
(2014) 12 MAD CK 0241
In the Madras High Court
Case No : Writ Petition No. 17809 of 2014

P. Palaniappan

APPELLANT

Vs

The State of Tamill Nadu

RESPONDENT

Date of Decision : 09-12-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 10, 11, 2, 31(2), 4
Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 — Section 24(2)

Citation : (2014) 12 MAD CK 0241

Hon'ble Judges : C.S. Karnan, J

Bench : Single Bench

Judgement

C.S. Karnan, J.—The short facts of the case are as follows:-

The petitioner submits that the lands measuring an extent of 1.50 acres comprised in S.No.1251/1B is his ancestral property and the same is in his possession and enjoyment. He further submits that the first respondent has issued notification under Section 4(1) of the Land Acquisition Act, 1894 proposing to acquire the said land in Survey No. 1251/1B and other adjoining lands at Kollampalayam Village, Erode Taluk and District for formation of a Housing Scheme with the help of the third respondent and in this regard publication was made in the Government Gazette on 17.07.1980 and Section 6 Declaration published in the Government Gazette dated 26.08.1982. The petitioner further submits that he sent a representation to release the lands from acquisition proceedings on 20.02.1992 along with others and the same had not yet been considered. The representations made by others has been considered by the third respondent vide their Letter No. 10574/LA/3/(1)/2-IV, dated 17.05.1993 by excluding their lands from the acquisition proceedings. Though the lands owned by him in Survey No. 1251/1B at Kollampalayam Village, Erode Taluk and District is mentioned, but, however, the same has not been excluded from the acquisition proceedings. Hence, he had filed a writ petition in W.P. No.12027 of 1995 to consider his representation seeking the release of his lands

from the Land Acquisition Proceedings since he is a small agriculturist and their livelihood is from the income of those lands only.

2. The petitioner further submits that since his earlier representations had not yet been considered and all the representations will be considered together within a period of two months. He further submits that the said writ petition was withdrawn since the same has been filed on a misconception that his representation has been rejected. This Court vide its order dated 04.09.1995 dismissed the writ petition as withdrawn. Later, it was revealed that his representation has not yet been disposed of. Hence, he had filed a writ appeal in W.A. No.1115 of 1995 and this Court, on 27.11.1995 has passed the following order:-

"(i) The order of writ petition in W.P. No.12027 of 1995 is set-aside;

(ii) Writ Petition No. 12027 of 1995 is dismissed as withdrawn with liberty to pursue the representation dated 20.02.1992 and further representation made subsequent thereto, which shall decide the same in accordance with law within two (2) months from today; and

(iii) It is also open to the appellant to place before the State Government further particulars."

The petitioner further submits that several lands acquired for the Scheme were excluded as per the order of the third respondent dated 17.05.1993 and the particulars of the same are given below. They are the lands comprised in Survey Nos. 1239, 1238, 120, 1241, 1243, 1244, which are all abutting the Main Road were deleted from the acquisition proceedings. Subsequently, the lands in Survey Nos. 1247 and 1249 were also deleted. As far as his land is concerned, i.e., in Survey No. 1251/1B measuring an extent of 1.50 acres has not yet been deleted from the acquisition proceedings. The petitioner further submits that even though the Government have initiated Land Acquisition Proceedings in respect of the above said lands, subsequently, the same was dropped. The entire extent of lands acquired for the said Housing Scheme could not be utilized. Hence, the above lands are kept vacant by the Government without utilization. The petitioner further submits that as on today, he has not received any compensation from the respondents. He further submits that as more than 12 years has lapsed, some of the persons who owned the lands in the very same area made representations to the Government and got their lands released and obtained No Objection Certificates also.

3. The petitioner further submits that the Hon'ble Apex Court and this Court in various decisions have held that if any lands have been acquired by the Government for a particular scheme and if there is a delay in implementing those projects, the lands should be re-conveyed to the original owners who are suffering from such acquisition. In fact, the First Bench of this Court in W.A. No.2430 of 1999 and W.A. Nos.443 and 445 of 2006, directed the third respondent herein to re-convey the lands to the original owners after obtaining

15% interest on the amount paid by the third respondent herein to the owners. In this case, the petitioner has not received any compensation and the entire money might have been deposited by the Land Acquisition Officer with the State Treasury. The petitioner further submits that in the instant case, apart from the delay in implementing the project, the third respondent released portion of lands to the owners from acquisition proceedings and issued no objection certificates to the respective land owners. But, he has been singled out. The petitioner further submits that the third respondent has not utilized the subject matter of lands for the purpose for which it was acquired and thereby they have dropped the scheme. The third respondent neither used the land for the purpose it was acquired nor paid him compensation till date. The petitioner further submits that in various judgments, the Hon"ble Apex Court and this Court have repeatedly held that payment of compensation in respect of the acquired land must be paid at the earliest point of time to the landowners or at least within a reasonable time.

4. The petitioner further submits that recently the Government of India enacted a New Act, viz., Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act 2013 (30 of 2013). Section 24(2) of the said Act reads as under:-

"Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894:-

(a) Where no award under Section 11 of the said land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply: or

(b) Where an award under said Section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in Sub-Section (1), in case of Land Acquisition Proceedings initiated under the Land Acquisition Act, 1894, where an award under the said Section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid in the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provision of this Act.

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under Section 4 of the Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act."

Admittedly, the publication was made in the Government Gazette on 17.07.1980

and Section 6 Declaration published in the Government Gazette dated 26.08.1982 and the possession of the subject matter of the land has not been taken so far and the same remains with him, no compensation has been paid to the petitioner nor the amount of compensation has been deposited in the Court by the Land Acquisition Officer. Therefore, the entire Land Acquisition Proceedings initiated under the Central Act 1894 have lapsed in view of non compliance of Section 24(2) of the New Act. The petitioner has already sent a representation on 20.02.1992 to exclude his lands from the acquisition proceedings and the adjacent lands to his lands have been excluded from the acquisition proceedings. Even though after the passing of the order in W.A. No.1115 of 1995, dated 27.11.1995, the respondents neither taken any steps to make the compensation nor re-conveyed the lands to the petitioner. The respondents are duty bound to consider his representation in accordance with law as expeditiously as possible but they are not doing so for the reasons best known to them. Therefore, the petitioner has filed the above writ petition.

5. The second respondent has filed a counter statement and opposed the above writ petition. The second respondent submits that the third respondent, the Executive Engineer and Administrative Officer, TNHB, Erode Housing Unit, Erode has applied for the acquisition of an extent of 4.41.0 Hectares of land in Erode Village, Erode Taluk in his Ref.L.A.1/1/79, for the construction of houses under LIG/MIG/HIG Scheme. An extent of 1.50 acres in S.F. No.1251/1-B belonged to the petitioner land also included in the above 4.41.0 Hectares in the proposed acquisition of land. The second respondent further submits that the Government in their G.O. Ms.No.918, Housing and Urban Development Department dated 17.07.1980 have approved the Draft notification under Section 4(1) of the Land Acquisition Act and it was published as a single notification No.II(2)/HOU/4767/82 at Page 9 of the Supplement to Part II Section 2 of the Tamil Nadu Government Gazette dated 29.10.1980. The second respondent further submits that the enquiry under Section 5-A of the Land Acquisition Act was conducted by the Land Acquisition Officer on 20.12.1980. All the landowners have appeared for enquiry and objected for the proposed acquisition. The objection of the landowners were communicated to the Executive Engineer & Administrative Officer, Tamil Nadu Housing Board, Erode for remarks. The Executive Engineer & Administrative Officer, in their letter No.L.A.1/1/79, dated 10.06.1981 has stated that the lands proposed for acquisition are absolutely required for the comprehensive Housing Scheme and objections are common in nature and negligible. The remarks of the Executive Engineer and Administrative Officer, were communicated to the landowners on 29.06.1981. The objections and remarks of the Executive Engineer and Administrative Officer, were examined by the Special Tahsildar, (L.A) Housing Scheme and 5A(2) proceedings issued orders overruling the objections. The second respondent further submits that the Government have approved the draft declaration under Section 6 of the Land Acquisition Act in G.O. Ms.No.860, Housing and Urban Development Department dated 20.08.1982 published in Tamil Nadu Government Gazette No. 35-C on

08.09.1982 at Page No. 14 and 15 of Part II Section 2. The draft direction under Section 7 of the Land Acquisition Act was approved in Govt.Lr.No.10994/G.2/83-1 Housing and Urban Development Department dated 11.03.1983 and it was published at Page Nos. 2 and 3 of the Tamil Nadu Government Gazette No. 12-A, dated 30.03.1983.

6. The second respondent further submits that the award enquiry was posted to 16.09.1986. Notice to persons interested under Section 9(1) and 10 of the Act were published by Tom on 01.09.1986. The notices under Section 9(3) and 10 of the Act were served to the landowners on 01.09.1986. The award was passed by the Special Tahsildar (LA) Housing Scheme on 22.09.1986 vide award No. 9/86. The award amount of Rs.2,07,585/- was deposited in the Erode Sub Court under Section 31(2) of the Land Acquisition Act and possession of the land was taken over by TNHB on 06.10.1989. The second respondent further submits that the petitioner and others had already filed a writ petition in W.P. No.16676 of 2000 before this Court to quash the impugned proceedings of the first respondent in his Lr.No.7751/LA3(1)/97-18, dated 07.08.2000 and consequently direct the respondents to re-convey the petitioner's land situated in Erode Village in S.F. No.1251/1-B measuring to the extent of 5881 sq.mtrs. (or) 1.45 acres to the petitioner. The above writ petition was dismissed by this Court on 16.07.2010. Hence, this petitioner has filed a Writ Appeal in W.A. No.1565 of 2010 before the Division Bench of this Court to grant an interim stay of the impugned order of the first respondent dated 07.08.2000 in proceedings No. 7551/LA.3(1)-97-18 and the Writ Appeal is pending.

7. The second respondent further submits that the petitioner's land in S.F. No.1251/1-B measuring an extent of 1.50 acres was acquired under Land Acquisition Act by the Special Tahsildar, the Land Acquisition Officer vide award No. 9/86, dated 22.09.1986. The possession of the land was handed over to Tamil Nadu Housing Board on 06.10.1989. The possession of the said land vested with Tamil Nadu Housing Board. The second respondent further submits that the petitioner's land was notified under Section 4(1) of the Land Acquisition Act in G.O. Ms.No.918, HUDD dated 17.07.1980. The draft declaration under Section 6 of the Land Acquisition Act was approved by the Government on G.O. Ms.No.860 HUDD dated 26.08.1982. The second respondent further submits that the petitioner's subsequent representations dated 20.02.1997 and 11.03.1998 to release the lands from acquisition proceedings was considered by the first respondent and passed the suitable rejected order in its proceedings No. 7751/LA.3(1)/97- 18, dated 07.08.2000. Further, it is submitted that this Court's order dated 04.09.1995 in W.P. No.12027 of 1995 ordered that the petitioner has no right to comply with the Government to withdraw from the acquisition. The power of Government under Section 48 of the Land Acquisition Act is in unilateral power available to the Government which can be exercised in the interest of the public. It is not intended to confer a right on the land owner to have a second round of litigation and maintain a challenge against the very same proceedings for acquisition. The decision of the Government not to withdraw the land from

the acquisition cannot be faulted merely on the ground that it had excluded the lands belonging to others. Further, public purpose still exists in regard to the land under reference for economic weaker section of people as per Tamil Nadu Housing Board version. Therefore, this Court dismissed the writ petition on merits.

8. The second respondent further submits that the petitioner and others have filed W.P. No.16676 of 2000 before this Court to quash the impugned proceedings of the first respondent in his letter No. 7751/L.A.3(1)97-18, dated 07.08.2000 and direct the respondents to reconvey the petitioner's land situated in Erode C Village 1251/1-B measuring to the extent of 5881 sq.m to the petitioner. This Court dismissed the writ petition in W.P. No.16676 of 2000, dated 16.07.2010. The second respondent further submits that the petitioner stated that certain lands comprised in Survey Nos. 1239, 1238, 120, 1241, 1243, 1244 are quashed by the Land Acquisition Proceedings by this Court. The Survey Nos. 1247 and 1249/1,2,3 measuring an extent of 5.52.0 hectares only reconveyed by the first respondent dated 17.05.1993 after the careful consideration on the ground that they are cultivable lands from generation to generation as they are socially backward persons and if the lands are acquired for Housing Scheme they will be virtually on the street seeking for livelihood. Further, it is submitted that the decision of the Government not to withdraw the land acquisition cannot be faulted merely on the ground that it had excluded the lands belonging to others. But the petitioner land is essentially required to form a comprehensive housing scheme at Kollampalayam. Hence, the first respondent have rejected the petitioner's request for deletion of land from acquisition proceedings. The stage of the acquisition proceedings details as follows in the above said proposed Land Acquisition Scheme:-

Further, it is submitted that the possession of taken land measuring an extent of 30.02 acres were utilized for TNHB schemes as follows:-

The petitioner's land falls in the Kollampalayam SMT Scheme. The second respondent further submits that the petitioner's land in S.F. No.1251/1B measuring an extent of 0.98.0 Hectares (2.42 acres) was acquired under LA Act vide award No. 9/86 dated 22.09.1986. The due compensation amount Rs.2,07,585.40 for the above said land was ordered to be deposited in civil Court under Section 31(2) of Land Acquisition Act. The said amount was deposited in Erode Sub-Court. The second respondent further submits that the petitioner's land has already been included in the comprehensive layout plan prepared for implementation Kollampalayam SMT Scheme at Erode District. The layout plan was approved by the Director of Town & Country Planning vide DTCP No. 1512/92 in the above approved layout plan. Now, the above said site was proposed for the construction of 25 Middle Income Group Houses. The layout plan was also approved by the Chief Engineer, Tamil Nadu Housing Board, vide T.P. No.31/2008. So it is said that the petitioner's land in S.F. No.1251/1-B measuring an extent of 1.50 acres is essentially needed for implementation of

Housing Scheme at Kollamplayam, Erode District. As per the award No. 9/86, dated 22.09.1986, the due compensation amount of Rs.2,07,585.40 for the above acquired land was ordered to be deposited in civil Court under Section 31(2) of Land Acquisition Act.

9. The second respondent further submits that the compensation amount of Rs.2,07,585.40 for acquired petitioner land was deposited in civil Court under Section 31(2) of Land Acquisition Act. The second respondent further submits that the petitioner's land in S.F. No.1251/1-B, measuring an extent of 0.98 Hectares was acquired under Land Acquisition Act by the Special Tahsildar, Land Acquisition Housing Scheme vide award No. 8/86, dated 22.09.1986. The compensation amount of Rs.2,07,585.40 was deposited in civil Court under Section 31(2) of Land Acquisition Act. The possession of the land was taken over by Tamil Nadu Housing Board on 06.10.1989. The second respondent further submits that the petitioner's land was acquired under Land Acquisition Act vide award No. 9/86, dated 22.09.1986. The due compensation amount of Rs.2,07,785.40 was deposited in Sub Court, Erode under Section 31(2) of Land Acquisition Act. The second respondent submits that the petitioner's land is essentially needed for Housing Scheme. Hence, the respondents have rejected the petitioner's request for exclusion of land from the Land Acquisition Proceedings. The second respondent further submits that the acquired land has to be utilized for the purpose for which it was acquired. The second respondent further submits that the acquisition proceedings are a valid one. The second respondent further submits that the petitioner's land was acquired under Land Acquisition Act during year of 1986. The due compensation amount was also deposited in civil Court under Section 31(2) of Land Acquisition Act. The second respondent further submits that the land in S.F. No.1251/1-B measuring an extent of 1.50 acres situated in Erode Village, Erode Taluk and Erode District is essentially needed to form a comprehensive Kollampalayam Housing Scheme at Kollampalayam at Erode. Further, it is submitted that the request of the petitioner to exclude his land from acquisition proceedings was already rejected by the first respondent in its letter No. 7751/LA 3(1)/97-18, dated 07.08.2000. Hence, the second respondent entreats the Court to dismiss the above writ petition.

10. The third respondent / Housing Board has filed a counter statement, which is similar to the counter statement filed by the second respondent and resisted the above writ petition. The third respondent in his counter additionally submits that the compensation amount of Rs.2,07,585.40 for acquired petitioner land was deposited in civil Court under Section 31(2) of Land Acquisition Act. The scheme proposal for construction of 25 Middle Income Group Houses was submitted to the Board approval vide Lr.No.SCE/16/2014 dated 10.04.2014 to a value of Rs.1498.00 Lakhs. The third respondent further submits that the petitioner's land in S.F. No.1251/1-B, measuring an extent of 0.98 hectares was acquired under Land Acquisition Act by the Special Tahsildar, Land Acquisition Housing Scheme vide award No. 9/86, dated 22.09.1986. The compensation amount of

Rs.2,07,585.40 was deposited in civil Court under Section 31(2) of Land Acquisition Act. The physical possession of the land was taken over by Tamil Nadu Housing Board on 06.10.1989. A comprehensive layout plan has been prepared by the Tamil Nadu Housing Board for the petitioner acquired land with other surrendering acquired land to a total measuring an extent of 26.24 acres for implementation of Kollampalayam Small and Medium Town Scheme for 516 total houses construction of Low Income Group, Middle Income Group and Higher Income Group Houses during the year of 1992. The third respondent further submits that the layout plan was also approved by the Director of Town and Country Planning Authority vide DTCP No. 1512/1992. In the approved layout plan part of the petitioner and in S.F. No.1251/1-B earmarked and land bank purpose reservation. As per the above approved layout plan, the TNHB has taken up a Housing Scheme for 516 total houses construction of Low Income Group, Middle Income Group, Higher Income Group and constructed and allotted to the general public. The reserved land bank area in the approved layout plan had to be handed over to the Slum Clearance Board for development of plots to the economically weaker section people as per their norms. Subsequently, the Tamil Nadu Housing Board in its circular dated 19.06.2006 has instructed to not to handover the such department. Now, the above said site was proposed to utilize for the construction of 25 Middle Income Group Houses. Necessary Scheme proposal was submitted to the Board's approval vide Superintending Engineer, Salem Circle, Coimbatore vide Lr.No.SCE/16/2014 dated 10.04.2014 to value of Rs.1498.00 Lakhs. This Court dismissed the above writ petition No. 16670 of 2000 on 16.07.2010. The third respondent further submits that the petitioner's land was acquired under Land Acquisition Act vide award No. 9/86, dated 22.09.1986. The due compensation amount of Rs.2,07,785.40/- was deposited in Sub Court, Erode, under Section 31(2) of Land Acquisition Act. The physical possession of the land was taken over by Tamil Nadu Housing Board, on 06.10.1989.

11. The third respondent further submits that the petitioner's land is essentially needed for Housing Scheme. Hence, the respondents have rejected the petitioner's request for exclusion of land from the Land Acquisition Proceedings. The petitioner's land is reserved as land bank purpose in the approved layout plan of DTCP No. 1512/92. Now, the above said site was proposed to utilize for the construction of 25 Middle Income Group Houses. Necessary Scheme proposal has been submitted to the Board for approval. The third respondent further submits that the acquired petitioner's land has to be utilized for the purpose for which it was acquired. The third respondent further submits that the acquisition proceedings are a valid one. The third respondent further submits that the petitioner's land was acquired under Land Acquisition Act during year of 1986. The due compensation amount was also deposited in civil Court under Section 31(2) of Land Acquisition Act. The physical possession of the land was taken over by Tamil Nadu Housing Board on 06.10.1989 and further it is submitted that the petitioner's land has already been utilized for Tamil Nadu Housing Board

Kollampalayam SMT Scheme during the year of 1992. The petitioner's land was reserved for Land Bank purpose in the approved DTCP approved layout plan No. 1512/1992. The third respondent further submits that the land in S.F. No.1251/1-B measuring an extent of 1.50 acres situated in Erode Village, Erode Taluk and Erode District is essentially needed to form a comprehensive Kollampalayam Housing Scheme at Kollampalayam at Erode. Further, it is submitted that the request of the petitioner to exclude his land from acquisition proceedings was already rejected by the first respondent in its letter No. 7751/LA 3(1)/97-18, dated 07.08.2000. Hence, the third respondent entreats the Court to dismiss the above writ petition.

12. The highly competent counsel Mr.N.Suresh Kumar appearing for the petitioner submits that the petitioner has inherited the property from his ancestors. The said land is classified as agricultural lands. The second respondent herein has initiated Land Acquisition Proceedings for acquiring the petitioner's land under the Old Act in the year 1980. Subsequently, Section 6 declaration was published in the Government Gazette in the year 1982. From the date of notification and as of now, the petitioner is in physical possession and enjoying the same without any interference. After 10 years from the date of declaration, i.e., in the year 1992, the petitioner made a representation to release his land from the Acquisition Proceedings. The same was not considered by the respondents. Further, the neighbouring lands were acquired by the respondents and their lands were discharged from the acquisition proceedings. The same was not considered by the respondents. Further, the neighbouring lands were acquired by the respondents and their lands were discharged from the acquisition proceedings on their representations. The petitioner is also entitled for the same relief. The petitioner is a small farmer and he and his family members are depending upon the said lands for their livelihood by doing cultivation. The highly competent counsel appearing for the petitioner further submits that the compensation has not been paid to the petitioner and the lands have not been delivered to the respondents. Therefore, the petitioner is entitled for relief under Section 24(2) of the New Act. Hence, the highly competent counsel appearing for the petitioner entreats the Court to allow the above writ petition.

13. The highly competent Additional Government Pleader Mr.M.S. Ramesh appearing for the respondents 1 and 2 submits that the third respondent herein had initiated Acquisition Proceedings under the Old Act for acquiring the petitioner's land and adjacent lands, which are belonging to others, for neighbourhood scheme. After observing necessary formalities, the said lands were acquired and award has been passed in the year 1986 itself. The acquired land was taken over by the Tamil Nadu Housing Board, the third respondent herein on 06.10.1989. The compensation amount had been deposited and possession was taken and therefore, the above writ petition is not maintainable. The petitioner and others have filed a writ petition with a prayer to re-convey the said land and the same was dismissed. Therefore, on the same cause of action, the writ petition has been filed. Further, the petitioner made representations to

the respondents to release the said lands from the Land Acquisition Proceedings. The same was rejected after a comprehensive enquiry. Therefore, at this juncture, the petitioner's prayer is not maintainable. Further, some of the landowners have challenged the said acquisition proceedings before this Court and challenged the said notification. The same was allowed and the lands to an extent of 5.52.0 hectares were discharged from the Acquisition Proceedings. However, the petitioner's land is absolutely necessary for the Neighbourhood Scheme and hence, it could not be discharged from the Acquisition Proceedings.

14. The highly competent Additional Government Pleader appearing for the respondents 1 and 2 further submits that the respondents had acquired the lands to an extent of 42.72 acres, out of them 30.02 acres were utilized by the Housing Board for Neighbourhood Scheme. Further, the petitioner's land was acquired for construction of 43 LIG houses. Under the circumstances, the petitioner's acquired land cannot be discharged from the acquisition proceedings. For constructing the said houses, the petitioner's lands are absolutely necessary. The compensation amount for the said lands which was a sum of Rs.2,07,585.40 was deposited into civil Court. Therefore, after depositing the said amount, the possession was taken. Hence, the highly competent counsel entreats the Court to dismiss the above writ petition.

15. The very competent counsel Mr. R.V. Babu, appearing for the third respondent submits that the petitioner's lands and the lands of others were acquired for the construction of houses under LIG, MIG and HIG Schemes. The said constructions are to be put up on the petitioner's land and lands of others, to an extent of 4.41.0 Hectares. Further, for acquiring the said lands, all the necessary legal formalities have been absolutely followed. The possession was taken over by the Tamil Nadu Housing Board on 06.10.1989. The layout plan has been prepared and approved by the Chief Engineer, Housing Board. The petitioner has made representation for re-conveying the said lands and the same was rejected on the ground that the land was acquired for the housing scheme in order to provide houses to the weaker sections under LIG Scheme. The highly competent counsel further submits that for the proposal of the scheme, Rs.1498 lakhs have been sanctioned on 10.04.2014. Therefore, now the Government is going to implement the scheme immediately.

16. From the above discussions, this Court is of the view that:-

(i) The Land Acquisition Proceedings had been initiated in the year 1980. Now, the third respondent / Housing Board has proposed for construction of 25 MIG houses. Further, there is a good demand expected for individual houses. The scheme is prepared based on the current year PWD Schedule of rate 2013-2014. The total scheme cost works out to Rs.1498 Lakhs. The scheme proposal is submitted for demand assessment and administrative approval of the Board after a lapse of 34 years, it is now that the Housing Board has submitted, a proposal for executing the housing scheme. The approval statement discloses that there is good demand expected for individual houses. The language for drawing a

settlement is business oriented but not service oriented to the general public.

(ii) Some of the landowners have challenged the said notification before this Court by way of writ petition and the same was allowed and the Land Acquisition Proceedings pertaining to lands comprised in Survey Nos. 1239, 1238, 120, 1241, 1243 and 1244 are quashed. Accordingly, in order to avoid indiscrimination/inequality, the petitioner is entitled for similar remedy since he is also a poor farmer owing a portion of land to an extent of 1.50 acres comprised in Survey No. 1251/1-B at Kollampalayam Village.

(iii) The Housing Scheme can be established anyway at available sites. The agricultural purpose is of more importance than that of the housing scheme. The Housing Schemes can be arranged anywhere, but the agricultural land tilled over the centuries cannot be replaced. Therefore, the petitioner's land cannot be disturbed in any manner.

(iv) The Housing Board has only now submitted a proposal dated 10.04.2014 for constructing houses. These Land Acquisition Proceedings and assessment of compensation are only by paper processing. If this Court discharges the petitioner's land from the acquisition proceedings, the respondents/Government will not be put into hardship. At the same time, the land belongs to the petitioner is permitted to acquire then, the petitioner will be put into hardship and his entire livelihood terminated overnight.

(v) As on date, the petitioner has not received compensation from the respondents for his land. The original purpose for acquiring the petitioner's land and the lands of others for establishing the Neighbourhood Scheme at once and after a lapse of around 34 years, the Scheme had not been established. Therefore, the acquisition proceedings has been defeated.

17. Considering the facts and circumstances of the case and arguments advanced by the learned counsels on all sides and this Court's view listed above (i) to (v), the above writ petition is allowed. Consequently, this Court declares the Land Acquisition Proceedings initiated under Section 4(1) of the Land Acquisition Act, 1894 in respect of land measuring an extent of 1.50 acres in Survey No. 1251/1B at Kollampalayam Village, Erode Taluk and District, has lapsed in view of Section 24(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act 2013 (30 of 2013). As such, the petitioner's land is discharged from the acquisition proceedings.

18. In the result, the writ petition is allowed. There is no order as to costs.