

(2012) 03 MAD CK 0146

In the Madras High Court

Case No : Writ Petition No's. 16959, 16960, 17262, 17272, 19101 to 19108 of 2011 and Connected M.Ps.

Natarajan

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 30-03-2012

Acts Referred:

Constitution of India, 1950 — Article 136, 226, 32
Land Acquisition Act, 1894 — Section 11, 11A, 16, 17(2), 48(1)
National Highways Act, 1956 — Section 3A, 3A(1), 3A(2), 3C, 3C(1)

Citation : (2012) 5 MLJ 81

Hon'ble Judges : B. Rajendran, J

Bench : Single Bench

Advocate : V. Raghavachari for G. Saravanan and N. Subramaniyan, for the Appellant; P. Bhuvaneswari, Senior Central Government Counsel, K.V. Dhanapalan, Additional Government Pleader and P. Wilson, for Wilson Associates, for the Respondent

Final Decision : Dismissed

Judgement

B. Rajendran, J.—All these batch of writ petitions have been filed challenging the acquisition under the National Highways Act, 1956,

hence, by consent, they are all taken up together for common disposal. The pleadings in all these cases are almost identical. According to the

petitioners, originally, Section 3-A notification was issued to them by the first respondent on 26.10.2007, for the purpose of acquiring lands only

for widening National Highways-67 i.e., KM 284.600 to 332.600 (Karur - Coimbatore). The petitioners raised their objections. Subsequently,

Section 3-C enquiry was held on 8.1.2008 by the second respondent. As the second respondent failed to furnish a copy of the order passed by

him u/s 3-C(2) of the National Highways Act (for short, ""The Act"") and he

proceeded further and recommended for Section 3-D declaration by the first respondent, who has ultimately passed the order, without application of mind. Therefore, earlier, the petitioners filed separate writ petitions, challenging the Section 3-D declaration on various grounds. The writ petitions were dismissed by this Court on 3.2.2010. Against the said order, writ appeals were filed, which were allowed by this Court on 9.11.2010. As per the judgment in writ appeals, the second respondent's order dated 8.1.2008 and the consequential orders were quashed. Ultimately, in the said judgment, this Court has also observed that, ""Needless to say that after complying with requirements of law, the respondents shall proceed in the matter"". After the judgment in writ appeals, the petitioners, in their letter dated 20.12.2010 contended that the very proceedings cannot be proceeded further on the grounds, such as, (i) There is one year limitation period prescribed under sub-section (3) of Section 3-D of the Act, for issuing Section 3-D declaration from the date of Section 3-A notification. According to the petitioners, the period is already over. There cannot be any Section 3-C enquiry, without notifying a fresh Section 3-A notification; (ii) The Central Government has not sanctioned the project technically; (iii) The technical feasibility has not been properly considered and the alignment has been selected without studying the other possible alignment; (iv) The alignment so proposed is because of the wrong doing of the private consultant and it would increase the cost. The petitioners also submitted three alignment proposals. According to the petitioners, inspite of filing of separate petitions on 9.5.2011, raising the preliminary issue, the conduct of the Section 3-C enquiry is not correct and according to them, no enquiry was conducted on 9.5.2011, but the second respondent has passed the impugned proceedings on 22.6.2011, which were served on them only on 8.7.2011, so as to prevent the petitioners from challenging the order passed u/s 3-D declaration. Therefore, the petitioners would contend that the impugned order is passed without giving any reasonable opportunity and following the principles of natural justice and alternative way suggested by the petitioners were put away to the so called Technical Experts for opinion.

2. The learned counsel for the petitioners mainly challenged the impugned order on three grounds, viz., (i) The order has not been passed within a

year from the date of 3-A notification; (ii) Though, the decision of the Supreme Court in Padmasundara Rao and Others Vs. State of Tamil Nadu

and Others, arises under the Land Acquisition Act, the same principle will squarely applicable to the case of the petitioners; and (iii) Since the

project has not been technically sanctioned by the first respondent, it is not correct and the alignment, which has been made is not in tune with the

Rules and Regulations, whereas the alternative alignment suggested by the petitioners have not been considered and excess lands have been sought

to be unnecessarily acquired. According to the petitioners, since, the impugned orders have been passed without considering their objections in

detail, challenging the same, they have come forward with the present writ petitions.

3. The third respondent has filed a detailed counter mainly contending that the respondents have issued Section 3-E notification on 18.2.2009 for

taking possession of the properties and took possession on 30.6.2010 as per the proceedings of the District Collector, Tiruppur, dated 15.6.2010

under 3-E(2)(b) of the Act by the Regular Tahsildar, Tiruppur, after the mandatory 60 days period. The petitioners have approached this Court

only on 1.7.2010 and this Court has passed a status quo order, finally, in the writ appeals, judgment was passed on 9.11.2010, whereby, the

Division Bench of this Court has set aside the order of the learned single Judge, dated 3.2.2010. Though, the Division Bench mandated the

competent authority to consider only the objections already submitted, the petitioners submitted a new set of objections on 20.12.2010, which

were also duly considered. In the original objections, they have not raised any technical objections relating to change of the alignment. As per

Section 3-C(1) of the Act, a land owner can question only the manner of use of the land and nothing else, much less any technical issues. After the

receipt of the objections, the enquiry was conducted on 9.5.2011. The petitioners along with their representatives participated in the enquiry. They

were given sufficient opportunity and orders were passed on merits on 22.6.2011 and the same were served on them on 6.7.2011. There is no

violation of principles of natural justice. In fact, the lands belonging to 118 persons were acquired, out of whom, only 12 persons chose to

challenge the same, rest of them have accepted. The third respondent would mainly contend that there is no delay, much less, as contemplated by

the petitioners in passing the Section 3-D declaration. Similarly, the Centre has also sanctioned the project and the letter dated 3.2.2006 is the administrative approval accorded by the Government of India. The petitioners are not experts to suggest alternative viable route. He would further contend that the petitioners lands have been acquired for the public purpose and adequate compensation permissible under the relevant statute has been deposited for the land owners, including the petitioners. In fact, the land for the Right of Way (ROW) of minimum of 60 meters is being acquired as per the norms of National Highways Authority of India. The lands have been acquired for a width of 60 meters in all areas for realignment for the entire project stretch and it is a general policy matter that in every case, where the land acquisition is there for four lane, ROW of 60 meters has to be initiated in the ongoing projects or for the future projects. Considering the future expansion and also to accommodate a pucca four lane junction, land for more than 60 meters is required, the alternative suggestion of alignment was also taken into consideration and rejected as being unsustainable and unacceptable, whereas, the original alignment has been done by the experts, professionals engaged by the respondents to conceive the project and prepare DPR are highly qualified technical experts. Hence, the third respondent would contend that the writ petitions are filed only to delay the process and they are liable to be dismissed.

4. For the above said counter, the petitioners have filed a common reply affidavit. They would mainly deny that possession has been taken on

15.6.2010. They would deny that one year limitation question can be raised only after the completion of Section 3-C(2) enquiry and Section 3-D

declaration. According to them, if the law u/s 3-D(2) specifically mandates that Section 3-A notification would lapse, if Section 3-A declaration is

not published within one year from the date of Section 3-D notification, the respondents ought not to have proceeded further. They would also

deny that the alternate alignment suggested by the petitioners passes through ponds, wells, irrigation tank and other water bodies. They would

contend that the original Section 3-D(1) declaration, dated 23.5.2008, was quashed and the consequential orders thereon were also quashed and

if any Section 3-D(1) declaration is published after the filing of these writ petitions, as per the original notification u/s 3-A(1), dated 26.10.2007,

the same is illegal.

5. After the arguments were partly over, at the time of final arguments, the petitioners have also filed applications for amendment of the prayer

seeking to quash by including the declaration issued by the first respondent u/s 3-D(1) and (2) notified in Government Gazette on 15.10.2011,

stating all the grounds, which were already raised in the writ petitions. These applications were presented on 20.2.2012 and the same were taken

on file on 21.2.2012, on which date, the orders were reserved in the main writ petitions. The third respondent has also filed a counter to the

amendment stating that by virtue of amendment, the petitioners are seeking to change the entire nature of the writ petitions in the manner of

questioning the proviso u/s 3-D(1) and (2), if at all, the petitioners want to challenge Section 3-D(1), they can only challenge the legality and

constitutionality of the same by filing separate writ petitions. Only with a view to delay the proceedings, bald allegations have been made, hence,

the writ petitions as well as the petitions are not maintainable.

6. Heard both sides. By consent of the counsel for both sides, the writ petitions are taken up for final disposal along with the interim petitions.

7. The writ petitioners, whose lands have been acquired by the Government under the National Highways Act, have sought to question the same

mainly on three grounds. Earlier, when the notification was made under Section 3-A, since, the Section 3-C(2) enquiry was not properly

conducted, consequently, Section 3-D declaration was passed wrongly, they challenged the same by way of filing writ petitions and also obtained

interim order, subsequently, the writ petitions were dismissed. Thereafter, they preferred appeals. In the appeals, the Division Bench of this Court

has passed the order setting aside the order of the second respondent dated 8.1.2008 and held as follows:

23. For the reasons aforesaid, these appeals and the writ petition are allowed. The impugned order passed by the learned single Judge is set aside.

Consequently, the order passed by the competent authority u/s 3-C(2) of the Act and the consequential orders are quashed. The matter is remitted

back to the competent authority of the respondent to consider the objections filed by the appellants u/s 3-C(2) of the Act and the competent

authority is directed to dispose of the same in accordance with the law by

passing a reasoned order. Needless to say that after complying with requirements of law, the respondents shall proceed in the matter.

(emphasis supplied)

8. The petitioners after succeeding in the writ appeals did not stop with the original objections raised by them in Section 3-C(2) enquiry, but, they

thought it fit to make another representation on 20.12.2010 raising three points, viz., one year limitation period prescribed under sub-section (3) of

Section 3-D of the National Highways Act, for issuing Section 3-D declaration from the date of Section 3-A notification is already over; (ii)

Following the decision of the Supreme Court in Padma Sundara Rao and Others v. State of Tamil Nadu (supra), there was no purpose in

conducting Section 3-C enquiry itself; and (iii) New objections were made including the question of alternative alignment and also raising the plea

of Central Government has not sanctioned the project technically. Thereafter, they were called for enquiry on two occasions, but, they were not

present, ultimately, an enquiry was conducted on 9.5.2011, on that date, the petitioners as well as others participated, at that point of time, the

petitioners filed three Miscellaneous Petitions raising preliminary objections to the conduct of the enquiry itself and these applications were taken up

and objections were heard and after affording the petitioners" sufficient opportunity, ultimately, the authority considered the objections and passed

the impugned order dated 22.6.2010, which is under challenge in these writ petitions.

9. Now, the learned counsel for the petitioners would mainly contend that the Section 3-C(2) enquiry after the directions of the Division Bench of

this Court itself is a farce one inasmuch the original notification u/s 3-A is of the year 2007, the enquiry ought not to have been conducted as initial

period of one year as contemplated u/s 3-D(2) is already over, there is no point in conducting the enquiry.

10. In this connection, it is worthwhile to refer some dates and events, which are very important.

No Date Event

1 26.10.2007 3-A(1) notification was published in the Gazette

2 27.11.2007 3-A(1) notification was published in the newspaper

3 23.5.2008 3-D(1) declaration (which was quashed by this Court in W.As)
4 16.7.2008 3-G(3) notification published in Daily Thanthi (which was also
quashed by this Court on 9.11.2010)
5 24.7.2008 W.P. No. 17530 of 2008 was filed by P.Murugesan and stay of
dispossession alone was granted from 24.7.2008 to 21.8.2008).
6 18.8.2008 W.P. Nos. 19946 to 19954/2008 filed by nine Writ Petitioners and
stay of dispossession alone was granted from 18.8.2008 to 3.2.2010
(date of dismissal of the writ petitions).
7 03.2.2010 All the writ petitions were dismissed.
8 24.2.2010 Writ appeals were filed.
9 1.7.2010 Writ appeals were filed by the petitioners and interim order of status
quo was granted from 1.7.2010 to 19.7.2010.
10 9.11.2010 Writ appeals were allowed, against the dismissal of the writ
petitions
dated 3.2.2010, and 3-D(1) declaration was quashed.
11 20.12.2010 Fresh objections were filed by the petitioner
12 8.2.2011 W.P. No. 17530 of 2008 was allowed pursuant to the judgment
dated 9.11.2010.
13 15.3.2011 First enquiry u/s 3-C(2) was adjourned.
14 9.5.2011 Petitioners attended the enquiry and filed 3 M.Ps. raising the
question
of limitation.
15 22.6.2011 Objections were disallowed.
16 22.7.2011 W.P. No. 16959 of 2011 etc. were filed and interim order for stay of
dispossession was granted from 22.7.2011 to 15.10.2011.
17 15.10.2011 3-D(1) notification.
11. Some more important dates are relevant and they are as follows:
No Date Event
1 3.6.2010 The compensation amount was deposited in Sub-
Court, Tiruppur.

2 15.6.2010 The proceedings of the District Collector,
Tiruppur.

3 30.6.2010 Possession taken.

12. In these cases, the petitioners main contention is that Section 3-A(1) notification was published in Gazette Notification as early as on

26.10.2007 and the paper publication was made on 27.11.2007, therefore, the present enquiry under 3-C(2) after the disposal of the appeals is

non est in the eye of law, because, as per Section 3-D(3), there should be a gap of only one year.

13. At this juncture, it is pertinent to refer Section 3-D(3) of the Act, which reads as under:

3-D. Declaration of acquisition.--

(1)...

(2)..

(3) Where in respect of any land, a notification has been published under sub-section (1) of Section 3-A for its acquisition but no declaration under

sub-section (1) has been published within a period of one year from the date of publication of that notification, the said notification shall cease to

have any effect:

Provided that in computing the said period of one year, the period or periods during which any action or proceedings to be taken in pursuance of

the notification issued under sub-section (1) of Section 3-A is stayed by an order of a Court shall be excluded.

14. From the reading of above, according to the petitioners, it is clear that 3-A(1) publication has been made, but no declaration has been

published within a period of one year from the date of publication of that notification. Then, the said notification shall cease to have an effect, but,

there is a proviso clause, which provides that the period during which any action is stayed by Court shall be excluded. Therefore, the period of one

year is not a direct one, if there is any stay by competent Court that period has got to be excluded.

15. Now in these cases, what are the period when the stay was granted has to be taken into consideration. In this connection, admittedly, from

both the list of dates and events given by both sides, it is seen that stay was first

granted in W.P. No. 17530 of 2008 on 24.7.2008 and further in all the other cases, stay was granted in W.P. Nos. 19946 to 19954 of 2008, on 18.8.2008, thereafter, the W.P. Nos. 19946 to 19954 of 2008 were disposed of on 3.2.2010. The interim order was in force till then. Once again, they preferred writ appeals on 24.2.2010. Status quo was granted in writ appeals on 1.7.2010. Subsequently, the writ appeals were disposed of on 9.11.2010. As per the judgment in writ appeals, it is seen that the Division Bench of this Court has quashed the order u/s 3-C(2) of the Act and also the consequential orders. In the writ appeals, the Division Bench of this Court has further stated that the matter is remitted back to the competent authority of the respondent to consider the objections filed by the appellants u/s 3-C(2) of the Act and the competent authority is directed to dispose of the same in accordance with the law by passing a reasoned order. Therefore, it is very clear that when the original 3-C(2) order was quashed, this Court directed the authorities that they should go back to the original date of Section 3-C(2) enquiry and enquire into the matter and proceed from that date onwards and admittedly, during these periods also, there was interim orders. For the purpose of calculation of one year, now, we have to consider the original date of paper publication of Section 3-A(1) notification, which was published on 27.11.2007. Even if Section 3-A(1) notification published in Gazette Notification is taken, it is 26.10.2007. From that period, till Section 3-C(2) order passed by the competent authority i.e., upto 29.1.2008, has to be taken into consideration. That means, if 3-A(1) Gazette Notification is taken into consideration, i.e., from 26.10.2007 to 29.1.2008, it would be 94 days or after Section 3-A(1) paper publication, it will be 64 days (27.11.2007 to 29.1.2008). Thereafter, from 9.11.2010, how long it has taken for the authorities to complete the Section 3-C(2) enquiry has to be taken into consideration. Ultimately, the Section 3-C(2) enquiry was conducted after the disposal of the writ appeals, especially, after the further objections made by the petitioners on 20.12.2010 and after the enquiry on 9.5.2011, final order has been passed on 22.6.2011. i.e., between 9.5.2011 to 22.6.2011, the date of passing order u/s 3-C(2) is 225 days. Thereafter, the present writ petitions were filed on 22.7.2011. From that date onwards, there is an interim order of stay of dispossession,

therefore, between 22.6.2011 and 22.7.2011, there is a gap of 30 days. Therefore, the total number of days from the original Section 3-A(1)

notification, if it dates back from the date of publication, it will be 319 days and if it is after the date of Gazette Notification, it will be 349 days.

Admittedly, Section 3-D notification has been now published on 15.10.2011 and there is an interim order from 22.7.2011, therefore, if the entire

period is taken into consideration, definitely, the total number of days will come to either 319 days or 349 days and within one year period, the

Section 3-D notification has now been published, whereas, the argument of the petitioners would be that the total period between 26.10.2007

(Section 3-A(1) notification was published in the Gazette) and 15.10.2011 (Section 3-D(1) Gazette Notification) has to be taken into

consideration and excluding the stay period comes to 656 days (24.7.2008 to 3.2.2010; 1.7.2010 to 19.7.2010; and 22.7.2011 to 15.10.2011),

then, the Section 3-D notification is beyond one year period. This argument of the petitioners cannot be accepted for the simple reason that when

earlier the petitioners filed separate writ petitions challenging the Section 3-D declaration and the same were dismissed. Ultimately, they preferred

writ appeals and this Court by judgment dated 9.11.2010 has given a clear finding that Section 3-C(2) notification was wrong and the enquiry was

not conducted in a proper manner and the opportunity was not given to them, therefore, it was only a technical order, therefore, the order passed

by the learned single Judge was set aside and the order passed by the competent authority u/s 3-C(2) of the Act and the consequential orders

were quashed and the matter was remitted back to the competent authority of the respondent to consider the objections filed by the appellants u/s

3-C(2) of the Act and to dispose of the same in accordance with the law. Therefore, as per the judgment of the Division Bench of this Court, the

authorities have to go back to the date of original Section 3-C(2) enquiry, from then onwards, it has to be proceeded further. Otherwise, even at

the time of passing of the judgment, viz., 9.11.2010 itself, already one year period has already expired, because, from Section 3-A(1) paper

publication dated 27.11.2007 to the date of judgment i.e., 9.11.2010, if it is taken into consideration already 2 years 11 months and 12 days have

passed and if 30 days is added from the Gazette Notification, it has already crossed 3 years. Then definitely, this Court at that point of time would

not have stated that further enquiry could be conducted on the Section 3-A (1) paper publication because what was clearly stated was that the

matter is remitted back to the competent authority to consider the objections filed by the appellants u/s 3-C(2) based on original 3-A(1) Gazette

Notification. It is not the intention of this Court even at that point of time i.e., on 9.11.2010 that the authority should issue a fresh notification u/s 3-

A(1) or to quash the 3-A notification. What was pointed out is that there is a discrepancy in enquiry u/s 3-C(2) and Section 3-A(1) was intact, but

the period of one year has to be taken note of subsequently also. Even taking this argument of the petitioners that upto 9.11.2010 stay was

available for a period of 1 year 6 months and 28 days, if that is also excluded, even on the date of judgment, it was beyond 1 year 5 months and

16 days, would this have Court directed them to conduct the enquiry u/s 3-C(2), if already the period even taking into consideration, it is beyond

one year, definitely not. Therefore, the petitioners' argument that Section 3-D notification itself cannot be granted unless there is fresh Section 3-

A(1) after the disposal of the writ appeals cannot be accepted.

16. To substantiate his contention, the learned counsel for the petitioners relied on the following judgments. Firstly, he relied on the decision Vijay

Narayan Thatte and Others Vs. State of Maharashtra and Others, wherein, the Supreme Court has held as under:

21. In view of the above discussion, it is evident that the proviso to Section 6 of the Land Acquisition Act is totally mandatory and bears no

exceptions. In fact, a Constitution Bench decision of this Court in Padma Sundara Rao v. State of Tamil Nadu (supra) is clearly in support of the

submission of the learned counsel for the appellants that the proviso to Section 6 is mandatory, and hence the Notification u/s 6 dated 30.10.2006

is time-barred.

17. Secondly, he relied on the decision Kamal Trading Private Limited (now known as Manav Investment and Trading Company Ltd.) Vs. State

of West Bengal and Others, for the proposition that the Land Acquisition Act being an ex-proprietary legislation, its provisions will have to be

strictly construed. In the said decision, the Supreme Court has held as under:

11.....It is, therefore, that the hearing contemplated u/s 5-A and the report made by the Land Acquisition Officer and his recommendations

assume importance. It is implicit in this provision that before making declaration u/s 6 of the LA Act, the State Government must have the benefit of

a report containing recommendations of the Collector submitted u/s 5-A(2) of the LA Act. The recommendations must indicate objective

application of mind.

The main contention raised in this case is that the non-compliance of Section 5-A of the Land Acquisition Act and non-application of mind of the

Officer concerned.

18. Thirdly, the learned counsel for the petitioners relied on the decision of the Supreme Court R. Indira Saratchandra Vs. State of Tamil Nadu

and Others, wherein, the Supreme Court has held as under:

9. A reading of the plain language of the above reproduced Section makes it clear that the Collector is obliged to make an award u/s 11 within a

period of two years from the date of the publication of the declaration. If no award is made within that period, the acquisition proceedings

automatically lapses. By virtue of the Explanation, the period during which any action or proceeding to be taken pursuant to the declaration is

stayed by an order of a Court is to be excluded in computing the period of two years. This means that if any action or proceeding required to be

taken after the issue of declaration u/s 6 is stayed by a Court, the entire period of stay will get excluded in calculating the period of two years within

which an award is required to be made by the Collector. As a corollary to this, it must be held that once the stay order passed by a Court is

vacated or ceases to operate, the clog put on the running of the period specified in the main Section is removed.

10. There is nothing in Section 11-A from which it can be inferred that the stay order passed by the Court remains operative till the delivery of

copy of the order. Ordinarily, the rules framed by the High Court do not provide for supply of copy of the judgment or order to the parties free of

cost. The parties to the litigation can apply for certified copy which is required to be supplied on fulfilment of the conditions specified in the relevant

rules. However, no period has been prescribed for making of an application for certified copy of the judgment or order or preparation and delivery

thereof. Of course, once an application is made within the prescribed period of limitation, the time spent in the preparation and supply of the copy

is excluded in computing the period of limitation prescribed for filing an appeal or revision.

12. In Padma Sundara Rao v. State of T.N. (supra) the Constitution Bench referred to the earlier judgments including the judgment of three-Judge

Bench in N. Narasimhaiah v. State of Karnataka and observed: Padma Sundara Rao v. State of T.N. (supra) case, SCC pp. 537-38 and 540-43, paras 3-4, 10-11 and 16-18)

3. The controversy involved lies within a very narrow compass, that is, whether after quashing of the notification u/s 6 of the Land Acquisition Act,

1894 (hereinafter referred to as "the Act") fresh period of one year is available to the State Government to issue another notification u/s 6. In the

case at hand such a notification issued u/s 6 was questioned before the Madras High Court which relied on the decision of a three-Judge Bench in

N. Narasimhaiah v. State of Karnataka and held that the same was validly issued.

4. Learned counsel for the appellants placed reliance on an unreported decision of this Court in A.S. Naidu v. State of T.N. wherein a Bench of

three Judges held that once a declaration u/s 6 of the Act has been quashed, fresh declaration u/s 6 cannot be issued beyond the prescribed period

of the notification under sub-section (1) of Section 4 of the Act. It has to be noted that there is another judgment of two learned Judges in Oxford

English School v. Govt. of T.N. which takes a view similar to that expressed in A.S. Naidu case. However, in State of Karnataka v. D.C.

Nanjundaiah view in Narasimhaiah case was followed and it was held that the limitation of 3 years for publication of the declaration would start

running from the date of receipt of the order of the High Court and not from the date on which the original publication u/s 4(1) came to be made.

10. What appears to have weighed with the three-Judge Bench in Narasimhaiah case is set out in para 12 of the judgment, which reads as under:

12. Having considered the respective contentions, we are of the considered view that if the construction as put up by the learned counsel for the

appellants is given acceptance i.e. it should be within one year from the last of the dates of publication u/s 4(1), the public purpose would always

be frustrated. It may be illustrated thus: in a given case where the notification u/s 4(1) was published, dispensing with the enquiry u/s 5-A and

declaration was published within one month and as the urgency in the opinion of

the Government was such that it did not brook the delay of 30 days and immediate possession was necessary, but possession was not taken due to dilatory tactics of the interested person and the Court ultimately finds after two years that the exercise of urgency power was not warranted and so it was neither valid nor proper and directed the Government to give an opportunity to the interested person and the State to conduct an enquiry u/s 5-A, then the exercise of the power pursuant to the direction of the Court will be fruitless as it would take time to conduct the enquiry. If the enquiry is dragged for obvious reasons, declaration u/s 6(1) cannot be published within the limitation from the original date of the publication of the notification u/s 4(1). A valid notification u/s 4(1) becomes invalid. On the other hand, after conducting the enquiry as per Court order and, if the declaration u/s 6 is published within one year from the date of the receipt of the order passed by the High Court, the notification u/s 4(1) becomes valid since the action was done pursuant to the orders of the Court and compliance with the limitation prescribed in Clauses (i) and (ii) of the first proviso to sub-section (1) of the Act would be made.

11. It may be pointed out that the stipulation regarding the urgency in terms of Section 5-A of the Act has no role to play when the period of limitation u/s 6 is reckoned. The purpose for providing the period of limitation seems to be the avoidance of inconvenience to a person whose land is sought to be acquired. Compensation gets pegged from the date of notification u/s 4(1). Section 11 provides that the valuation of the land has to be done on the date of publication of notification u/s 4(1). Section 23 deals with matters to be considered in determining the compensation. It provides that the market value of the land is to be fixed with reference to the date of publication of the notification u/s 4(1) of the Act. The prescription of time-limit in that background is, therefore, peremptory in nature. In *Ram Chand v. Union of India* it was held by this Court that though no period was prescribed, action within a reasonable time was warranted. The said case related to a dispute which arose before prescription of specific periods. After the quashing of declaration, the same became non est and was effaced, It is fairly conceded by learned counsel for the respondents that there is no bar on issuing a fresh declaration

after following the due procedure. It is, however, contended that in case a fresh notification is to be issued, the market value has to be determined on the basis of the fresh notification u/s 4(1) of the Act and it may be a costly affair for the State. Even if it is so, the interest of the person whose land is sought to be acquired, cannot be lost sight of. He is to be compensated for acquisition of his land. If the acquisition sought to be made is done in an illogical, illegal or irregular manner, he cannot be made to suffer on that count.

16. The plea relating to applicability of the stare decisis principles is clearly unacceptable. The decision in *K. Chinnathambi Gounder v. Govt. of T.N.* was rendered on 22.6.1979 i.e. much prior to the amendment by the 1984 Act. If the legislature intended to give a new lease of life in those cases where the declaration u/s 6 is quashed, there is no reason why it could not have done so by specifically providing for it. The fact that the legislature specifically provided for periods covered by orders of stay or injunction clearly shows that no other period was intended to be excluded and that there is no scope for providing any other period of limitation. The maxim *actus curia neminem gravabit* highlighted by the Full Bench of the Madras High Court has no application to the fact situation of this case.

17. The view expressed in *Narasimhaiah* case and *Nanjudaiah* case is not correct and is overruled while that expressed in *A.S. Naidu* case and *Oxford* case is affirmed.

18. There is, however, substance in the plea that those matters which have obtained finality should not be reopened. The present judgment shall operate prospectively to the extent that cases where awards have been made and the compensations have been paid, shall not be reopened, by applying the ratio of the present judgment. The appeals are accordingly disposed of and the subsequent notifications containing declaration u/s 6 of the Act are quashed.

(emphasis supplied)

19. Fourthly, the learned counsel for the petitioners relied on the decision in *S. Ramasami v. Government of Tamil Nadu* (2011) 2 CWC 281:

LNIND 2011 Mad 1583, for the proposition that the limitation starts running from the date of notification issued u/s 4(1) and such period of

limitation cannot be extended by Court. This Court has further observed that once a declaration was quashed, a fresh declaration ought to have

been passed within six days after complying with the directions of High Court. This Court has further held as under:

9. It is seen that on a reading of the judgment referred supra, the issue involved in the present writ petition, no longer ""res integra"". The Honourable

Apex Court has held that, the Judgment of the Full Bench of the Madras High Court is no longer a good law. Therefore, this Court is of the view

that the ratio laid down by the Honourable Apex Court is applicable to the present case on hand in all force. Therefore, once a declaration is

quashed by this Honourable Court, then the consequent to the same, the notification issued u/s 4(1) also goes in as much as the limitation starts

running from the date of the notification issued u/s 4(1). The period of limitation granted under the statute cannot be extended by the Court. Hence,

unless there is available period after the quashing of the declaration u/s 6, then the limitation cannot start afresh from the date of the order passed

by the Court. Applying the said ratio in the present case on hand, it is seen that after passing the declaration, only six days were available.

Therefore, when the declaration was quashed the respondent ought to have passed a fresh declaration within six days after complying with the

directions issued by this Honourable Court. Admittedly, the notice was issued after long period from the date of the expiry of the declaration.

Therefore, considering the fact admittedly, only six days were available for the respondents to proceed after quashing of the declaration and within

the time proceedings, having not completed by passing the declaration u/s 6, this Court has got no other option to allow the writ petition by

declaring that, the proceedings initiated by the first respondent in G.O. 3D No. 148, Backward Classes and Most Backward Classes Welfare

Department dated 1.12.1993 is unenforceable as it has lapsed on the ground of limitation.

20 Lastly, learned counsel for the petitioners relied on the decision of the Supreme Court Raghbir Singh Sehrawat Vs. State of Haryana and

Others, , for the proposition that unfortunately the landless poor has been affected by the act of the authorities. In the said decision, the Supreme

Court has held as under:

26. Before concluding, we deem it necessary to observe that in recent past, various State Governments and their functionaries have adopted very casual approach in dealing with matters relating to the acquisition of land in general and the rural areas in particular and in a large number of cases, the notifications issued under Sections 4(1) and 6(1) with or without the aid of Section 17 and the consequential actions have been nullified by the Courts on the ground of violation of the mandatory procedure and the rules of natural justice. The disposal of cases filed by the landowners and Others take some time and the resultant delay has great adverse impact on implementation of the projects of public importance. Of course, the delay in deciding such cases may not be of much significance when the State and its agencies want to confer benefit upon private parties by acquiring land in the name of public purpose. It is difficult, if not impossible, to appreciate as to why the State and its instrumentalities resort to massive acquisition of land and that too without complying with the mandate of the statute. As noted by the National Commission on Farmers, the acquisition of agricultural land in the name of planned development or industrial growth would seriously affect the availability of food in future. After independence, the administrative apparatus of the State has not spent enough investment in the rural areas and those who have been doing agriculture have not been educated and empowered to adopt alternative sources of livelihood. If land of such persons is acquired, not only the current but the future generations are ruined and this is one of the reasons why the farmers who are deprived of their holdings commit suicide. It also appears that the authorities concerned are totally unmindful of the plight of those Sections of the society, who are deprived of their only asset like small house, small industrial unit, etc. They do not realise that having one's own house is a lifetime dream of a majority of the population of this country. Economically affluent class of society can easily afford to have one or more houses at any place or locality in the country but other Sections of the society find it extremely difficult to purchase land and construct house. Majority of the people spend their lifetime savings for building a small house so that their families may be able to live with a semblance of dignity. Therefore, it is wholly unjust, arbitrary and unreasonable to deprive such persons of their houses by way of the acquisition of land in the name of development of infrastructure or industrialisation. Similarly,

some people set up small industrial units after seeking permission from the competent authority. They do so with the hope of generating additional income for their family. If the land on which small units are established is acquired, their hopes are shattered. Therefore, before acquiring private land the State and/or its agencies/instrumentalities should, as far as possible, use land belonging to the State for the specified public purposes. If the acquisition of private land becomes absolutely necessary, then too, the authorities concerned must strictly comply with the relevant statutory provisions and the rules of natural justice.

(emphasis and underlining added)

These cases have been relied upon by the learned counsel for the petitioners for the purpose of limitation.

21 No doubt, for Section 4(1) notification and Section 6 declaration under the Land acquisition Act, there is a clear cut period prescribed, but, if

there is a difference in the dates/period, definitely, this Court can interfere. In these cases, we have detailed and clearly discussed how the time has

not run out and it is not that the Court has granted time or extended time, therefore, the above said Rulings will not apply to the facts of these

cases.

23 In fact, Mr. P. Wilson, learned senior counsel for the third respondent would rely upon the following decisions in this regard. Firstly, he relied

on the decision in State of Rajasthan and Others Vs. D.R. Laxmi and Others, for the proposition that the land stands vested in the State free of all

encumbrances, after the possession has taken place u/s 17(2) or Section 16 and thereafter, there is no provision under the Act to divest the title

which was validly vested in the State. In the said decision, the Supreme Court has held as under:

7. The question is whether the absence of the publication of the substance of the notification in the locality renders the entire proceedings void? We

need not dilate upon the question whether local publication of substance of Section 4(1) notification is mandatory or directory. Since this Court has

consistently taken the view that compliance of the requirement of the publication of the notification u/s 4(1) in the Gazette as well as publication of

the substance of the notification in the locality now under the Amended Act in the newspaper, is mandatory requirement. As the facts are not in

controversy, as mentioned in the judgment of the High Court, the substance of the notification was not published in the locality; we proceed on the

premise that second step, namely, publication of the substance of the notification in the locality, was not taken. The question then is whether

Section 4(1) notification and Section 6 declaration are required to be quashed? In this regard, we have to consider the conduct of the parties and

the effect thereof. Under the scheme of the Act, after the possession of the land was taken either u/s 17(2) or Section 16, the land stands vested in

the State free from all encumbrances. Thereafter, there is no provision under the Act to divest the title which was validly vested in the State. u/s

48(1) before possession is taken, the State Government is empowered to withdraw from the acquisition by its publication in the Gazette. In this

regard, a three-Judge Bench of this Court has considered the question in *Senjeevanagar Medical & Health Employees' Coop. Society v. Mohd.*

Abdul Wahab and held in para 12 thus: (SCC p. 607)

That apart, as facts disclose, the award was made on 24-11-1980 and the writ petition was filed on 9.8.1982. It is not in dispute that

compensation was deposited in the Court of the Subordinate Judge. It is asserted by the appellant Society that possession of the land was

delivered to it and the land had been divided and allotted to its members for construction of houses and that construction of some houses had been

commenced by the date the writ petition was filed. It would be obvious that the question of division of the properties among its members and

allotment of the respective plots to them would arise only after the Land Acquisition Officer had taken possession of the acquired land and handed

it over to the appellant Society. By operation of Section 16, the land stood vested in the State free from all encumbrances. In *Satendra Prasad Jain*

v. State of U.P., 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 11-A? A Bench of three 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 the 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 48(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 should 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

petition.

(emphasis & underlining added)

23. Next, he relied on the judgment of the Supreme Court *Padma Sundara Rao and Others v. State of Tamil Nadu and Others* (supra), wherein,

the Constitution Bench has categorically stated that where declaration u/s 6 is quashed by the Court, fresh declaration must be issued within the

same limitation period prescribed under the first proviso and that period cannot be construed to commence from the date of receipt of the order of

the Court quashing the declaration. The Constitution Bench has also made it clear that the decision shall operate prospectively. In this case, the

Supreme Court has categorically held that the fact that the legislature specifically provided for periods covered by orders of stay or injunction

clearly shows that no other period was intended to be excluded, therefore, it is very clear that after the original quashing of the Section 3-D

notification, the authorities has to necessarily pass orders within one year after, under the same Section 3-D notification.

24. In the decision in *Padma Sundara Rao and Others v. State of Tamil Nadu and Others* (supra), the Constitution Bench of the Supreme Court

has held as under:

18. There is, however, substance in the plea that those matters which have obtained finality should not be reopened. The present judgment shall

operate prospectively to the extent that cases where awards have been made and the compensations have been paid, shall not be reopened, by

applying the ratio of the present judgment. The appeals are accordingly disposed of and the subsequent notifications containing declaration u/s 6 of

the Act are quashed.

25. Then, he relied on the decision in *M. Ramalinga Thevar v. State of Tamil Nadu* 2000 (2) CTC 597, for the proposition that even if the

disposition alone is stayed period during which such stay operates would stand excluded from the time fixed for passing the award. In that case,

the award passed after the lapse of two years in view of the stay order was held to be within the period of limitation. In the said decision, in

paragraph No. 10, the Supreme Court has held as under:

10. Thus, the position is now well settled that even when dispossession alone is stayed by the Court the period during which such stay operates

would stand excluded from the time fixed for passing the award, the expiry of which would render the acquisition proceedings lapsed. In the light

of the said interpretation it is now idle to contend that the Government is debarred from proceeding with the acquisition. The appeal is accordingly

dismissed.

26. Lastly, he relied on the unreported decision of this Court W.P. No. 22946 of 2010, dated 20.12.2011, in which, this Court following the

decision in *Competent Authority Vs. Barangore Jute Factory and Others*, has held as under:

6. The power of this Court to interfere in acquisition proceedings is rather limited. The provisions of the Act is ex-appropriated in nature. This

Court cannot act like Appellate Authority over the decision made by the respondents, based upon relevant materials under after proper

consideration. Unless mala fides are shown, demonstratively, this Court shall not exercise the discretionary power. Considering the nature and

scope of the objections of land owner to the proposed acquisition under the National Highways Act 1956, it has been held in (*Competent*

Authority v. Barangore Jute Factory and Others (*supra*) by the Hon"ble Apex Court in the following manner:

5.....We would, however, like to add that unlike Section 5-A of the Land Acquisition Act, 1894 which confers a general right to object to

acquisition of land u/s 4 of the said Act, Section 3-C(1) of the National Highways Act gives a very limited right to object. The objection can be

only to the use of the land under acquisition for purposes other than those u/s 3-A(1). The Act confers no right to object to acquisition as such.

This answers the argument advanced by the learned counsel for NHAI that failure to file objections disentitles the writ petitioners to object to the acquisition.....The National Highways Act confers no such right. Under this Act there is no right to object to acquisition of land except on the question of its user. Therefore, the present objection has to be decided independently of the right to file objections. Dehors the right to file objection, the validity of the notification has to be considered.

7. It is also to be seen that the failure of the petitioner in challenging the declaration issued u/s 3-D of the Act, would amount to waiver of his rights and therefore, the petitioner cannot content that his objections will have to be heard, when the said declaration has not been put into challenge.

27. In the latest decision of the Supreme Court in Jeet Singh and Another Vs. Union of India (UOI) and Others, in an identical case in respect of

Metro Rail Project in Delhi, where the land in question was acquired, possession taken and used for the purpose of construction of Delhi Metro

Rail. In that case, the declaration u/s 6 was published on 14.4.1997, while the award was made on 21.4.2003 and as the award was made

beyond two years of publication of the notification, the question that arose before the Supreme Court was, whether the acquisition proceedings

lapsed by virtue of Section 11-A proviso. The Supreme Court taking into consideration of the fact that the possession was taken over and the

delay in the passing of the award and the conduct of the land owners, has ultimately held as under:

The Explanation to Section 11-A provides that the period during which proceedings are stayed by the Court would be excluded while computing

the period of two years. In the instant case, the High Court granted stay of acquisition proceedings on 12.2.1999 which was vacated on

23.7.2002 but the certified copy of the said order was communicated to the Land Acquisition Collector (LAC) only on 27.3.2003. Once an

authority is restrained by the Court from doing something, till it gets communication from the Court to the effect that its earlier order was modified

or vacated, no authority is expected to do anything. Moreover, in the instant case, the facts are peculiar. The landowners i.e., the appellants and

their father made all possible efforts to delay the proceedings. In fact, the proceedings were delayed because of the litigation initiated by them. In

the instant case, LAC received the certified copy of the order only on 27.3.2003. Hence, time used up between passing of the order and its

communication, in the peculiar facts and circumstances of the case, is liable to be excluded while computing limitation, especially when the LAC

had acted promptly after getting a certified copy of the order whereby the stay was vacated.

28. In this case, immediately after the disposal of the writ petitions, the authorities have taken steps, including the taking up of possession, on

3.6.2010. As pointed out by the Honourable Supreme Court, when once possession is taken up, it cannot be re-vested with the land owner or any

one else, unless by an order passed by the Government to that effect. Further, in this peculiar facts and circumstance of the case, even at the time

of filing of the writ appeal, according to the petitioner, the period had already expired for issuing of notification u/s 3-D of the Act, therefore, the

notification u/s 3-A of the Act automatically goes. Even though this plea was available to the petitioners at the time of filing the writ appeal, such

plea was not raised. The Division Bench of this Court also passed the judgment on 9.11.2010 specifically holding that the matter has to be remitted

back and all further proceedings from the stage of enquiry u/s 3-C(2) has to be commenced. However, the petitioner has not chosen to agitate the

matter further by stating that the notification lapses. Contra, the petitioners filed an application before the authorities concerned seeking further

enquiry. In any view of the matter, possession was already taken and that is the reason why the appellate Court itself, though originally not granted

interim injunction after 30.6.2010, when the petitioner moved for interim application, only status-quo was granted. Taking into consideration all the

facts and circumstance of the case that a vast project is now being stalled by a few of the petitioners in respect of a very small area, as rightly

pointed out by the respondents, the Court intention was not to cancel the notification u/s 3-A on the date when the judgment in writ appeal was

passed. Therefore, the points raised by the petitioners as to limitation will not apply to the facts of the present case especially when possession has

been taken on 30.6.2010 itself.

29. From the Constitution Bench judgment in Padma Sundara Rao and Others v. State of Tamil Nadu (supra), it is very clear, where any

compensation have been made and compensation have been paid, that shall not be reopened. In this case, as stated supra, the compensation

amount was deposited even on 3.6.2010 and compensation was taken over on 30.6.2010. Therefore, applying this theory also, the present

argument of the learned counsel for the petitioners is not sustainable.

30. As per the latest judgment of the Supreme Court in Jeet Singh and Another v. Union of India and Others (supra), when the petitioners want to

stall an important National project and the delay was only on account of the litigation initiated by them and also when the prolonged time has taken

in the enquiry, such a conduct of the petitioners do not entitle them to any discretionary relief under Article 226 of the Constitution of India.

31. Next, when we analyse the factor regarding the objections made, though, the petitioners have made so many objections including the

realignment, considering themselves as if they are technical experts, whether at all, such things can be raised before the Court. Time and again, the

Supreme Court has pointed out that this Court is not an Appellate Authority. When the facts are decided by the Technical Experts, Court cannot

ordinarily interfere with such Technical Experts details. Further, in respect of the objections raised by the petitioners regarding the technical

sanction not granted by the Central Government, the respondents have categorically brought to the notice of this Court that as per the letter dated

3.2.2006, administrative approval was accorded by the Government of India. Similarly, in respect of acquisition of 60 meters of land, it was clearly

explained by the respondents that in order to provide a pucca four lane junction, lands measuring more than 60 meters is required, especially when

there is a four lane traffic. Therefore, it is clear that all the objections raised by the petitioners have been duly considered point by point and

rejected by the respondents while passing the impugned orders, especially by giving reasons for the rejection, which are reasonable.

32. In fact, in the decision of the Supreme Court in Union of India (UOI) Vs. Dr. Kushala Shetty and Others, which arose under the National

Highways Act, what was the scope of judicial review was discussed in detail. In the said decision, the Supreme Court has held as under:

24. Here, it will be apposite to mention that NHAI is a professionally managed statutory body having expertise in the field of development and

maintenance of national highways. The projects involving construction of new highways and widening and development of the existing highways, which are vital for the development of infrastructure in the country, are entrusted to experts in the field of highways. It comprises of persons having vast knowledge and expertise in the field of highway development and maintenance. NHAH prepares and implements projects relating to development and maintenance of national highways after thorough study by experts in different fields. Detailed project reports are prepared keeping in view the relative factors including intensity of heavy vehicular traffic and larger public interest. The Courts are not at all equipped to decide upon the viability and feasibility of the particular project and whether the particular alignment would subserve the larger public interest. In such matters, the scope of judicial review is very limited. The Court can nullify the acquisition of land and, in the rarest of rare cases, the particular project, if it is found to be *ex facie* contrary to the mandate of law or tainted due to mala fides. In the case in hand, neither has any violation of mandate of the 1956 Act been established nor has the charge of malice in fact been proved. Therefore, the order under challenge cannot be sustained.

(emphasis and underlining added)

33. Similarly, in the judgment in Krishnaveni and Others Vs. The Union of India (UOI) and Others, as regards the alteration of plan, this Court has held that the correctness, veracity and finalized plan of National Highways Authority of India, cannot be summarily interfered. In the said decision, this Court has held as under:

22. So far as the argument that pursuant to the impugned plan every possibility acquiring the lands of the petitioners and foreseen the same, the writ petition is filed in advance is untenable at this stage for the reason that it is subject to scrutiny by National Highways Authority of India. Any arrangement, if it is preliminary in nature and administrative in character, no writ petition will lie to quash it. In this case, the impugned plans are preliminary in nature and administrative in character, hence, no writ petition will lie to quash it. Judicial review is maintainable on the ground of illegality, irrationality and procedural impropriety. The foregoing discussion make it clear that there is no such grounds found in this case for

interference followed in Delhi Development Authority and Another v. UEE Electricals Engg. (P) Ltd. and Another (supra).

23. The petitioners sought to challenge the veracity and correctness of the detailed finalized plan of National Highways Authority of India, in my

view, the said submission is devoid of merits. The findings of expert bodies in technical and scientific matters would not ordinarily be interfered with

by this Court in exercise of their power under Article 226 of the Constitution, followed in Akhil Bharat Gosewa Sangh Vs. State of A.P. and

Others, wherein in Para-59, it was held thus:

59. The appellant sought to challenge the veracity and correctness of the figures given in the report of the Central Government as well as in the

quinquennial census. In our view, this submission is devoid of merit. It is now well settled by various decisions of this Court that the findings of

expert bodies in technical and scientific matters would not ordinarily be interfered with by the Courts in exercise of their power under Article 226

of the Constitution or by this Court under Article 136 or 32 of the Constitution...

34. This Court in an unreported decision in W.P. Nos. 18688 to 18694 of 2011 etc., dated 21.10.2011, has held as under:

25. In this regard, similar matter arose for consideration before the Supreme Court in Competent Authority Vs. Barangore Jute Factory and

Others, , wherein, the Supreme Court laid down the legal proposition. In this case, the Supreme Court referred to its earlier decision in Delhi

Administration Vs. Gurdip Singh Uban and Others etc., , in which, the Supreme Court laid down the proposition while dealing with the case under

the Land Acquisition Act, which confers a general right to object to acquisition of land u/s 5-A of the Land Acquisition Act. Failure to exercise that

right could be said to be acquiescence. The National Highways Act confers no such right. Under this Act, there is no right to object to acquisition

of land, except on the question of its user. Therefore, the present objection has to be decided independently of the right to file objections. De hors

the right to file objection, the validity of the Notification has to be considered.

26. It is vehemently argued that the objection of every aspect including the acquisition of land, has to be considered. But, the objection about the

use of land alone is a matter required to be considered under the provisions of National Highways Act, and such a right is now settled as a legal

right with regard to questioning the use of the lands and not the acquisition.

27. Analysing the above factors and on a perusal of the entire records, it reveals that a person could know which part of the lands is under

acquisition in order to make an effective objection in respect of the use of the lands. The particulars shown in the Schedule to the Notification as

contemplated u/s 3-A(2) of the Act, are only brief description and the brief description does not mean a complete description and that would not

be the intention of the statute. The acquisition Notification is only required to convey to the persons claiming interest in the lands about the intention

of the Government to acquire a particular land. The description given in the impugned Notification meets the requirement u/s 3-A of the Act.

28. A perusal of the objections made by the petitioners, reveals that mere perusal of the plan clearly indicated the fact that even though it is named

as by-pass road for Gingee, but in all practical purposes, the by-pass road is proposed to be laid only through Gingee Town and therefore, it not a

by-pass road and it is only widening a portion of the road at Gingee and by laying such a road, it will affect thousands of individuals, traffic

congestion, affecting agricultural lands, water resources and school going children. The by-pass road should have been made only through Chetpet

Road without touching the Gingee Town. The competent authority has forgotten the nearby religious town at Tiruvannamalai and the hardship in

case of acquisition of lands. The petitioners have also raised objection that in the publication in the newspapers, the description of the lands

proposed to be acquired, has not been properly given.

32. Though it is contended that the competent authority has extracted the report of the NHAI and considered the objections, it is seen from the

records that the competent authority, after considering every aspect, including the report of the NHAI, passed a speaking order, considering every

objection raised by the petitioners and decided the objections after giving an opportunity of hearing to the petitioners. While dealing with the

objections, it is for the competent authority to take note of what are all the background materials to decide about each and every objection,

including the report of the NHAI. Merely because the competent authority had taken into account the report of the NHAI, it cannot be construed

that the competent authority has not independently decided the objections. On a

perusal of the order passed by the competent authority, it is seen that he has considered each and every aspect of the matter and over-ruled the objections, taking into account the larger public interest involved in the case and the need for implementation of the project, after following the procedures contemplated under the provisions of the Act. Therefore, the competent authority's order, after due consideration of every aspect, cannot be stated to have been passed without application of mind. In fact, it is the order in every aspect of considering the petitioners' objections.

The unreported decision of this Court in W.P. No. 22946 of 2010, dated 20.12.2011 (referred to above) clearly discloses that the petitioners can only make objections. In these cases, even though, very many objections have been made, the same was considered in detail and the authority has answered the same point by point. Under those circumstances, the impugned order passed by the competent authority is valid and in accordance with law. This Court does not find any reason to interfere with the reasoned order nor at this stage the petitions seeking for amendment can be entertained, especially, when they are filed after the arguments. Inasmuch as, this Court has arrived at the conclusion that the authority has taken into consideration all the facts, especially, the question of limitation has been detailed discussed and considered, these writ petitions filed by the petitioners are not at all sustainable. These writ petitions are dismissed. Consequently, connected Miscellaneous Petitions are closed. There will be no order as to costs.