 9.1.80 and filed objection on his behalf and on behalf of the third petitioner, which were duly communicated to the requisitioning body viz., the Madras Metropolitan Development Authority for their remarks. The remarks of the requisitioning body were duly communicated to the landowners. The Government after overruling the objections have approved the draft declaration u/s 6 in their order G.O.Ms. No.757, Housing and Urban Development Department, dated 5.8.82 and the same has been published in the Government Gazette, dated 6.8.82. Award enquiry notices under sections 9(3) and 10 of the Act were served on the landowners. But they have not attended

the award enquiry. The names of owners and other details of the lands required were published as found in the Revenue accounts. There is no procedural irregularity. The substance of the notification was published in the locality on 2.11.79. The petitioners in pursuance of a notice in form 3 attended Section 5-A enquiry on 9.1.80. The mandatory provisions of Sections 4(1) and 5-A were strictly adhered to and there were no omissions. Finally it is stated that the Land Acquisition Officer has strictly followed all the formalities as prescribed under the Act and Rules made therein and as such there is no irregularity or infirmity in the said land acquisition proceedings. With these averments, they prayed for dismissal of the writ petition.

4. As stated earlier, similar contentions were raised by the petitioners in other writ petitions and the respondents have also filed counter affidavits disputing various averments made by the petitioners therein. During discussion and while considering the claim of both parties, I shall refer the averments made by the petitioners as well as the stand of the respondents then and there.

5. In the light of the above factual position, I have heard the learned counsel for the petitioners and the respondents.

6. Mr.R. Arunagirinathan, learned counsel appearing for the petitioners in W.Ps. Nos.7388, 13044 and 13474 of 1986 has made the following submissions:- (i) There was no local publication of the gist of s. 4(1) Notification as per the Rules; (ii) No proper enquiry u/s 5-A was held; and iii) There is enormous delay in passing the award.

7. Mr.M.S. Subramanian, learned counsel appearing for the petitioners in W.P. No.8216 of 1986 has raised the following contentions:- (i) There is a long delay in local publication of 4 (1) Notification: (ii) Section 5-A enquiry was not conducted in accordance with law and violation of Rule 3 (b) of the Rules; (iii) Enormous delay in passing the award; and (iv) Madras Metropolitan Development Authority is neither a proper nor a necessary party in the present acquisition proceedings; hence the application filed by the Madras Metropolitan Development Authority for impleading them as one of the respondents is liable to be dismissed.

8. Mr.R. Subramanian, learned counsel appearing for the petitioner in W.P. No.2917 of 87 has raised the following contentions:- (i) There was no local publication of 4 (1) Notification in the locality; (ii) No proper enquiry u/s 5-A of the Act and violation of Rule 3 (b) of the Rules; and (iii) Madras Metropolitan Development Authority is not the necessary party in the present proceedings.

9. Mr. Satish Sundar, learned counsel appearing for petitioner in W.P.3406 of 1987 while reiterating the above contentions, has also submitted that the petitioners were not given notice for award enquiry.

10. Mrs. Bakialakshmi, learned counsel appearing for the petitioners in W.Ps. Nos.13077, 14105 and 14106 of 86 has raised the following contentions:- (i) Some of the land owners' names do not find place in Section 4(1) Notification;

(ii) Substance of 4 (1) Notification was not published in the locality; (iii) The petitioners were not given notice for 5-A enquiry; (iv) Except notice u/s 9(3) of the said Act, petitioners were not served with any other notice; (v) In W.P. 13077 of 1986 there is a long delay in passing the award; and (vi) Inasmuch as some of the lands under acquisition have been dropped by the Government, the lands belonging to the petitioners ought to have been dropped.

11. The main arguments of the learned counsel for the petitioners are summarised hereunder:- (i) Some of the names of the land owners were not mentioned in section 4(1) Notification; (ii) The gist of section 4(1) Notification was not published in the locality; (iii) Even in such publication, there is long delay between 4 (1) notification in the Gazette and in the locality; (iv) Section 5-A enquiry was not conducted in accordance with the statute and there is violation of Rule 3 (b) of the Rules. In some cases after getting remarks from the requisitioning body, no farther enquiry was conducted by the Land Acquisition Officer; (v) No notice u/s 9(3) and 10 of the Award proceedings; (vi) Delay in passing award; and (vii) Madras Metropolitan Development Authority viz., the requisitioning body is not a necessary party in the proceedings.

12. On the other hand, Mr.R. Krishnamoorthy, learned senior counsel appearing for the Madras Metropolitan Development Authority (Madras Metropolitan Development Authority is also a party in some writ petitions) has raised the following contentions:- (i) Madras Metropolitan Development Authority is an interested party in the acquisition proceedings; (ii) There is no need to interfere for mere violations; (iii) Writ Petitions are liable to be dismissed on the ground of laches or delay; (iv) Inasmuch as the petitioners did not submit their objections in time or no objection, there is no question of violation of Rule 3 (b) of the said Rules; (v) Some of the petitioners are subsequent purchasers and they are not entitled to any notice except for award enquiry; and (vi) In all the cases awards have been passed and possession was also taken.

13. The learned Special Government Pleader while adopting the arguments of Mr.R. Krishnamoorthy, learned senior counsel for Madras Metropolitan Development Authority has brought to my notice the details regarding 4 (1) Notification in the Gazette, in the locality, notices to the land owners, 5-A enquiry proceedings, 6 Declaration and Award enquiry in respect of all the writ petitions and contended that apart from dismissing all the writ petitions on merits, the same are also liable to be dismissed on the ground of laches or delay in filing the writ petitions.

14. I have carefully considered the rival submissions.

15. Before considering the merits of the cases, I shall first deal with the petitions filed by Madras Metropolitan Development Authority (requisitioning body) for impleading themselves as one of the respondents in these proceedings. For the above said purpose, the said authority has filed W.M.P. No.15551 of 1997 in W.P. No.7388 of 1986, W.M.P. No.15552 of 1997 in W.P. 13044 of 1996, W.M.P.

No.15550 of 1997 in W.P. No.8216 of 1986, W.M.P. 15553 of 1997 in W.P. No.13077 of 1986, W.M.P. No.15547 of 1997 in W.P. No.2917 of 1987 and W.M.P. No. 15549 of 1997 in W.P. No.4196 of 1997. The relevant provision for hearing the requisitioning body/Department is Section 50 of the Land Acquisition Act. 1894 (hereinafter referred to as "the Act"). Section 50(2) says that in any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation. By pointing out the above statutory provision, Mr.R. Krishnamoorthy, learned senior counsel for the Madras Metropolitan Development Authority has very much relied on the following decisions:- (i) N. Krishnamachari Vs. Managing Director, APSRTC, Hyderabad and Others, (ii) M/s. Neyveli Lignite Corpn. Ltd. Vs. Special Tahsildar (Land Acquisition), Neyveli and others, (iii) M/s, Vedeowala v. The Union of India 1986 W.L.R. 329.

16. In N. Krishnamachari Vs. Managing Director, APSRTC, Hyderabad and Others, (2 Judges Bench). The learned senior counsel has very much relied on the following passage in that decision:-

"...Therefore, we hold that A.P.S.R.T.C., is a person interested within the meaning of Section 3(d) of the Act and that therefore, it is entitled to support the validity of the notification issued u/s 4(1) of the Act when it is the subject-matter of the challenge in the High Court. The High Court is, therefore, not right in its conclusion that the Corporation is not an interested party and the High Court has committed grievous error of law in refusing the review petition..."

17. The other decision referred to is M/s. Neyveli Lignite Corpn. Ltd. Vs. Special Tahsildar (Land Acquisition), Neyveli and others, (3 Judges Bench), the senior counsel has relied on the following passage:-

"...The beneficiary, i.e., local authority or company, a co-op society registered under the relevant State law, or statutory authority is a person interested to determine just and proper compensation for the acquired land and is an aggrieved person. It follows from it that the beneficiary has the right to be heard by the Collector or the Court..."

18. The other decision on this aspect relied on by the learned senior counsel is in the case of M/s. Vedeowala v. The Union of India 1986 W.L.R. 329. In that case, the Film Federation of India filed Writ Miscellaneous Petition in a writ petition seeking declaration to declare certain provisions of the Copyright (Amendment) Act, 1984 insofar as they relate to the petitioner Video Library, as void and unconstitutional. Natarajan, J., (as His Lordship then was) ultimately held that the petitioner should be afforded the status of a proper person to be heard in the proceedings and that therefore ordered that the petitioner therein will be accorded the status of representator in the writ petition and afforded an opportunity to make its representation on the merits of the case when the writ petition is taken up for disposal.

19. On the other hand, Mr.M.S. Subramanian, one of the counsel for the petitioners by relying on a constitutional Bench judgment of the Supreme Court reported in U.P Awas Evam Vikas Parishad Vs. Gyan Devi (Dead) by L.Rs. and another, etc. etc., , has contended that in the light of the law laid down by five Judges of the Supreme Court in the said decision, there is no need to hear the local authority or the requisitioning body/department (in our case M.M.D.A.), in this proceedings where the challenge is only with regard to acquisition proceedings. In the said constitutional Bench judgment all the earlier decisions of the Apex Court have been referred to and after considering Section 50(2) of the Act. Their Lordships have concluded thus:-

"...Having regard to the express provision contained in the proviso to Section 50(2) of the L.A. Act, it would not be correct to say that a local authority or a company for whom land is acquired is a "person interested" u/s 18(1) of the L.A. Act because on that view a local authority or ?a company would be entitled to seek a reference against the award of the Collector which would run counter to the proviso to Section 50(2). It was, therefore, not correct to place reliance on Section 18(1). But the conclusion in Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR"s., that the company had the locus standi to file an appeal is right when the said judgment is read in the context of Section 50(2), we are unable to endorse the view taken in Municipal Corporation of the City of Ahmedabad v. Chandulal Shamaldas Patel .

Their Lordships have further held as follows:-

"But option to participate does not mean right to be impleaded. When the legislation precludes such person from being made a party obviously because the Collector acts on its behalf then such a person cannot claim it as a matter of right. Permitting participation of the local authority for the limited purpose visualised by sub-section (2) of Section 50 cannot be stretched to make the local authority a necessary party by giving extended meaning to the expression "person interested" used in section 18 of the L.A. Act. No provision in the local Act makes the Board a necessary party. It only empowers it to assist the Collector or Court in determining compensation by adducing evidence. A person is impleaded or can claim to be impleaded if it has any interest or lis. An acquiring body including the local authority has no Us except to assist the Collector or the Court in determining compensation."

As a matter of fact, similar view has been taken by a Division Bench of this Court, even prior to the above said Constitutional Bench judgment and the judgment of this Court is reported in State Industried Promotion Corporation of Tamil Nadu Ltd., Madras Vs. V. Arputharaj and others, . In the light of the law laid down by" the Constitutional Bench of the Apex Court referred to above, I hold that the requisitioning body is entitled to participate only in respect of determination of compensation and not in the other proceedings; accordingly I dismiss all the above Writ Miscellaneous Petitions filed by Madras Metropolitan Development Authority.

20. However, in W.P. Nos.3406 of 1987 and 9968 of 1986 requisitioning authority, namely, Madras Metropolitan Development Authority has been impleaded as one of the respondents. In that capacity, I have heard the arguments of Mr.R. Krishnamoorthy, learned senior counsel.

21. Now I shall consider the contentions raised by both sides. Even though it is stated in some cases that the names of the petitioners have not been mentioned in the 4 (1) notification published in the Gazette, after verification or after getting necessary information, the mistakes have been rectified in the subsequent proceedings. Accordingly, there is no need to consider further on this aspect.

22. Learned counsel appearing for the petitioners mainly contended that the gist of section 4(1) notification was not published in the locality as per the Statute or there was delay in publication of the same in the locality. As per Section 4(1) as it stood, apart from publication in the Gazette, the gist of the notification has to be published at convenient places in the locality. Before considering the particulars furnished by the Special Government Pleader with regard to local publication, I shall consider the decisions referred by either side on this aspect. In *The Government of Tamil Nadu and Another Vs. M. Natarajan*, a Division Bench of this Court following the earlier decision rendered in *Government of Tamil Nadu represented by its Secretary, another v. S. Jayaraman*, 1992 (1) LW 326, has held as follows:-

"Though there is nothing like stipulating a time in Section 4 of the Act. but a reading of the section and the expedition with which the notice has to be published, as contemplated in the Act, would make it clear that the Act prevents any delay which can take in its ambit a deep gap between the date of publication of the notification and the date of public notice of the substance of such notification at convenient places in the locality. Therefore, in order to prevent any undue delay and evil consequences on the land owners and also to keep the effect of the notice intact, a reasonable time has to be read or presumed to a provision as has been done by this Court, with which we respectfully concur.."

In other words, according to them, the delay between the publication of section 4(1) notification in the official Gazette and the public notice of the substance at convenient places of the locality should not exceed two months.

23. In *Narayana Rajoo v. The State of Tamil Nadu*, 1991 (I)L.W 476. after referring to the decision of the Supreme Court reported in *Deepak Pahwa and Others Vs. Lt. Governor of Delhi and Others*, , Kanakaraj, J., has emphasized the following passage in that decision:-

"If the notification and the public notice are separated by such a large gap of time it may become necessary to probe further to discover if there is any cause for the delay and if the delay has caused prejudice to anyone."

24. In *The Government of Tamil Nadu v. S. Jayaraman*, 1992(1) LW 326 a

Division Bench of this Court has concluded that the- delay between the publication of 4 (1) notification in the official Gazette and the public notice of the substance of convenient places of the locality should not exceed two months and if it exceeds two months, it is liable to be questioned.

25. In *State of Haryana and Another Vs. Raghubir Dayal*, , while considering the scope of section 4(1). Their Lordships have held that the time gap of more than six months between dates of publication of the notification of Official Gazette and of publication of substance of the notification in the locality would not by itself render the notification invalid.

26. In *Deepak Pahwa and Others Vs. Lt. Governor of Delhi and Others*, with regard to time gap between the publication of notification and public notice of substance of such notification, the conclusion arrived at by Their Lordships are relevant and they are extracted hereunder:-

"3. It may be noticed at once that Section 4(1) does not prescribe that public notice of the substance of the notification should be given in the locality simultaneously with the publication of the notification in the Official Gazette and public notice in the locality are two vital steps required to be taken u/s 4(1) before proceeding to take the next step of entering upon the land u/s 4(2). The time factor is not a vital element of Section 4(1) and there is no warrant for reading the words "simultaneously" or "immediately thereafter" into section 4(1). Publication in the Official Gazette and public notice in the locality are the essential elements of Section 4(1) and not the simultaneity or immediacy of the publication and the public notice. But since the steps contemplated by section 4(2) cannot be undertaken unless publication is made and public notice given as contemplated by Section 4(1), it is implicit that the publication and the public notice must be contemporaneous though not simultaneous or immediately after one another. Naturally contemporaneity may involve a gap of time and by the very nature of the things, the publication in the Official Gazette and the public notice in the locality must necessarily be separated by a gap of time. This does not mean that the publication and the public notice may be separated by a long interval of time. What is necessary is that the continuity of action should not appear to be broken by a deep gap. If there is publication in the Gazette and if there is public notice in the locality, the requirements of Section 4(1) must be held to be satisfied unless the two are unlinked from each other by a gap of time so large as may lead one to the prima facie conclusion of lack of bona fides in the proceedings for acquisition. If the notification and the public notice are separated by such a large gap of time it may become necessary to probe further to discover if there is any cause for the delay and if the delay has caused prejudice to anyone.

4. We may consider here an argument which is usually advanced against any time gap between the publication in the Official Gazette and the public notice in the locality. Section 5-A provides that any person interested in any land which has been notified u/s 4(1) may object to the acquisition of the land or of any

land in the locality within 30 days after the issue of the notification. It is, therefore, suggested that if the publication of the notification in the Gazette is not immediately followed by a public notice in the locality, it may lead to a denial to the person interested of an opportunity to object to the acquisition. We think that this is too narrow an interpretation of Section 5-A. Notice to interested persons of a proposed acquisition of land is given by publicising a notification to the effect that land in any locality is needed or is likely to be needed for any public purpose in two ways-first, by causing publication of the substance of the notification to be given at convenient places in the locality. There is no reason to confine the period of 30 days prescribed by Section 5-A to one mode. The period of 30 days may be reckoned from either the date of publication in the Gazette or the date of public notice of the substance of the notification in the locality, whichever is later. In our view, that is the only reasonable and practical way of construing Section 5-A so as to advance the object of the provision, which is to provide a reasonable opportunity to interested persons to oppose the acquisition. We particularly notice that Section 5-A does not refer either to the date of publication in the Official Gazette or the date of public notice of the substance of the notification in the locality. It speaks of the issue of the notification. This we consider is significant and, in the context, the words "the issue of the notification" can only signify the completion of the prescribed process-rather, the twin process of notifying the interested public of the proposed acquisition in the manner provided for by Section 4(1), that is by publication in the Official Gazette and giving public notice in the locality."

A reading of the above judicial pronouncements clearly show that every time gap between the publication in the Gazette and the publication of substance of the notification in the locality is not fatal to the acquisition. Thus, as observed by Their Lordships in *Deepak Pahwa and Others Vs. Lt. Governor of Delhi and Others*, , there cannot be any general principle that the acquisition would be regarded as void if the notification published in the Official Gazette was not accompanied or immediately followed by the public notice. However it is stated that the publication in the Official Gazette and the public notice in the locality must necessarily not be separated by a long interval of time. What is necessary is that the continuity of action should not appear to be broken by a deep gap. If the notification and the public notice are separated by such a large gap of time, it may become necessary to probe further to discover if there is any cause for the delay and if the delay has caused prejudice to anyone.

27. Now I shall consider the other submission regarding violation of Rule 3 (b) of the Rules and enquiry u/s 5-A of the Act. As per section 5-A(1) of the Act, the aggrieved person on receipt of the notice from the authority has to submit his objection, if any, within 30 days from the date of such publication of the notification. Section 5-A(2) says that every objection under sub-section (1) shall be made to the Collector in writing and after giving an opportunity to the objector and after hearing all such objections and after further enquiry, if any, it is open to the Collector to proceed further. In this regard, it is relevant to point

out that as per Rule 3 (b) of the Land Acquisition (Tamil Nadu) Rules, if objections are received from a person interested within the time as prescribed in sub-section (1) of Section 5-A, the Collector has to fix a date for hearing the objections and give notice thereof to the objector as well as to the requisitioning department/authority. It is also clear that the copies of objections made by the land owner have to 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. How the enquiry provided u/s 5-A of the Act read with Rule 3 (b) of the Rules has to be conducted has been explained by a Division Bench of this Court in a decision reported in *Ramanujam N.D. v. Collector of Madras and 2 others*, 1994 (1) L.W. 519 : 1994 Writ L.R. 326. In that decision, after referring earlier decisions of this Court, Their Lordships have held as follows:-

"This Court has repeatedly observed that after the remarks of the requisitioning body were obtained, they should be communicated to the petitioner and there should, thereafter, be an enquiry u/s 5A to find out the tenability or otherwise of prosecution of acquisition proceedings on the basis of the consideration of the objections of the petitioner, the remarks of the requisitioning body and further representations of the petitioner over the remarks."

In other words, as per the provisions, namely, Section 5A(1) and (2) read with Rule 3 (b) of the Rules, on receipt of the objections from the land owner, the same have to be forwarded to the requisitioning body and on getting remarks from them, the said remarks have to be communicated to the land owner and thereafter, the Land Acquisition Officer has to fix a date for further enquiry in order to consider the objection of the land owner as well as the remarks or views of the requisitioning department. In the light of the above mentioned legal position in the later part of my order, I shall consider whether the petitioners have submitted their objections in time and whether there was sufficient compliance of Rule 3 (b) as mentioned above. It is also relevant to note that if objection is not filed or is filed after the prescribed period, it is not open to the land owners to contend that there is violation of Section 5A enquiry and Rule 3 (b) of the Rules. In this regard, it is worthwhile to refer a decision of this Court reported in *Velathal and 2 others v. The Special Tahsildar, LA., etc.*, 1995 W.L.R. 239. In that decision it is stated that when there is no objection for acquisition during 5A enquiry, they are not justified in challenging the acquisition proceedings.

28. In *Kaliyaperumal, J., The Commissioner and Secretary to Government of Tamil Nadu, Govindasamy, J.*, has observed thus:-

"...In the absence of any objection filed by the writ petitioner within the stipulated time, it is not open to the writ petitioner to contend that the procedure contemplated under Rule 3 (b) of the rules, framed u/s 55(1) of the Act is not followed. It is not unusual that persons interested in the lands used to file

objections at any time they please or even at the time when they appear for enquiry u/s 5A of the Act. When the writ petitioner contends that the procedure prescribed under Rule 3 (b) is not followed, the writ petitioner should have complied with the statutory provisions for filing the objections within the prescribed time. If the objections are not filed within the prescribed time, it cannot be expected that the statutory authority should follow the procedure under Rule 3 (b) of the rules. In the absence of any such objection within the time prescribed, the contention of the writ petition in his behalf has no merit..."

29. If there is unreasonable delay in acquisition proceedings, it is submitted that those proceedings are liable to be quashed, for which Mr. Arunagirinathan has relied upon a decision of Gujarat reported in Patel Shankerbhai Mahijibhai Vs. State of Gujarat, . He very much relied on the following passage in that decision:-

"In the instant case, it is true that the petitioners have not explained in the petitions why they filed these petitions merely eight years after the impugned notification u/s 4 was published. However, there are certain facts which speak for themselves. Before we summarize them in our judgment, it is necessary to note that on behalf of the respondents, a cursory affidavit has been filed. Such an affidavit has left many a statement made by the petitioners " uncontroverted. We do not propose to dismiss these petitions in limine on the ground of delay on account of the following reasons. Firstly, the impugned notification issued u/s 4 of the Land Acquisition Act was void and non est because it specified no public purpose at all and was not merely invalid as would be the case if some public purpose was specified but was found to be vague or inadequate. In case of an invalid notification, fence-sitters cannot be allowed to challenge it after undue delay. In case of a notification which is void ab initio and non est, bar of delay cannot be invoked because since it is non existent in the eye of law, it can be called in question in any proceedings. Secondly, acquisition proceedings which started with the publication of the notification u/s 4 have not yet been over. Thirdly, no rights of third parties have come into existence during the intervening period. In a given case, they will have to be taken into account even where the notification is void and non est and not merely invalid. Fourthly, the Land Acquisition Officer or the Government, as the case may be, has itself acted in a leisurely and tardy manner. The last conclusion is evidenced by the following facts which we recapitulate for the purpose of ready reference. Notification u/s 4 was published on 13th July, 1972. Declaration u/s 6 was made nearly three years thereafter, that is to say on 11th July, 1975. Addendum to the declaration u/s 6 was published more than four years after the publication of the declaration u/s 6, that is to say, 27th December, 1979. Notice u/s 9 was issued on 26th February, 1980. Indeed, it was issued very quickly after the addendum was published. The Land Acquisition Officer has not yet made his award for compensation even though eight years have passed since the publication of the notification u/s 4. Though we do not propose to observe as a matter of rule, we are constrained to say that if the Land Acquisition Officer or the Government, as the case may be, acts in such a leisurely and tardy manner & person who is aggrieved by such an

acquisition cannot be called upon to act quickly and post-haste. The objection raised by Mr. Takwani to the maintainability of the present petitions is, therefore, rejected."

30. Now I shall consider the right of the subsequent purchasers. In the above batch, the petitioners in four writ petitions have purchased the lands subsequent to the acquisition proceedings. In this regard, it is worthwhile to refer the following decisions:- (1) K.N. Nagarajan and Another Vs. The Special Deputy Collector, Land Acquisition Works and Another, ; and (2) Ajay Krishan Shinghal, etc. etc. Vs. Union of India and Others, . In the first case, namely, K.N. Nagarajan and Another Vs. The Special Deputy Collector, Land Acquisition Works and Another, a Division Bench of this Court has observed in the following manner:-

"5. The Supreme Court had occasion to consider the right of a person, who has purchased the property subsequent to the notification u/s 4(1) of the Act in Mir Fazeelath Hussain and others Vs. Special Deputy Collector Land Acquisition, Hyderabad [OVERRULED], . The Court held that when the original owner did not choose to challenge the acquisition inspite of repeated notices, the person who purchased the property subsequent to the notification u/s 4(1) of the Act, cannot challenge the proceedings in acquisition. The above judgment will govern this case and put an end to the arguments of the learned counsel for the petitioner."

31. In Ajay Krishan Shinghal, etc. etc. Vs. Union of India and Others, Their Lordships of the Supreme Court have concluded thus:-

"13. Another contention raised by Shri Ravinder Sethi is that the claimant in the first appeal had purchased the property after the declaration u/s 6 was published and that therefore he does not get any right to challenge the validity of notification published u/s 4(1). Since his title to the property is a void title, at best he has only right to claim compensation in respect of the acquired land claiming interest in the land which his predecessor-in-title had. In support thereof, he placed reliance on the judgments of this court in State of U.P. Vs. Smt. Pista Devi and Others, ; Gian Chand Vs. Gopala and Others, ; Mahavir and Another Vs. Rural Institute, Amravati and Another, and Laxmi Engineering Works Vs. P.S.G. Industrial Institute, . We need not deal at length with this issue as is the settled legal position..."

It is clear that the persons who have purchased the lands after initiation of acquisition proceedings at the most they can come and participate in the award enquiry for proper compensation.

32. Now, I shall consider the delay in filing the writ petitions. In all these cases, admittedly the acquisition proceedings were initiated and 4(1) notification was published in the Gazette as well as in the locality in the years 1974 to 1979. After publication of declaration u/s 6 of the Act, in the light of the Land Acquisition (Amendment) Act, 1984, awards have been passed in the year 1986 within the time as prescribed under the Act. No doubt. in some cases, because of

the Court proceedings, particularly pendency of the writ petition and the interim orders therein, the respondents yet to pass awards. However, the particulars furnished show that all the writ petitions were filed only in the year 1986 and in some cases in 1987 i.e., either after passing of the award or on the eve of award. In such circumstances, I shall consider various decisions referred to by both sides. In Ram Chand and Others Vs. Union of India (UOI) and Others, the respondents have very much relied on the following observations:-

"16. On behalf of the respondents, it was pointed out that the petitioners have approached this Court only after making of the awards, or when awards were to be made, having waited for more than fourteen years, without invoking the jurisdiction of the High Court under Article 226 or of this court under Article 32. It is true this Court has taken note of delay on the part of the petitioners concerned in invoking the jurisdiction of the High Court or of this court for quashing the land acquisition proceedings on the ground that the proceedings for acquisition of the lands in question have remained pending for more than a decade, in the cases of Aflatoon and Others Vs. Lt. Governor of Delhi and Others, and The Ramjas Foundation and Others Vs. Union of India and Others, . According to us, the question of delay in invoking the writ jurisdiction of the High Court under Article 226 of this Court under Article 32. has to be considered alongwith the inaction on the part of the authorities, who had to perform their statutory duties. Can the statutory authority take a plea that although it has not performed its duty within a reasonable time, but it is of no consequence because the person, who has been wronged or deprived of his right, has also not invoked the jurisdiction of the High Court or of this court for a suitable writ or direction to grant the relief considered appropriate in the circumstances? The authorities are enjoined by the statute concerned to perform their duties within a reasonable time, and as such they are answerable to the Court why such duties have not been performed by them, which has caused injury to claimants. By not questioning, the validity of the acquisition proceedings for a long time since the declarations were made u/s 6, the relief of quashing the acquisition proceedings has become inappropriate. because in the meantime, the lands notified have been developed and put to public use. The lands are being utilised to provide shelter to thousands and to implement the scheme of a planned city, which is a must in the present set-up. The outweighing public interest has to be given due weight. That is why this Court has been resisting attempts on the part of the landholders, seeking quashing of the acquisition proceedings on ground of delay in completion of such proceedings. But, can the respondents be not directed to compensate the petitioners, who were small cultivators holding lands within the ceiling limit in land around Delhi, for the injury caused to them, not by the provisions of the Act. but because of the non- exercise of the power by the authorities under the Act within a reasonable time?

25. There appears to be some force in the contention of the petitioners that the object of respondents was to peg the price of the lands acquired from the different cultivators to a distant past and not to proceed further because if the

awards had been soon after the declarations u/s 6. respondents had to pay or tender the compensation to the claimants, which for some compulsion, respondents were not in a position to pay or tender them. But, nonetheless, the exercise of power in the facts and circumstances of the cases by the respondents has to be held to be against the spirit of the provisions of the Act. tending towards arbitrariness. In such a situation this Court in exercise of power under Article 32 and the High Court under Article 226, could have quashed the proceedings. But. taking into consideration that in most of the cases, the Delhi Administra-tion and Delhi Development Authority have taken possession of the lands and even developments have been made, it shall not be proper exercise of discretion on the part of this Court to quash the proceedings because, in that event, it shall affect the public interest. Moreover, third party interests created in the meantime are also likely to be affected and such third parties are not impleaded. The relief of quashing the acquisi-tion proceeding having become inappropriate due to the subsequent events, the grant of a modified relief, considered appropriate in the circumstances, would be the proper course to adopt. The High Court of this Court, can grant a modified relief taking into consideration the injury caused to the claimants by the inaction on the part of respondents and direct payment of any additional amount, in exercise of power under Article 226 or Article 32 of the Constitution.

26. We are of the view, that there was no justification on the part of the respondents for the delay in completion of the proceedings after the judgment of this court in Aflatoon and Others Vs. Lt. Governor of Delhi and Others, on August 23, 1974. There is no explanation, except that there were several cases and, as such, in normal course, there was bound to be delay in making of the awards. This may have been acceptable if the delay was only in respect of some of the awards. It is an admitted position that till 1980 no award had been made in respect of any of the acquisitions. As such, the respondents have failed to satisfy that they have performed their statu-tory duty within a time which can be held to be reasonable.

27. According to us, after the judgment of this court in Aflatoon and Others Vs. Lt. Governor of Delhi and Others, on August 23, 1974, the reasonable time for making the awards was about two years from that date. Beyond two years, the time taken for making of the awards will be deemed to be unreasonable. As such, after expiry of the period of two years, some additional compensation has to be awarded to the cultivators. Taking into consideration the interest of the cultivators and the public, instead of quashing the pro-ceedings for acquisition, we direct that the petitioners shall be paid an additional amount of compensation to be calculated at the rate of twelve percent per annum, after expiry of two years from August 23, 1974. the date of the judgment of mis Court in Aflatoon and Others Vs. Lt. Governor of Delhi and Others, till the date of the making of the awards by the Collector, to be calculated with reference to the market value of the lands in question on date of the notification under Sub-Section (1) of Section 4."

33. In *State of Tamil Nadu v. L. Krishnar*, (1996) 1 SCC 250 Their Lordships have observed thus:-

"40. There is yet another and a very strong factor militating against the writ petitioners. Not only did they fail to file any objections in the enquiries held u/s 5-A, they also failed to act soon after declarations u/s 6 were made. As slated above, the declarations u/s 6 were made in the year 1978 and the present writ petitions were filed only sometime in the year 1982-83 when the awards were about to be passed. It has been pointed out in *Aflatoon and Others Vs. Lt. Governor of Delhi and Others*, that laches of this nature are fatal. Having held that the public purpose specified in the notification concerned therein is not vogue, Mathew, J. made the following observations: (SCC pp.290-91, Paras 9-12)

Assuming for the moment that the public purpose was not sufficiently specified in the notification, did the appellants make a grievance of it at the appropriate time? If the appellants had really been prejudiced by the non-specification of the public purpose for which the plots in which they were interested were needed, they should have taken steps to have the notification quashed on that ground within a reasonable time. They did not move in the matter even after the declaration u/s 6 was published in 1966. They approached the High Court with their writ petitions only in 1970 when the notices u/s 9 were issued to them.....

Nor do we think that the petitioners in the writ petitions should be allowed to raise this plea in view of their conduct in not challenging the validity of the notification even after the publication of the declaration u/s 6 in 1966. Of the two writ petitions, one is filed by one of the appellants. There was apparently no reason why the writ petitioners should have waited till 1972 to come to this court for challenging the validity of the notification issued in 1959 on the ground that the particulars of the public purpose were not specified. A valid notification u/s 4 is a sine qua non for initiation of proceedings for acquisition of property. To have sat on the fence and allowed the Government to complete the acquisition proceedings on the basis that the notification u/s 4 and the declaration u/s 6 were valid and then to attack the notification on grounds which were available to them at the time when the notification was published would be putting a premium on dilatory tactics. The writ petitions are liable to be dismissed on the ground on laches and delay on the part of the petitioners....."

34. In the course of argument, Mr. M.S. Subramanian has very much relied on the decision reported in *State of Tamil Nadu and another Vs. A. Mohammed Yousef and others*, and contended that in the absence of failure to comply with sections 36 and 37 of the Town and Country Planning Act, the law laid down in *State of Tamil Nadu and another Vs. A. Mohammed Yousef and others*, is applicable to the petitioners case. The said contention cannot be accepted for the simple reason that the law laid down by their Lordships in *State of Tamil Nadu and another Vs. A. Mohammed Yousef and others*, has not been approved in *State of Tamil Nadu v. L. Krishnar*, (1996) 1 SCC 250 Even though the learned counsel tried very much for applicability of *State of Tamil Nadu and another Vs.*

A. Mohammed Yousef and others, in the light of the 3 Judges Bench decision in State of Tamil Nadu v. L. Krishnar, (1996) 1 SCC 250 , I am unable to countenance the contra argument made by Mr. M.S. Subramanian.

35. In Aflatoon and Others Vs. Lt. Governor of Delhi and Others, with regard to delay in approaching the court, Their Lordships have concluded thus:-

"11. Nor do we think that the petitioners in the writ petitions should be allowed to raise this plea in view of their conduct in not challenging the validity of the notification even after the publication of the declaration u/s 6 in 1966. Of the two writ petitions, one is filed by one of the appellants. There was apparently no reason why the writ petitioners should have waited till 1972 to come to this Court for challenging the validity of the notification issued in 1959 on the ground that the particulars of the public purpose were not specified. A valid notification u/s 4 is a sine qua non for initiation of proceedings for acquisition of property. To have sat on the fence and allowed the Government to complete the acquisition proceedings on the basis that the notification u/s 4 and the declaration u/s 6 were valid and then to attack the notification on grounds which were available to them at the time when the notification was published would be putting a premium on dilatory tactics. The writ petitions are liable to be dismissed on the ground of laches and delay on the part of the petitioners (see Tilokchand and Motichand and Others Vs. H.B. Munshi and Another, and Rabindranath Bose and Others Vs. The Union of India (UOI) and Others, "

36. In State of Mysore and Others Vs. V.K. Kangan and Others, , the Supreme Court has reiterated that the delay in challenging the acquisition proceedings is fatal to the petitioners case.

37. In P. Chinnanna and Others Vs. State of A.P. and Others, it was observed as follows:-

"....In fact, in relation to acquisition proceeding involving acquisition of land for public purposes, the court concerned must be averse to entertain writ petitions involving the challenge to such acquisition where there is avoidable delay or laches since such acquisition, if set aside, would not only involve enormous loss of public money but also cause undue delay in carrying out projects meant for general public good...."

38. In Thulasi Ammal v. State of Tamil Nadu and 3 others, 1994 W.L.R. 584, a Division Bench of this Court has concluded thus:-

"59. In the instant case, the petitioners are fully aware of the land acquisition proceedings, which were initiated as early as 12.11.1975. Notices for the enquiry u/s 5 of the Act were also served on them in December, 1975 itself. They also participated in Section 5-A enquiry by filing their objections. Their objections were communicated to the requisitioning body and the remarks received from them were again communicated to the petitioners on 23.8.1978 and the order was passed on 30.8.1978. Nevertheless, they waited for years in launching the

writ proceedings in this court. There is no explanation for this long delay. Hence, we are of the view, that the petitioners are guilty of laches in approaching this Court. Consequently, we are also of the view, that they are not entitled to seek relief under Article 226 of the Constitution. The writ petitions are liable to be dismissed on this ground as well.

39. In *Municipal Corporation of Greater Bombay v. Industrial Development Investment Company Private Limited*, 1996 (2) S.C.C. 501 it was held as follows:-

"29. It is thus well-settled law that when there is inordinate delay in filing the writ petition and when all steps taken in the acquisition proceedings have become final, the court should be loath to quash the notifications. The High Court has, no doubt, discretionary powers under Article 226 of the Constitution to quash the notification u/s 4(1) and declaration u/s 6. But it should be exercised taking all relevant factors into pragmatic consideration. When the award was passed and possession was taken, the court should not have exercised its power to quash the award which is a material factor to be taken into consideration before exercising the power under Article 226. The fact that no third party rights were created in the case is hardly a ground for interference. The Division Bench of the High Court was not right in interfering with the discretion exercised by the learned Single Judge dismissing the writ petition on the ground of laches".

40. In *State of Rajasthan and Others Vs. D.R. Laxmi and Others*, Their Lordships of the Supreme Court have laid down the ratio in the following manner:-

"9. Recently, another Bench of this Court in *Municipal Corporation of Greater Bombay v. Industrial Development and investment Co. (P) Ltd.*, C.A.No. 286 of 1989, decided on 6.9.1996 see *infra* re-examined the entire case law and had held that once the land was vested in the State, the Court was not justified in interfering with the notification published under appropriate provisions of the Act, Delay in challenging the notification was fatal and writ petition entails with dismissal on grounds of laches. It is thus, well settled law that when there is inordinate delay in filing the writ petition and when all steps taken in the acquisition proceedings have become final, the Court should be loathe to quash the notifications. The High Court has, no doubt, discretionary powers under Article 226 of the Constitution to quash the notification u/s 4(1) and declaration u/s 6. But it should be exercised taking all relevant factors into pragmatic consideration. When the award was passed and possession was taken, the Court should not have exercised its power to quash the award which is a material factor to be taken into consideration before exercising the power under Article 226. The fact that no third party rights were created in the case, is hardly a ground for interference. The Division Bench of the High Court was not right in interfering with the discretion exercised by the learned Single Judge dismissing the writ petition on the ground of laches. , *Reliance* was placed by *Madhya Pradesh Housing Board Vs. Mohd. Shafi and Others*, in particular para 8, wherein it was held that compliance of the requirements is mandatory and non-compliance thereof renders all subsequent proceedings connected therewith

unexceptionably illegal; but the question is what will be its effect. That was not the question in that case, since no award had come to be passed. In *Nutakki Sesharatanam Vs. Sub-Collector, Land Acquisition, Vijayawada and others*, , a two-Judge Bench of this court had held that if the requirements of Section 4 are not complied with, all proceedings had become invalid and possession was directed to be redelivered to the appellant. We are of the view that the ratio therein is not correctly laid down. The question whether violation of the mandatory provisions renders the result of the action as void or voidable has been succinctly considered in *Administrative Law* by H.W.R. Wade 7th Edn. at pp. 342-43 thus:

"The truth of the matter is that the court will invalidate an order only if the right remedy is sought by the right person in the right proceedings and circumstances. The order may be hypothetically a nullity, but the court may refuse to quash it because of the plaintiff's lack of standing, because he does not deserve a discretionary remedy, because he had waived his rights, or for some other legal reason. In any such case the "void" order remains effective and is, in reality, valid. It follows that an order may be void for one purpose and valid for another; and that it may be void against one person but valid against another. A common case where an order, however void, becomes valid is where a statutory time-limit expires after which its validity cannot be questioned. The statute does not say that the void order shall be valid: but by cutting off legal remedies it produces that result."

41. In *Star Wire (India) Ltd. Vs. State of Haryana and Others*, it was observed thus:- .

"3. Shri P.P. Rao, learned Senior Counsel for the petitioner, contends that the petitioner had no knowledge of the acquisition proceedings, as soon as it came to know of the acquisition, it had challenged the validity of the acquisition proceedings and, therefore, it furnishes cause of action to the petitioner. He further contends that the writ petition could not be dismissed on the ground of laches but was required to be considered on merits. We find no force in the contention. Any encumbrance created by the erstwhile owner of the land after publication of the notification u/s 4(1) does not bind the State if the possession of the land is already taken over, after the award came to be passed. The land stood vested in the State free from all encumbrances u/s 16. In *Gurmukh singh v. State of Haryana*, 1996 SCC 505: JT 1995 8 SC 208, this court had held that a subsequent purchaser is not entitled to challenge the legality of the acquisition proceedings on the ground of lack of publication of the notification. In *Yadu Nandan Garg Vs. State of Rajasthan and Others*, , and *Smt. Sneh Prabha etc. Vs. State of U.P. and Another*, . this Court had held that the alienations made by the erstwhile owner of the land after publication of the notification u/s 4(1), do not bind either the State Government or the beneficiary for whose benefit the land was acquired. The purchaser does not acquire any valid title. Even the colour of title claimed by the purchaser was void. The beneficiary is entitled to have

absolute possession free from encumbrances. In U.P. Jal Nigam, Lucknow through its Chairman and another Vs. M/s. Kalra Properties (P) Ltd. Lucknow and others, , this Court had further held that the purchaser of the property, after the notification u/s 4(1) was published, is devoid of right to challenge the validity of the notification or irregularity in taking possession of the land before publication of the declaration u/s 6. As regards laches in approaching the Court, this Court has been consistently taking the view starting from State of Madhya Pradesh Vs. Bhailal Bhai and Others, wherein a Constitutional Bench had held that it is not either desirable or expedient to lay down a rule of universal application but the unreasonable delay denies to the petitioner the discretionary extraordinary remedy of mandamus, certiorari or any other relief. The same view was reiterated in a catena of decisions, viz.,

Rabindranath Bose and Others Vs. The Union of India (UOI) and Others, ; State of Mysore and Others Vs. V.K. Kangan and Others, ; Aflatoon and Others Vs. Lt. Governor of Delhi and Others, ; Tilokchand and Motichand and Others Vs. H.B. Munshi and Another, ; State of Tamil Nadu v. L. Krishnar, (1996) 1 SCC 250 Improvement Trust v. Jagit Singh, 1987 Supp SCC 608 State of Punjab v. Hartom coop. Housing Society Ltd., 1987 Supp SCC 687 Market Committee, Hodal Vs. Krishan Murari and Others, and State of Haryana and others Vs. Dewan Singh and others, wherein this Court had held that the High Court was not justified in interfering with the acquisition proceedings. This court in the latest judgment in Municipal Corporation of Greater Bombay Vs. The Industrial Development Investment Co. Pvt Ltd., and others, reviewed the entire case law and held that the person who approaches the Court belatedly will be told that laches close the gates of the Court for him to question the legality of the notification u/s 4(1), declaration u/s 6 and the award of the Collector u/s 11."

42. In Devivanai Ammal and Others Vs. The State of Tamil Nadu and Another, N.V. Balasubramanian, J., has observed as follows:-

"The second contention that was urged was that the petitioners were not supplied with the remarks of the requisitioning body and hence, for the non-compliance of Rule 3(b) of the Tamil Nadu Land Acquisition Rules, the entire proceedings should be held to be illegal. A similar contention was also raised before the Supreme Court in the case of State of Tamil Nadu v. L. Krishnar, (1996) 1 SCC 250 and the Supreme Court held that if the petitioner has raised an objection at the proper time and it was found to be true and acceptable, opportunity should have been given to the Government to comply with the said requirements. The Supreme Court also held that the petitioner cannot raise a contention in the writ petition filed in a case where award was about to be passed. On the facts of the case, it is clear, the objection raised by the owners of the land was communicated to the requisitioning body viz., the Chairman, Tamil Nadu Housing Board for offering remarks. The Chairman, Tamil Nadu Housing Board by a letter dated 29.4.1978 has requested to overrule the objection raised by the landowners. The remarks of the Chairman, Tamil Nadu Housing Board

were communicated to the landowners on 18.5.1978. The award was passed on 23.9.1986 and the possession was also handed over to the Tamil Nadu Housing Board on 23.9.1986. The writ petition has been filed on 16.2.1987. The decision of the Supreme Court, cited supra, squarely applies to this case, because, it is not open to the petitioners to raise objection as regards non-compliance of provisions of Rule 3(b) of the Rules after having kept quiet for a number of years. The petitioners cannot raise objection after the award was passed in this case. Hence, the second contention raised by the petitioner does not deserve any acceptance and it is also rejected."

43. In *State of Tamil Nadu and another v Rajendran and 23 others*. 1993 (2) L.W. 352 Their Lordships in the Division Bench of this Court have observed thus:-

"Point No. IV Laches- Learned Government Pleader has laid much stress on it. According to him, W.P.No. 6001 of 1990 has been filed in the year 1990 whereas the other three writ petitions have been filed in the year 1988. If the date of the publication of S. 4(1) notification viz., 29.11.1985 is taken into account, in one case there is a delay of five years and in other cases, there is a delay of three years. It is also contended that even if the Declaration made under S. 6(1) of the Act is taken into consideration, the same having been published in the locality on 28.11.1986, there is no explanation for the delay in filing the writ petitions in 1988 and 1990. In support of the plea that the petitioners are not entitled to any relief as they are guilty of laches, learned Government Pleader has placed reliance on the decision in *State of Mysore and Others Vs. V.K. Kangan and Others*, wherein at paragraph 16 it has been laid down that when the notification under S. 6 was published in the Gazette on 19.10.1968 and the writ petition challenging the validity of the notification was filed sometime in July or August, 1969, the respondent was not entitled to challenge the notification under S. 4 of the Act, as the same was filed after an unreasonable lapse of time. We are of the view that the proposition laid down in that case is squarely applicable to the facts of the case on hand. It is not as if the petitioners were not aware of the acquisition proceedings, for, they have filed objections to the notification published under S. 4(I) and have also participated in the enquiry under S. 5-A of the Act. Nevertheless, they waited in some cases for three years and in another case for five years. In between, it may be pointed out that two writ petitions had been filed by the owners of other lands acquired under the same notification to which we have already adverted. One matter was taken up in writ appeal. Of course, before that writ appeal was decided, these writ petitions came to be filed. In addition to this there is no explanation for this long delay. Hence, we are of the view that the learned single judge is not correct in holding that the petitioners are not guilty of laches in approaching this Court. It is to be noted that in *Vijayaraghavan's* case, referred to above, the petitioners who approached the Court in the year 1985 itself were found to be guilty of laches. Consequently, we hold that the petitioners are guilty of laches and as such they are disentitled to seek relief under Article 226 of the Constitution of India."

44. The above referred catena of decisions clearly show that if there is a delay or laches on the part of the land owners in approaching the Court, it would not be proper for the Court to quash the acquisition proceedings and grant relief in favour of them. As observed earlier, all the cases have been filed either after passing of the award or at the time of passing awards. The particulars furnished by the learned Special Government Pleader viz., Survey Numbers, extent of the lands, village, publication of s. 4(1) notification in the Gazette, in the locality, notice for enquiry u/s 5-A, objections, communication to the requisitioning body, enquiry, declaration u/s 6 in the Gazette and in the locality and award proceedings clearly show that the petitioners failed to approach this Court at the appropriate and relevant time. It is not known why they had waited till the stage of award proceedings. It is true that in most of the cases, on receipt of the objections from the land owners and after getting remarks from the requisitioning body, the Land Acquisition Officer failed to conduct further enquiry in terms of Section 5-A (1) and (2) of the Act read with Rule 3(b) of the Rules. However the particulars furnished clearly show that most of the petitioners have not filed their objections at all and some of them have filed the same beyond the prescribed time. As a matter of fact, some of the petitioners have purchased the lands subsequent to s. 4(1) Notification and 5-A enquiry. In such situation. the petitioners are dis-entitled to contend that there is violation of Rule 3(b) of the Rules or violation of other provisions of the Act and Rules.

45. It is also worthwhile to mention the relevant factual particulars available from the records. In W.P.No.8216 of 1986 Section 4(1) Notification was published in the Gazette on 23.10.74, declaration u/s 6 was published in the Gazette on 22.10.77. In view of stay granted by this Court, award has not been passed. The writ petition has been filed only on 19.8.1986. In WP.No. 7388 of 1986 Section 4(1) Notification was published in the Gazette on 15.8.79, 6 Declaration was published in the Gazette on 6.8.82, award has been passed in Award No.1/87 dated 4.9.87. However, the petitioners have filed the writ petition on 29.7.86. In WP.No. 9968 of 1986 Section 4(1) Notification was published in the Gazette on 2.1.79. 6 Declaration was published in the Gazette on 20.11.82, award was passed in Award No.16/86 dated 16.9.86 and the writ petition was filed on 22.9.86. In W.P.No.13044 of 86 Section 4(1) Notification was published in the Gazette on 15.8.79, 6 Declaration was published in the Gazette on 6.8.82 and awarded was passed in Award No: 3/86 dated 10.9.86. The writ petition was filed on 28.12.86. In W.P.No. 13077 of 1986 Section 4(1) Notification was published in the Gazette on 15.8.79, 6 Declaration was published in the Gazette on 6.8.82 and award was passed in Award No.2/86 dated 10.9.86. In W.P.No. 14105 of 1986 Section 4(1) Notification was published in the Gazette on 21.11.79, 6 Declaration was published in the Gazette on 20.11.82 and award was passed in Award No.11/86 dated 19.9.86. The writ petition was filed on 19.12.86. In W.P.No.14106 of 86 Section 4(1) Notification was published in the Gazette on 21.11.79, 6 Declaration was published in the Gazette on 19.11.82 and award was passed in Award No. 10/86 dated 19.9.86. The writ petition was filed on

19.12.86. In W.P.No. 2917 of 1987 Section 4(1) Notification was published in the Gazette on 15.8.79, 6 Declaration was published in the Gazette on 11.8.82 and award passed in Award No. 7/86 dated 17.9.86. The writ petition was filed on 16.3.87. In W.P.No.3406 of 1987 Section 4(1) Notification was published in the Gazette on 21.11.79, 6 Declaration was published in the Gazette on 20.11.82 and award was passed in Award No.11/86 dated 19.9.86. The writ petition was filed on 27.3.87. In W.P.No. 4196 of 1987 Section 4(1) Notification was published in the Gazette on 15.8.79, 6 Declaration was published in the gazette on 6.8.82, award was passed in Award No.6/86 dated 12.9.86 and writ petition was filed on 9.4.87. In W.P.No. 11697 of 1987 Section 4(1) Notification was published in the Gazette on 15.8.79, 6 Declaration was published in the Gazette on 11.8.82. award was passed in Award No.7/86 dated 17.9.86 and writ petition was filed on 23.11.87. In W.P.No. 13474 of 1986 Section 4(1) Notification was published in the Gazette on 15.8.79, 6 Declaration was published in the Gazette on 6.8.82, award passed in Award No.3/86 dated 10.9.86, Award No. 6/86 dated 12.9.86 and Award No.4/86 dated 11.9.86 and writ petition filed on 10.12.86. The above factual position clearly shows that even though 4(1) Notifications were published in the years 1979-80 and 6 Declarations were published around 1982, the writ petitions were filed only in the years 1986-87. In view of the Land Acquisition Amendment Act, 1984 which came into force on 24.9.1984, if the award was passed within 2 years from the said date, it is well within the time. But in all these cases the awards were passed within the statutory time limit provided under the said Amendment Act. As a matter of fact, none of the petitioners have explained or adduced any acceptable reason for the enormous delay in approaching this Court. The petitioners in W.Ps.Nos, 14106 of 1986. 13044 of 1986 and 3406 of 1987 are subsequent purchasers well after the 5-A enquiry proceedings. Accordingly they have no right to challenge the acquisition proceedings initiated prior to their purchases. More so, when they did not object the same. Likewise, the records also show that the petitioners in W.Ps.Nos. 14105 of 1986, 9968 of 1986, 8216 of 1986, 2917 of 1987, 13044 of 1986, and 14106 of 1986 did not file their objections or failed to file the same within the time provided under the Statute. It is not open to those persons to come and object before this Court in these proceedings.

46. As a matter of fact, learned Special Government Pleader has submitted that in some cases they have already taken possession and handed over to the requisitioning department. In such circumstance, he very much relied on the following conclusion of the Supreme Court rendered in *State, of Tamil Nadu v. Mahalakshmi Ammal*, AIR 1996 SC 866:-

"It is well settled law that publication of the declaration u/s 6 gives conclusiveness to public purpose. Award was made on September 26, 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 11A of the Act, Equally, even if there is an irregularity in service of notice under Sections 9 and 11, it would be curable irregularity and on account thereof, award made u/s 11 does not become invalid. Award is only an offer on behalf of the State. If compensation was accepted without protest, it binds such party but Subject to section 28A. Possession of the acquired land would be taken only by way of a memorandum, panchanama, which is a legally accepted norm. It would not be possible to take any physical possession. Therefore, subsequent continuation, if any, had by the erstwhile owner is only illegal or unlawful possession which does not bind the Government nor vested sic u/s 16 to divested in the illegal occupant. Considered from this perspective, we hold that the High Court was not justified in interfering with the award."

He also relied on another decision of the Apex Court reported in *Senjeevanagar Medical and Health Employees Co-operative Housing Society Vs. Mohd. Abdul Wahab and Others*, wherein Their Lordships have held as follows:-

".By operation of Section 16 the land stood vested in the State free from all encumbrances. In *Satendra Prasad Jain and Others Vs. State of U.P. and Others*, the question arose: whether notification u/s 4(1) and the declaration u/s 6 get lapsed if the award is not made within two years, as envisaged u/s 11A? A Bench of 3 judges had held that once possession was taken and the land vested in the Government, title to the land so vested in the State is subject only to determination of compensation and to pay same to the owner. Divesting the title to the land statutorily vested in the Government and reverting the same to the owner is not contemplated under the Act. Only Section 48(1) gives power to withdraw from acquisition that too before possession is taken. That question did not arise in this case. The property under acquisition having been vested in the appellants, in the absence of any power under the Act to have the title of the appellants divested except by exercise of the power u/s 43(1), valid title cannot be defeated. The exercise of the power to quash the notification u/s 4(1) and the declaration u/s 6 would lead to incongruity. Therefore, the High Court under those circumstances would not have interfered with the acquisition and quashed the notification and declaration under Sections 4 and 6 respectively. Considered from either perspective, we are of the view that the High Court was wrong in allowing the writ appeal."

47, It is also worthwhile to refer the observation made by their Lordships in the decision reported in *Ramniklal N. Bhutta and another Vs. State of Maharashtra and others*, which reads as follows:-

"Before parting with this case, we think it necessary to make a few observations relevant to land acquisition proceedings. Our country is now launched upon an

ambitious programme of all-round economic advancement to make our economy competitive in the world market. We are anxious to attract foreign direct investment to the maximum extent. We propose to compete with China economically. We wish to attain the pace of progress achieved by some of the Asian countries, referred to as "Asian tigers", e.g., South Korea, Taiwan and Singapore. It is, however, recognised on all hands that the infrastructure necessary for sustaining such a pace of progress is woefully lacking in our Country. The means of transportation, power and communications are in dire need of substantial improvement, expansion and modernisation. These things very often call for acquisition of land and that too without any delay. It is, however, natural that in most of these cases, the persons affected challenge the acquisition proceedings in courts. These challenges are generally in the High courts. Invariably, stay of acquisition is asked for and in some cases, orders by way of stay or injunction are also made. Whatever may have been the practices in the past, a time has come where the courts should keep the larger public interest in mind while exercising their power of granting stay/injunction. The power under Article 226 is discretionary. It will be exercised only in furtherance of interests of justice and not merely on the making out of a legal point. And in the matter of land acquisition for public purposes, the interests of justice and the public interest coalesce. They are very often one and the same. Even in a civil suit, granting of injunction or other similar orders, more particularly of an interlocutory nature, is equally discretionary. The courts have to weigh the public interest vis-a-vis the private interest while exercising the power under Article 226 indeed any of their discretionary powers. It may even be open to the High Court to direct, in case it finds finally that the acquisition was vitiated on account of non-compliance with some legal requirement that the persons interested shall also be entitled to a particular amount of damages to be awarded as a lumpsum or calculated at a certain percentage of compensation payable. There are many ways of affording appropriate relief and redressing a wrong. Quashing the acquisition proceedings is not the only mode of redress. To wit, it is ultimately a matter of balancing the competing interests. Beyond this, it is neither possible nor advisable to say. We hope and trust that these considerations will be duly borne in mind by the courts while dealing with challenges to acquisition proceedings."

In *P. Chinnanna and Others Vs. State of A.P. and Others*, as already, pointed out Their Lordships have held that in fact, in relation to acquisition proceeding involving acquisition of land for public purposes, the court concerned must be averse to entertain writ petitions involving the challenge to such acquisition where there is avoidable delay or laches since such acquisition, if set aside, would not only involve enormous loss of public money but also cause undue delay in carrying out projects meant for general public good. In another decision reported in *State of Tamil Nadu v. L. Krishnar*, (1996) 1 SCC 250 . Their Lordships have concluded thus:-

"45. There remains the last ground assigned by the High Court in support of its

decision. The High Court has held that the non-Compliance with sub-rules (b) and (c) of Rule 3 of the Rules made by the Government of Tamil Nadu pursuant to Section 55(1) of the Land Acquisition Act vitiates the report made u/s 5-A and consequently the declarations made u/s 6. The said sub-rules provide that on receipt of objections u/s 5-A, the Collector shall fix a date of hearing to the objections and give notice of the same to the objector as well as to the department. It is open to the department to file a statement by way of answer to the objections filed by the landowners. The submission of the writ petitioners was that in a given case it may well happen that in the light of the objections submitted by the landowners, the department concerned may decide to drop the acquisition. Since no such opportunity was given to the department concerned herein, it could not file its statement by way of answer to their objections. This is said to be the prejudice. We do not think it necessary to go into the merits of this submission on account of the laches on the part of the writ petitioners. As stated above, the declaration u/s 6 was made sometime in the year 1978 and the writ petitioners chose to approach the Court only in the years 1982-83. Had they raised this objection at the proper time and if it were found to be true and acceptable, opportunity could have been given to the Government to comply with the said requirement. Having kept quiet for a number of years, the petitioners cannot raise this contention in writ petitions filed at a stage when the awards were about to be passed."

48. In the light of the factual position coupled with various decisions of this Court as well as the Apex Court, even though there are some violations and procedural irregularities, taking note of the law laid down by the Apex Court, more particularly, with regard to delay in approaching the Court, I am of the view that all the writ petitions are liable to be dismissed on the ground of laches/delay. Accordingly all the writ petitions are dismissed. No costs. In view of my conclusion arrived at in paragraphs 15 to 19 of this Order, all the impleading petitions are also dismissed.