
(1999) 07 MAD CK 0067

In the Madras High Court

Case No : Writ Petition No's. 10013, 14157 to 14160 of 1992 and etc., batch

Shanmugadurai

APPELLANT

Vs

State of Tamil Nadu and others

RESPONDENT

Date of Decision : 06-07-1999

Acts Referred:

Cantonments Act, 1924 — Section 12(3)
Constitution of India, 1950 — Article 14
Land Acquisition Act, 1894 — Section 4(1)
Tamil Nadu State Housing Board Act, 1961 — Section 70
Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 — Section 5
Town and Country planning Act, 1971 — Section 17, 26, 27, 28, 36

Citation : (1999) 2 CTC 522 : (2000) WritLR 502

Hon'ble Judges : P. Sathasivam, J

Bench : Single Bench

Advocate : Mr. G. Masilamani, for M/s. S. Subbiah, Miss. Uma Venkataraman for Mr. A. Subramania Iyer, Mr. N.K. Krishna Mitra, for the Appellant; Mr. V. Selvanayagam Government Advocate, Mr. Govindarajan Advocate, for the Respondent

Judgement

1. Since the issue in all the writ petitions is one and the same, they are being disposed of by the following common Order. Aggrieved by the land

acquisition proceedings initiated by the respondents for a public purpose, namely, for development of residential and commercial neighbourhoods

on both sides of Inner Ring Road to ensure and to regulate orderly development under the project known as Land Assembly and Development

Project along Inner Ring Road, the petitioners have approached this Court by way of the present writ petitions. For the convenience, I shall refer

the fact narrated in W.P.No. 10013 of 1992. According to him, the petitioners are owners of the lands bearing R.S.No. 703 to an extent of

0.43.5 an hectare, 766/1 to an extent of 0.31.5 hectare, 766/2 to an extent of

0.27.5 hectare, 779/1 to an extent of 0.33.0 hectare, 799/2 to an extent of 0.33.5 hectares and 759 to an extent of 0.58.5 totalling 2.27.5 hectares etc., in Madhavaram village, Saidapet Taluk, Chengalpattu

District. The said lands are all agricultural lands under the personal cultivation of the petitioners.

2. While being so, the Government issued a notification u/s 4(1) of the Land Acquisition Act (hereinafter referred to as "the Act"), as if that the said

lands are needed for a public purpose to wit for Land Assembly and Development Project along Inner Ring Road by Madras Metropolitan

Development Authority in G.O.Ms.No. 958, Housing and Urban Development dated 10.6.1991 published in the Tamil Nadu Government Gazette

dated 26.6.91 and appointed the 2nd respondent herein to perform the functions of the Collector u/s 5-A of the Act . The second respondent

issued a notice dated 21.8.1991 in Form 3-A for an enquiry u/s 5-a of the Act to be held on 18.9.1991. The petitioner participated in the enquiry

and submitted his written explanation, through his counsel, objecting to the acquisition on several grounds. Their objections were forwarded to the

requisitioning authority, and in turn the requisitioning authority filed a general remark dated 21.11.91. The second respondent by his proceedings

dated 5.5.92 recommended to the Government for the acquisition of the entire lands covered under the notification except a small extent of 0.54.5

hectares being the excess land taken from that owner under the provisions of Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978.

Thereafter, the Government have issued a declaration u/s 6 of the said Act that the lands are needed for the alleged public purpose, and issued a

notification under G.O.Ms.No. 412 Housing and Urban Development (UD III (1)) Department dated 3.7.92. The entire acquisition proceedings

are completely vitiated irregular, erroneous, illegal, invalid, unconstitutional and contrary to the provisions of the Act; accordingly they approached

this Court as stated above.

3. On behalf of the respondents 1 and 2, Joint Secretary to Government, Housing and Urban Development Department, Madras-9 has filed a

counter affidavit wherein it is stated that the Madras-Metropolitan Development Authority has requisitioned for acquisition for an extent of 33.16

acre 13.42.0 of wet lands in S.No. 702/1 etc., of Madhavaram village, Saidapet

Taluk, Chengalpattu District to wit for residential and commercial neighbourhoods on both sides of Inner Ring Road to ensure and to regulate orderly development under the project known as Land Assembly and Development Project along Inner Ring Road. After approval, the Government have issued a Notification u/s 4(1) of the Act in the Tamil Nadu Government Gazette dated 26.6.91. The same was also published in the Tamil Dailies "Makkal Kural" and "Malai Malar" dated 26.6.91. and in the locality on 4.7.91 and 5.7.91. The notice calling for the petitioner to attend enquiry u/s 5-A of the Act was served on 26.8.91. The petitioner appeared for the enquiry on 25.9.91, and filed a written statement objecting to the acquisition. The objections of the petitioner was communicated to the requisitioning body for their remarks and the latter sent their remarks dated 21.1.91 on the objection petition. The remarks offered by the Madras Metropolitan Development Authority was communicated to the petitioner for further enquiry under Rule 3(b) of the Rules. Further enquiry under Rule 3(b) was conducted on 10.3.92. The remarks of the requisitioning body and the objection petitions filed by the petitioner were carefully examined and finally it was decided to recommend to Government to over-rule the objections and to approve the Draft Declaration u/s 6 of the Act. The Government approved the declaration in order dated 3.7.92 and it was published in the Government Gazette dated 3.7.92. It is stated that the land acquisition proposals have been initiated after observing all the usual formalities as stipulated in the Act. It is further stated that the purpose for which the lands are required is for a public purpose to wit for Land Assembly Development Project along the Inner Ring Road by Madras Metropolitan Development Authority. Since the Madras Metropolitan Development Authority has got definite plans and programmes for the projects before requisitioning for the acquisition of lands, all other contentions raised cannot be accepted. The Madras Metropolitan Development Authority has got plans and programmes to utilise the lands under the Projects for the welfare of the general public. The Government have also carefully examined the proposals before giving its approval for acquisition of wet lands. With these averments, they prayed for dismissal of the writ petition.

4. The requisitioning body, namely, Madras Metropolitan Development Authority

was impleaded as necessary party for the disposal of the writ

petition. In the affidavit filed in support of the stay vacate petition in W.M.P.No. 14487 of 1992, it is stated that the Madras Metropolitan

Development Authority is a statutory body created under the Statute, namely, Town and Country Planning Act to ensure orderly development of

Madras City. According to Section 17 of the Town and Country planning Act, all the major roads, arterial roads, etc., have to be planned by the

Authority and the same shall be implemented by the Government Agencies. To de-congest the Madras City Traffic, the Madras Metropolitan

Development Authority has planned and formed the Inner Ring Road. After formation of the road, there must be an orderly development and such

developments, unless carried out by the Government, it would become disorder and irregular. On both sides of the Inner Ring Road, it requires an

orderly development for which the lands are to be required. It is further stated that the Land Assembly and Development Project and the Inner

Ring Road are the 8th Five Year Plan and the same was approved by the Government. The main purpose of the Scheme is for development of

residential and commercial neighbourhoods along with Inner Ring Road to ensure and to regulate orderly development and to avoid speculation of

land by private developers. The lands on both sides of Inner Ring Road have to be developed in accordance with the plan prepared by Madras

Metropolitan Development Authority. The object of acquisition is that there shall not be any further problem in future for the expansion of roads or

formation of the roads connecting to the main road, sanitation, sewage, water pipe lines etc. The project was approved by the Government and it

is known as Land Assembly and Development Project.

5. In the light of the above pleadings, I have heard Mr.G. Masilamani, learned senior counsel for the writ petitions and Mr. V. Selvanayagam,

learned Government Advocate for respondents 1 and 2 as well as Mr.M.S. Govindarajan Advocate for 3rd respondent.

6. After taking me through the various averments in the affidavit as well as Notification u/s 4(1) and Declaration u/s 6 of the Act, Mr. G.

Masilamani, learned senior counsel for the petitioners, raised the following contentions: (i) The respondents have adopted the policy of pick and

choose; accordingly their action is violative of Article 14 of the Constitution of

India;

(ii) The purpose mentioned in the 4(1) Notification, namely, "'Land Assembly and Development Project'" is very vague and the Government cannot

substitute or explain the purpose in the counter affidavit;

(iii) In view of the vagueness in the public purpose, the petitioners have lost their opportunity to participate in the 5-A enquiry effectively;

(iv) The Government cannot use the Land Acquisition Act to peg the prices of the lands; and

(v) In the light of section 36 of the Town and Country Planning Act, 1971 and in the absence of any Master plan, Scheme and Procedure, they

cannot acquire the lands of the petitioners by using the Land Acquisition Act.

7. On the other hand, learned Government Advocate after taking me through the various averments in the counter affidavit, would contend that the

public purpose mentioned in the Notifications is clear and precise; accordingly, the same is valid. He also contended that only on the basis of the

acceptable reason or reasons certain lands have been omitted. He further contended that the respondents have fully complied with all the

mandatory provisions of the Act and the Rules; accordingly prayed for dismissal of all the writ petitions.

8. I have carefully considered the rival submissions.

9. It is seen from the records that the Madras Metropolitan Development Authority (in short M.M.D.A.), third respondent in the writ petitions, has

requisitioned for acquisition of an extent of 33.16 acres of wet lands in S.No. 702/1 etc., of Madhavaram village, Saidapet Taluk, Chengalpattu

M.G.R. District to wit for residential and commercial neighbourhoods on both sides of Inner Ring road to ensure and to regulate orderly

development under the project known as Land Assembly and Development project along Inner Ring Road. The lands requisitioned include the

petitioners' lands in Madhavaram village, Saidapet Taluk. After accepting the request of the M.M.D.A., the Government have issued Notification

u/s 4(1) of the Land Acquisition Act 1894 (Central Act) (hereinafter referred to as "'the Act'") in G.O.Ms.No. 958, Housing and Urban

Development dated 10.6.91. The said Notification was published in the Tamil Nadu Government Gazette dated 26.6.91. The same was also

published in the Tamil Dailies "Makkal Kural" and "Malai Malar" dated 26.6.91

and in the locality on 4.7.91 and 5.7.91. Notices calling for the petitioners to attend enquiry u/s 5-A of the Act were served on them and they appeared for the enquiry and also filed their written objections to the acquisition. There is no dispute that their objections were forwarded to the requisitioning body, namely, M.M.D.A., for their remarks and the said M.M.D.A., in turn sent their remarks on 21.1.91 on the objections of the land owners. The same was communicated to the petitioners for further enquiry under Rule 3(b) of the Rules framed under the Act. The further enquiry under Rule 3(b) was conducted on 10.3.92 and on different dates.

It is the definite case of the respondents that the objection petitions filed by the petitioners at the time of the enquiry u/s 5-A, the remarks of the requisitioning body, namely, M.M.D.A the further objection petitions filed by the petitioners at the time of Rule 3(b) enquiry were carefully examined and finally it was decided to recommend to the Government to over-rule the objections and approve the Draft Declaration u/s 6 of the Act. The Government approved the Declaration in G.O.Ms.No. 412, Housing and Urban Development Department dated 3.7.92 and the same was published in the Tamil Nadu Government Gazette dated 3.7.92, and in the Tamil Dailies ""Thina Thoodhu"" and ""Vetri Malai"" dated 4.7.92 as well as in the locality on 3.7.92. At this stage the petitioners have approached this Court challenging the acquisition proceedings. Regarding the first contention that the respondents have selected the lands of the petitioners and omitted several lands from the purview of the acquisition proceedings, learned senior counsel for the petitioners, by relying on the sketch showing Madhavaram village (finds place at page 67 of the typed-set of papers), would contend that the petitioners alone were singled out; hence it is violative of Article 14 of the Constitution of India. It is seen from the 5-A proceeding that the very same objections were raised before the second respondent. The said Authority, after considering the object of the project, informed the petitioners that the lands of the petitioners are required for development of residential and commercial neighbourhoods on both sides of Inner Ring Road to ensure and to regulate orderly development. It is also clear that all these lands are very much required for the said Scheme and the same cannot be excluded from the acquisition, even though certain lands have been excluded from the purview of the

acquisition. In view of the fact that the lands under acquisition are required for the implementation of the Scheme, non-exclusion of their lands

cannot be assailed as discriminatory, more particularly when the lands were practically required for proper implementation of the Scheme and its

exclusion would frustrate the entire Scheme. In such circumstances, it cannot be assailed that the same is violative of Article 14 of the Constitution

of India; accordingly I reject the said contention.

10. As regards the second contention that the purpose mentioned in the 4(1) Notification is vague, 4(1) Notification approved by the Government

in G.O.MsNo. 958, Housing and Urban Development Department dated 10.6.91, was published in the Government Gazette on 26.6.91. The said

Notification is as follows:

(G.O.Ms.No. 958, Housing and Urban Development, 10th June, 1991.)

No. II (2)/HOU/3620/90 - Whereas, it appears to the Government of Tamil Nadu that the lands specified below and situated in No.30,

Madhavaram village in Saidapet Taluk, Chengai Anna District are needed for a public purpose, to wit, for ""Land Assembly and Development

Project"" along Inner Ring Road by Madras Metropolitan Development Authority, notice to that effect is given to all to whom, it may concern in

accordance with the provisions of sub- section (1) of section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894);

Now, therefore, in exercise of the powers conferred by sub- section (2) of Section 4 of the said Act, the Government of Tamil Nadu hereby

authorises the Special Deputy Collector (Land acquisition), Madras Metropolitan Development Authority, Egmore, Madras-8, his staff and

workmen, to exercise powers conferred by the said sub-section; and, under clause (c) of section 3 of the said Act, the Governor of Tamil Nadu

hereby appoints the Special Deputy Collector (Land Acquisition), Madras Metropolitan Development Authority, Egmore, Madras-8, to perform

the functions of a Collector u/s 5-A of the said Act.

Chengai-Anna district, Saidapet taluk, No.30, Madhavaram village.

(The extent given is approximate.)

XX XX XX

XX XX XX

Total-13.42.0 hectares (33.16 acres).

V. Chandralekha,

Secretary to Government.

It is clear from the said Notification that the lands are needed for a public purpose to wit for Land Assembly and Development Project along Inner

Ring Road by the M.M.D.A. Mr.G. Masilamani, learned senior counsel for the petitioners, pointed out that the project namely ""Land Assembly

and Development Project"" is very vague and not clear, and in view of the vagueness, the petitioners had lost their opportunity to putforth their

contentions effectively in the enquiry u/s 5-A of the Act. He also contended that even though there is an explanation in the counter affidavit filed by

the first respondent, namely, for residential and commercial neighbourhoods on both sides of Inner Ring Road to ensure and to regulate orderly

development under the project known as Land Assembly and Development project along Inner Ring Road, in the absence of those details in the

4(1) Notification and 6 Declaration, they cannot improve their case by mere furnishing those details in the counter affidavit. With regard to the

contention that the Notification u/s 4(1) is very vague and not clear, he relied on a Full Bench decision of Andhra Pradesh High Court in the case

of K. Gangaram v. Tahsildar, Metpally, 1983 A.W.R 354. He very much relied on the observation of Their Lordships in para 9 of the decision.

The learned senior counsel also brought to my notice a decision of this Court in the case of Gangadhara Mudaliar v. State of Madras, 1965 (I)

M.L.J. 374. After going through both the above decisions, I am unable to come to a favourable conclusion, particularly in the light of the

contentions raised by the learned senior counsel for the petitioners. With regard to the contention that the public purpose mentioned in 4(1)

Notification is vague, he also cited a Division Bench decision of this Court reported in State of Tamil Nadu v. Mohammed Yousuf, 1990 W.L.R.

235. The very same decisions and the subsequent decisions of the Hon''ble Supreme Court affirming the said decision were over-ruled by the

Hon''ble Supreme Court in the case of State of Tamil Nadu and others etc. Vs. L. Krishnan and others etc., ; accordingly I am of the view that the

learned senior counsel may not be justified in referring the said decision.

11. As regards the contention that it is not open to the Government or the

competent authority to explain by way of clarification in the affidavit or counter affidavit, he cited another decision of Supreme Court reported in Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others, in which Their Lordships have observed as follows:

...When a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be

supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court

on account of a challenge, get validated by additional grounds later brought out..

Mr.G. Masilamani has also relied on a decision in the case of Commissioner of Police, Bombay Vs. Gordhandas Bhanji, for the very same

proposition. He relied on the following passage in para 9 of the decision:

...We are clear that public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently

given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public

authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed

and must be construed objectively with reference to the language used in the order itself.

Absolutely there is no dispute with regard to the said proposition. When the public purpose mentioned in the Notification itself is clear, there is no

need for the Government to give details or explanation in the counter affidavit filed subsequently. Accordingly, the said decisions are not helpful to

the petitioners" case.

12. In order to support his contention that the acquisition proceedings were initiated by the respondents only to peg down the market price of the

acquired land, he very much relied on a Division Bench decision of Punjab and Haryana High Court in the case of Ranjit Kaur and Others Vs.

State of Punjab and Another, . The Division Bench in that decision, after noting that the acquiring authority has not followed the Government

instructions and that the acquisition proceedings have not been completed within the time framed, has arrived at the following conclusion:

The case in hand thus is not only a case of flagrant violation of the above-noted departmental instructions but the totality of facts and

circumstances irrefutably indicate that at the time of the issuance of notification u/s 4 of the Act there was no genuine need of the land sought to be acquired and it was only with a view to peg down the market price of the acquired land to that particular date that the same was issued. In a recent pronouncement by a Full Bench of this Court in *Radhey Sham Gupta and Others Vs. State of Haryana and Others*, it has been ruled that "long unexplained procrastination, either by itself and in any case coupled with other factors clearly tends to prove the lack of bona fides in the exercise of the power of acquisition. If it can be established beyond cavil that the real motivation behind the acquisition was not any specific public purpose and its expeditious execution but was a mere ruse to peg down the prices by an issuance of notification u/s 4 and thus holding the citizens to ransom for years at the whim and caprice of the State to finalise the acquisition proceedings when it chooses (if at all it is so done) is clearly a factor for establishing the colourable exercise of power.

Here, it is to be noted that in our case, the main purpose for which the lands are sought to be acquired is for establishment of residential and commercial neighbourhoods on both sides of Inner Ring Road and to ensure and to regulate orderly development under the project known as Land Assembly and Development project along Inner Ring Road. It is also clear from the information furnished by the first respondent as well as the requisitioning body, namely, M.M.D.A., that the said requisitioning body has chartered out plans and programmes for the project. In other words, the Authority has got definite plans and programmes for the project before requisitioning for the acquisition of the lands at the hands of the Government. The said Authority has got plans and programmes to utilise the Lands under the project for the welfare of the general public. Those proposals have been carefully examined by the Government before giving its approval for acquisition of wet lands. In this regard, the particulars furnished by the requisitioning body/third respondent herein in their affidavit, which explain the importance and need of the project which are as follows:

On both sides of the Inner Ring Road, it requires an orderly development for which the lands are to be required. The Land Assembly and Development Project and the Inner Ring Road are the 8th Five year plan and the

same was approved by the Government. The project envisages

full cost recovery from the beneficiaries and the loan from the Government and financial Institutions that would be repaid on project completion.

The Government's contribution for the project is 200 lakhs and by the Government in G.O.Ms.No. 509, Housing and Urban Development

Department, dated 14.6.90 and letter No. 51813/UD-III (1) 90-2, dated 15.10.90 the Government have the amount of Rs. 200 lakhs. The main

purpose of the Scheme is for development of residential and commercial neighbourhoods along with Inner Ring Road to ensure and to regulate

orderly development and to avoid speculation of land by private developers. About 300 acres of land in Madhavaram, Puzal Villakupattu and

Manjamkuppam, villages have been identified as suitable for acquisition for this project. Based on the Budgetary allocation, it has been decided to

acquire these lands in 3 phases.

Accordingly the said decision is not helpful to the petitioner" case and the contra argument of the learned senior counsel for the petitioners is liable

to be rejected.

13. Regarding the claim that the purpose of acquisition mentioned in 4(1) Notification is vague and the competent authority has not specifically

given the specific purpose for which the land is sought to be acquired, it is useful to refer the recent decisions of the Supreme Court reported in

State of Tamil Nadu and others etc. Vs. L. Krishnan and others etc., and in Ajay Krishan Shinghal, etc. etc. Vs. Union of India and Others, . In

the first decision, namely, State of Tamil Nadu and others etc. Vs. L. Krishnan and others etc., , similar question was considered by the Hon"ble

Supreme Court. In the case before the Supreme Court, the land owners have challenged the acquisition proceedings initiated by the Government

of Tamil Nadu on behalf of the Tamil Nadu Housing Board on various grounds including that the purpose mentioned in the 4(1) Notification is very

vague and they have not framed any Scheme before initiating the acquisition proceedings. It is also contended that unless the purpose interested

would be handicapped in making their effective representations in the enquiry u/ s 5-A. Unless they know for what particular purpose their land is

sought to be acquired, giving them an opportunity to file objections is an empty formality, Where, therefore, the land is acquired for the purpose of

the Housing Board, a final scheme prepared under the Housing Board Act is a condition precedent and that such a scheme is a pre-condition for a

notification u/s 4 of the Land Acquisition Act. They also relied on a decision of the Supreme Court in Mohammed Yousef's case, 1992 AIR SCW

1674. The purpose mentioned in the Notification in those cases is "for the implementation of housing schemes to meet the demands made by

various sectors of the population under "Kalaigal Karunanidhi Nagar Further Extension Scheme". After referring the purpose mentioned in the

Notification as well as relevant provisions from the Tamil Nadu Housing Board Act, particularly after referring section 70 of the Tamil Nadu

Housing Board Act, three Judges Bench of the Hon'ble Supreme Court repelled all the contentions regarding vagueness and non-framing of

Scheme before initiation of acquisition proceedings. Section 70 of the Tamil Nadu Housing Board Act which is similar to Section 36 of the Tamil

Nadu Town and Country Planning Act, 1971. After considering the relevant statutory provisions and the public purpose mentioned in the

Notification, Their Lordships have negated the similar argument, The following discussion and conclusion is very relevant:

35. The next question is whether the public purpose stated in the three notifications concerned is vague. It must be remembered that what is vague

is a question of fact to be decided in each case having regard to the facts and circumstances of that case. By saying that the public purpose in the

said notification is vague what the respondents really mean is not that it is not a public purpose but that since the public purpose is expressed in

vague terms and is not particularised with sufficient specificity, they are not in a position to make an effective representation against the proposed

acquisition.

36. In *Aflatoon and Others Vs. Lt. Governor of Delhi and Others*, , the Constitution Bench dealt with the question whether the acquisition of a

large extent of land for a public purpose, viz., "the planned development of Delhi" was vague, Mathew, J., speaking for the Constitution Bench,

stated that "according to the section it is only necessary to state in the notification that the land is needed for a public purpose" and then added

the wording of Section 5-A would make it further clear that all that is necessary to be specified in a notification u/s 4 is that the land is needed for

a public purpose. One reason for specification of the particular public purpose in the notification is to enable the person whose land is sought to be

acquired to file objection u/s 5A. Unless a person is told about the specific purpose of the acquisition, it may not be possible for him to file a

meaningful objection against the acquisition u/s 5A". The learned Judge then referred to the ratio of *Munshi Singh, Munshi Singh and Others Vs.*

Union of India (UOI), and held, "we think that the question whether the purpose specified in a notification u/s 4 is sufficient to enable an objection

to be filed u/s 5A would depend upon the facts and circumstances of each case.

The learned Judge also referred to the decision in *Arnold Rodricks and Another Vs. State of Maharashtra and Others*, and held:

(1) in the case of the acquisition of a large area of land comprising several plots belonging to different persons, the specification of the purpose can

only be with reference to the acquisition of the whole area. Unlike in the case of an acquisition of a small area, it might be practically difficult to

specify the particular public purpose for which each and every item of land comprised in the area is needed.

37. In *Pt. Lila Ram Vs. The Union of India and Others*, , another Constitution Bench held that the public purpose mentioned in the notification

concerned therein, viz., "for the execution of the Interim General Plan for the Greater Delhi", in specific in the circumstances and does not suffer

from any vagueness. The Court again pointed out that the notification does not pertain to a small plot but a huge area covering thousands of acres

and in such cases, it is difficult to insist upon greater precision for specifying the public purpose because it is quite possible that various plots

covered by the notification may have to be utilised for different purposes set out in the Interim General Plan. Of course, that was a case where the

Interim General Plan was prepared and published by the Government after approval by the Cabinet as a policy decision for development of Delhi

as an interim measure till the master plan could be made ready.

38. The above decisions, and particularly the decision in *Aflatoon and Others Vs. Lt. Governor of Delhi and Others*, do establish that whether the

public purpose stated in the particular notification is vague or not is a question of fact to be decided in the facts and circumstances of each case and

further that where a large extent of land is acquired, it would not be proper to

insist upon the Government particularising the use to which each and every bit of the land so notified would be put to. The three notifications concerned herein, we are told, pertain to about 400 acres in all. The parties have not furnished copies of the notifications in their entirety. Only Sri Ashok Sen has supplied the full text of the notification dated February 19, 1975. It shows that a total extent of ninety seven acres one cent was proposed to be acquired, affecting the holdings of about twenty five persons, some of them holding such small extents of 0.26 or 0.25 acres.

39. So far as the decision in *Munshi Singh and Others Vs. Union of India (UOI)*, decided by the Bench comprising K.S. Hegde, A.N. Grover and D.G. Palekar, JJ, is concerned, it does not contain certain observations supporting the petitioners' contentions but it must be remembered that this decision was referred to and explained in *Aflatoon and Others Vs. Lt. Governor of Delhi and Others*, . In *Aflatoon*, it was stated that whether the public purpose stated in a particular notification is vague or not is a question of fact to be decided in each case and cannot be treated as a question of law. It was also emphasised that where large extents are sought to be acquired for development or similar purposes, it would not be possible to specify how each owner's bit would be utilised-and for what purpose. We are of the respectful opinion that the decision in *Munshi Singh* should be read subject to the explanation and the holding in *Aflatoon and Others Vs. Lt. Governor of Delhi and Others*, which is a decision of a Constitution Bench...

14. The very same question has been once again analysed by the Hon'ble Supreme Court in the case of *Ajay Krishan Shinghal, etc. etc. Vs.*

Union of India and Others, . The relevant conclusion arrived at in para 6 and 7 are as follows:

6. In view of the diverse contentions, the first question that arises for consideration is whether the land in question is needed for a public purpose?

If the finding is held against the State, it would not be necessary to go into the second question. "Public purpose" has been defined in Section 3(f)

of the Act with an inclusive purpose of various developments and extension, planned development and improvement of the village etc. The

controversy is no longer *res integra*. In *Aflatoon and Others Vs. Lt. Governor of Delhi and Others*, , a Constitution Bench of this Court, (Mathew,

J. speaking for the Court) after an elaborate consideration, held that the acquisition for planned development of Delhi is a public purpose. In the case of an acquisition of a large extent of land comprising several plots belonging to different persons, the specification of the purpose can only be with reference to the acquisition of the whole area. Unlike in the case of an acquisition of a small area, it might be practically difficult to specify the particular purpose for which every item of land comprised in the area is needed. Under those circumstances, the acquisition of planned development was held to be for public purpose. It is not necessary to burden the judgment with the development of the law in this behalf. Relevant decisions in this behalf are Smt. Ratni Devi and Another Vs. Chief Commissioner, Delhi and Others, ; Pt. Lila Ram Vs. The Union of India and Others, ; Om Prakash Vs. Union of India (UOI) and Others, : Ram Chand and Others Vs. Union of India (UOI) and Others, ; State of Tamil Nadu v. L. Krishnar, (1996) 1 SCC 250 and Jai Narain and Others Vs. Union of India and Others, . Suffice it to state that when an authority constituted under the Act has initiated the action for acquisition of a large area of land comprising several plots for planned development, the specification of a particular land needed for a specified purpose intended to be undertaken for the development ultimately to be taken up, is not a condition precedent to initiate the action for acquisition and publication of the notification u/s 4(1) of the Act in the Gazette does not get vitiated on account thereof. The reasons are not far to seek. In drawing details, the scheme required detailed examination consistent with plans and ecological balance.

7. Shri Lekhi sought to place reliance on the judgments of this Court in Smt. Somavanti and Others Vs. The State of Punjab and Others, and Khub Chand and Others Vs. State of Rajasthan and Others, . Somavanti's case relates to acquisition for a company and Munshi Singh and Others Vs. Union of India (UOI), was considered and distinguished in Tamil Nadu case, 1995 AIR SCW 4390. Khubchand's case relates to compliance of Section 4(1). So it is not necessary to deal with these cases in detail. Suffice it to state that each case has to be considered on the facts and circumstances of each case. The planned development of Delhi was held to be a public purpose in Aflatoon and Others Vs. Lt. Governor of Delhi

and Others, followed by several judgments including the latest judgment of this court in Jai Narain's case, 1995 AIR SCW 4717. The question

then is: whether the interim General Plan 1956, the Master Plan under the Development Act brought on statute in 1962 w.e.f. 1.9.1962 and further

amended plan in 1990 are required to necessarily specify the purpose for which land is needed vis-a-vis the provisions of the Cantonment Act,

1924. It is true that when acquisition of the land was within the limits specified u/s 4 and declaration u/s 5 of the Cantonment Act, 1924 was

published, the Cantonment Board and the authorities constituted thereunder get the power and jurisdiction to deal with the lands within its

jurisdiction for the development. None of their representatives finds berth in Planning Council under Development Act. Equally, under the

Development Act the Delhi Development Authority and the various authorities constituted thereunder are required to prepare the master plan, the

zonal plan and the area development plan as required for planned development of the land. But one fact that needs to be emphasized and always

kept in mind is that all these are developmental activities to be undertaken subsequent to the acquisition after the land is available. The harping and

insistence on compliance of details by Sri Lekhi from several provisions in various Acts do not need elaborate consideration. As a fact High Court

had done that exercise and in our view in correct perspective obviating. They need for reiteration. Once a public purpose has been specified by the

Governor in the notification and on specification obviate on presumptive satisfaction thereof the Governor issued the Notification as required u/s

4(1); the absence of the specification and further elaboration of the development do not have the effect of rendering the satisfaction reached by the

Governor is illegal and the notification u/s 4(1) published by the Governor in exercise of the power of eminent domain is not rendered void.

Therefore it is not necessary to elaborately deal in detail with the manner in which the development has to be undertaken when the land is situated

within the cantonment area. In fact, Section 12(3)(ii) of the Development Act take care of the development in cantonment area when there would

be a conflict between the authorities under the development Act and the need for prior approval in that behalf of the cantonment, which is a local

authority, for developing land under the Development Act. As a fact, except the land in question, the land in Naraina was developed as per plan.

Under those circumstances, since the High Court has elaborately dealt with this aspect of the matter in the judgment running into 129 pages, we

feel it unnecessary to burden this judgment with further discussion in that behalf. Accordingly, we hold that the notification u/s 4(1) is not vitiated on

account of the fact that planned development was not specified with particularisation of the land in question needed for the public purpose.

15. It is clear that the Hon"ble Supreme Court has upheld the public purpose mentioned in the Aflatoon and Others Vs. Lt. Governor of Delhi and

Others, . In that case, the notification merely says for public purpose viz., ""planned development of Delhi"". This has been held to be a public

purpose in Aflatoon's case followed by several judgments of the Supreme Court. Applying the law laid down by the Apex Court, particularly the

above referred decision, the public purpose mentioned in our case in the 4(1) Notification is ""Land Assembly and Development Project along

Inner Ring Road by Madras Metropolitan Development Authority"" cannot be said to be vague. As observed by Their Lordships, there is no need

to explain every thing in the notification itself. In the light of the legal position mentioned above, all the contentions of the petitioners are liable to be

rejected.

16. Even though learned senior counsel for the petitioners by relying on a decision of the Apex Court in A.R. Antulay Vs. Ramdas Srinivas Nayak

and Another, , contended that the authorities have to proceed only on the basis of the mandate given in the Statute and in the particular manner. I

do not find any deviation by the respondents in implementing the acquisition proceedings.

17. Though it is stated that inspite of Section 36 of the Town and Country Planning Act, 1971 in the absence of specific Master Plan and other

programmes as mentioned in Sections 17, 26, 27, and 28, it is not open to the Madras Metropolitan Development Authority to seek the

Government to acquire lands, in the light of the discussion and conclusion in the above referred decisions of the Hon"ble Supreme Court, the said

contention is also liable to be rejected. Admittedly none of the petitioners have alleged mala fide against the Government or Madras Metropolitan

Development Authority. Even otherwise, as observed by Their Lordships in Bajirao T. Kote (Dead) by Lrs. and Another Vs. State of

Maharashtra and Others, when the State Government have exercised the power u/s 4(1) for a public purpose and the public purpose was

mentioned therein, the exercise of the power cannot be invalidated on grounds of mala fides or colourable exercise of power so long as the public

purpose is shown and the land is needed or is likely to be needed and the purpose subsists at the time of exercise of the power. It is primarily for

the State Government to decide whether there exists public purpose or not, and it is not for the Supreme Court or High Courts to evaluate the

evidence and come to its own conclusion whether or not there is public purpose unless it comes to the conclusion that it is a mala fide or colourable

exercise of the power, that is, the exercise of the power serves no public purpose or its serves a private purpose. Undoubtedly, the purpose

mentioned in the 4(1) Notification is a public purpose since the same is for development of residential and commercial neighbourhoods on both

sides of Inner Ring Road to ensure and to regulate orderly development. Further, all the objections raised by the petitioners were duly considered

with reference to the view expressed by the requisitioning body. In such circumstance, the petitioners cannot have any valid grievance. Further

more the said project was approved by the Government and included in the Eighth Five Year plan and the Government have also contributed

rupees two hundred lakhs for the said project even as early as on 14.6.90.

18. In the light of what is stated above, I am unable to accept any one of the contentions raised by the learned senior counsel for the petitioners

and I also do not find any error or infirmity in the acquisition proceedings; consequently all the writ petitions fail and are accordingly dismissed.

However, there shall be no order as to costs in all the writ petitions. Consequently, all interim orders granted earlier are vacated and all the stay

vacate petitions are dismissed.