
(2014) 11 MAD CK 0039

In the Madras High Court

Case No : Writ Petition Nos. 27597, 27762, 27847 of 2013 and Writ Petition Nos. 1607, 1801, 1802, 1803, 1804, 1805, 2235, 2236, 3460, 3461, 3462, 3463, 3464, 3465, 3466, 3467, 3468, 5395, 5396, 5397, 5398, 5774, 5775, 17467, 17468, 14548, 17549, 17550, 18318, 18319

Sivaprakasam

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 05-11-2014

Acts Referred:

Citation : (2015) 1 CWC 120

Hon'ble Judges : Mr. B. Rajendran, J.

Bench : Single Bench

Advocate : Mr. K. Venkatasubba Raju, Advocate, for the Petitioner in WP Nos. 27597 & 27762 of 2013; Mr. S. Muthuraman, Advocate, for the Petitioner in WP No. 18535 of 2014; Mr. N.R. Chandran, Senior Advocate for Mr. B.S. Jothiraman in all the other writ petitions, for the Petitioner; Mr. AL. Somayaji, Advocate General assisted by Mr. T.N. Rajagopalan, Special Govt. Pleader and Mr. V. Shanmughasundar, Government Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Mr. B. Rajendran, J.—The issues involved in all these writ petitions are inter-connected and inter-related besides common arguments have been advanced in all these cases, therefore, by consent of counsel for both sides, these writ petitions are disposed of by this common order.

2. The petitioners in all the writ petitions herein are owners of agriculture lands measuring various extent situate in Kannankottai and Thervaikandigai Villages, Gummudipoondi Taluk, Thiruvallur District. According to the petitioners, even as early as in the year 2010, there was a proposal made by the respondents to acquire their lands for the purpose of formation of a new reservoir near Kannankottai and Thervaikandigai Villages. Even in the year 2012, officials of the Public Works Department have inspected their lands and informed that they are in the process of acquiring the lands for execution of the project. On 01.04.2012,

a news item appeared in the local newspapers informing that the Government has sanctioned Rs.330 crore's for drinking water reservoir which could store 1 TMC water. Therefore, the petitioners along with others have submitted a representation dated 09.09.2012 and requested to abandon the project as it would affect the livelihood of the entire Villagers. A further representation dated 10.09.2012 was also submitted to the Honourable Minister for Public Works Department to drop the proposal to acquire their lands. While so, after lapse of considerable time, the first respondent issued a notification under Section 4 (1) of The Land Acquisition Act, hereinafter called as The Act, on 29.05.2013 to acquire 7.67.5 hectares of land in Kannankottai Village Block invoking the urgency provisions contained under Section 17 of the Act and to dispense with the enquiry under Section 5-A of the Act. The notification under Section 4 (1) of the Act was also published in the Government Gazzette on 15.07.2013. According to the petitioners, various other notifications in connection with the acquisition of lands have been issued on 29.05.2013, 31.05.2013, 18.06.2013, 15.07.2013, 18.07.2013, 25.07.2013 and 26.07.2013. Therefore, the land owners have jointly submitted a representation on 08.08.2013 to the respondents followed by another representation dated 24.09.2013 suggesting that there are alternative lands on the other side of the lake belonged to the Government i.e., Southern side and those lands could be utilised for the purpose of executing the project. The respondents, without regard to the representations and request made by the land owners have proceeded further to implement the project. Therefore, the petitioners have come forward with the present writ petitions.

3. Mr. N.R. Chandran, learned Senior Counsel appearing for most of the petitioners in the writ petitions, would vehemently contend that invocation of urgency provision as contemplated under Section 17 of the Act in the present case is unwarranted. The public purpose for which the project is sought to be implemented does not demand invocation of urgency clause thereby eliminating the mandatory enquiry under Section 5-A of the Act. The respondents have mooted the project even in the year 2011 and after two years, the notification under Section 4 (1) of the Act was issued invoking the urgency clause without any necessity. The proposal to dispense with the mandatory enquiry under Section 5-A of the Act is not justifiable inasmuch as it deprives a valuable right vested with the land owners. In order to fortify this submission, the learned senior counsel for the petitioners relied on the decision of the Honourable Supreme Court in the case of (Darshan Lal Nagpal (dead) by LRs v. Government of NCT of Delhi and others) reported in 2012 (2) SCC 327 wherein it was held that the exceptional and extraordinary power of dispensing with an enquiry under Section 5-A of the Act is not a routine power and a greater degree of care must be taken by the State while invoking such power of compulsory acquisition.

4. The learned senior counsel for the petitioners also pointed out that the acquisition proceedings are also vitiated for not properly causing local publication in the Villages. There was no announcement made in the village by beating Tom

Tom. The respondents did not make effective publication by putting notice in prominent place to bring to the notice of the land owners regarding the acquisition proceedings. There was no prior approval obtained by the respondents from the forest department especially when the lands sought to be acquired also include forest lands. The respondents also did not obtain necessary Environmental Impact Assessment (EIA) clearance from the concerned authority before resorting to acquire the lands of the petitioners, therefore, the entire acquisition proceedings are vitiated. The learned Senior counsel for the petitioners placed reliance on The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 to contend that the 2013 Act has not been notified at the time of issuing the notification under Section 4 (1) of the Act. As the 2013 Act has now been enacted with effect from 01.01.2014 which deleted the provisions regarding the urgency clause and provides for a detailed enquiry to be conducted before proceeding with acquisition of lands, the petitioners were deprived of the benefit of the 2013 Act and therefore also, the acquisition proceedings are liable to be interfered with by this Court. By virtue of the impugned acquisition proceedings, the petitioners are deprived of their valuable land and it is in violative of their fundamental rights guaranteed under Articles 14 and 21 of The Constitution of India.

5. The learned Senior counsel appearing for the petitioners relied on the decision of the Full Bench of this Court in the case of (P.C. Thanikavelu v. Special Deputy Collector for Land Acquisition, Madras and another) reported in 1999 1 Law Weekly 232 to contend that the enquiry contemplated under Section 5 of the Act would be full and complete only when the person who is really interested in the land is put on notice. When the lands of an individual is sought to be acquired, even though he may be paid compensation, his civil rights may be affected and therefore principles of natural justice requires that such person should be put on notice before his lands are acquired and his objections heard and considered.

6. The learned senior counsel for the petitioners also relied on the decision of the Division Bench of this Court in the case of (M. Velu v. State of Tamil Nadu and others) reported in 2010 Writ Law Reporter 934 to contend that for converting the land for industrial use, before issuing the notification under Section 3 (1) of the Tamil Nadu Acquisition of land for Industrial Purposes Act, 1997, the authorities have to approach the statutory authority constituted under the environment (Protection) Act for environmental clearance and the report of such authority must also be considered by the Government while dealing with the objections submitted by the land owners. According to the learned senior counsel for the petitioners, in the present case, neither the respondents obtained EIA clearance nor conducted any enquiry under Section 5-A of the Act and therefore, the entire acquisition proceedings are vitiated.

7. The learned senior counsel for the petitioner's also relied on the decision of the Honourable Supreme Court of India in the case of Karnataka Industrial Areas Development Board v. C. Kenchappa and others) reported in (2006) 6 Supreme

Court Cases 7 to contend that before acquisition of lands for development, the consequence and adverse impact of development on environment must be properly examined and the lands to be acquired for development must be such that ecology and environment is not gravely impaired.

8. The learned counsel appearing for the respective petitioners in WP Nos. 27597 & 27762 of 2013 and WP No. 18535 of 2014 would contend that invocation of emergency clause under Section 17 of the Act is arbitrary, unreasonable and it deprived the land owners a valuable right of enquiry contemplated under Section 5-A of the Act. There is no necessity or urgency involved in the present case warranting the respondents to resort to invoke Section 17 of the Act.

9. The learned Advocate General appearing for the respondents would oppose the writ petition by placing reliance on the counter affidavits filed by the respondents. According to the learned Advocate General, Chennai City receives drinking water from Krishna River in Andhra Pradesh through the Krishna Water Supply Project. The four reservoirs namely Poondi, Cholavaram, Red hills and Chembarambakkam store the monsoon flows and also act as storage reservoirs for the water received through the Krishna Water Supply project. During the monsoon periods, the aforesaid four reservoirs achieve full storage and on many occasion, the Krishna Water received could not be stored and the Andhra Pradesh Government was requested to cut the supply during the aforesaid period. Due to this, the City is unable to receive the full quantum of water that is being allocated under the above project. Therefore, it was proposed to form a new reservoir in Thiruvallur District by connecting the two tanks viz., Kannankottai Hissa Rajaneri and Thervoykandigai Tank with a capacity of 1.00 TMC by two fillings. It was also proposed to excavate an off take Canal from kandaleru-Poondi canal with a total length of 7900m, which passes through Thamaraiuppam and Senjiagaram Villages in Uthukottai Taluk and Karadiputhur Village in Gummudipoondi Taluk of Tiruvallur District. Therefore, according to the learned Advocate General, the project is of great importance and has to be completed within a specified time limit. The project is sought to be executed in larger public interest to cater to the needs of water to the residents of Chennai city. The project was mooted only in public necessity after following all the procedures contemplated under law. Since the project required to be completed within a time limit, the urgency clause under Section 17 of the Act was invoked and it cannot be found fault with.

10. According to the learned Advocate General, during the budget sessions for 2011-2012, on 04.08.2011, the Honourable Finance Minister announced that new storage capacity will be created at Thervaikandigai Village. Accordingly, G.O. Ms. No.16, Public Works Department dated 24.01.2012 came to be issued according administrative sanction for formation of a new reservoir near Kannankottai and Thervaikandigai Villages in Gummudipoondi at a cost of Rs.330 crores. For implementing the scheme in an extent of 1252.47 acres of land, patta land measuring 692.42 acres, poromboke land measuring 527.92 acres and forest area

measuring 32.13 acre were proposed to be acquired. The next day i.e., on 25.01.2012, the District Collector, Thiruvallur requested to commence the acquisition proceedings immediately through the Public Works Department. Thereafter, the Executive Engineer, Water Resources Department sent a letter dated 30.01.2012 to the District Revenue Officer, Thiruvallur to provide the details of the lands sought to be acquired. In this connection by letter dated 11.02.2012, the District Collector, Tiruvallur requested to sanction temporary land acquisition staff for acquiring the lands in question. Accepting the same, the Government also provided staff for execution of the project by issuing G.O. Ms. No.190, Public Works Department dated 24.07.2012.

11. As regards the invocation of urgency clause under Section 17 (1) of the Act, it is stated that during survey of the lands in question, the land owners did not raise any objection and extended their cooperation for identification of the lands as they are fully aware of the proposed project. Having regard to the nature of the project sought to be implemented in public interest, the Government accepted the proposals for invocation of the urgency clause under Section 17 (1) of the Act and to dispense with the enquiry under Section 5-A of the Act. Further, the Civil works of the project have commenced in the poromboke lands in Karadiputhur Village from September 2013 and similar works also commenced in Kannankottai Village. The Government has already taken possession of 629.92 acres of poromboke lands. Similarly, out of 800.65 acres of patta land, 24 awards have been passed for acquisition of 753.22 acres of lands and 102.80 acres of land have already been taken possession during March 2014. The land owners, 36 in number, have also received compensation to the tune of Rs.11.96 crore. Further, many more land owners have expressed their intention to get compensation without agitating the matter. At present 33% of the project work has been completed and the remaining work alone has to be completed. Even in the present batch of writ petitions, 15 land owners have expressed their willingness to receive the compensation amount. In fact, as against 571 land owners, only a few have approached this Court by filing the present batch of writ petitions. Even in the present writ petitions, some of the petitioners have agreed to receive the compensation amount. Therefore, as the project has already commenced and some of the land owners have also received the compensation amount without protest, at this stage, the acquisition proceedings need not be interfered with at the instance of the petitioners herein.

12. The learned Advocate General, relying on the additional counter affidavit of the first respondent, would contend that the Government has issued G.O. Ms. No.88, Revenue Department dated 20.01.2014 regarding the applicability of the 2013 Act to the land owners stating that all provisions of the new Act relating to determination of compensation shall apply to them. Therefore, the land owners are not in any deprived of a just and fair compensation as enunciated under the new Act. It is further stated that the determination of compensation will be made on the basis of the procedure in vogue and that the additional compensation amount will be paid as per the provisions of the new Act, where it is applicable.

13. As regards the Environmental Impact Assessment (EIA) notification is concerned, the Government of India, Ministry of Environment and Forest, by letter dated 03.04.2013 observed that as there are no human settlement/house hold situate nearby the project site, the question of Rehabilitation and Resettlement does not arise and therefore, it does not attract the provisions of Environmental Impact Assessment (EIA) notification 2009. Therefore, the learned Advocate General would submit that the question of obtaining EIA clearance in the present case does not arise and the averments of the petitioners in this regard are unfounded. Therefore, the learned Advocate General prayed for dismissing the writ petitions.

14. The learned Advocate General relied on the decision of the Division Bench of this Court in the case of Ekambaram and others v. Secretary, Housing and Urban Development Department, Government of Tamil Nadu, Chennai and others) reported in 2014 3 MLJ 513 wherein it was held that the Court should keep in mind larger public interest while exercising the power for granting stay or injunction especially in land acquisition cases. The Courts have to weigh the public interest vis-a-vis private interest while exercising the discretionary power under Article 226 of The Constitution of India. It was held by the Division Bench of this Court that there are many ways of affording appropriate relief to the land owners and to redress a wrong; quashing the acquisition proceedings is not the only mode of redress.

15. The learned Advocate General also relied on the decision of the Honourable Supreme Court in the case of Ramniklal N. Bhutta and another v. State of Maharashtra and others) reported in (1997) 1 Supreme Court Cases 134 wherein it was held that larger public interest and necessity for rapid acquisition of land for creating basic infrastructure facilities should be kept in mind while granting stay or injunction and the Courts should be slow in interfering with the acquisition proceedings involving larger public interest.

16. I heard the learned senior counsel appearing for the petitioners as well as the other petitioners appearing for the respective writ petitioners and the learned Advocate General appearing for the State. I have gone through the material documents placed on record for consideration.

17. The main argument advanced on behalf of the petitioners is that the respondents are not justified in resorting to invoke Clause 17 of the Act and to dispense with the valuable right of enquiry under Section 5-A of the Act. According to the respondents, the project for which the lands were sought to be acquired is of utmost importance which aims to cater to the water needs of the people residing in Chennai City. The project has been taken up to alienate the sufferings of the general public at a time when they are confronting scarcity of water resources. Therefore, according to the respondents, they are justified in invoking the urgency clause.

18. It is seen from the notification issued under Section 4 (1) of the Act that the

object with which the project was proposed was to cater to the water needs of the residents of Chennai City. According to the respondents, Chennai City receives drinking water from Krishna River in Andhra Pradesh through the Krishna Water Supply Project. The four existing reservoirs in the State such as Poondi, Cholavaram, Red hills and Chembarambakkam stores the monsoon flows and also act as storage reservoirs for the water received through the Krishna Water Supply project. During monsoon periods, as the aforesaid four reservoirs achieve full storage, the Krishna Water received could not be stored. Due to this, the City is unable to receive the full quantum of water that is being allocated under the above project. Therefore, it was proposed to form a new reservoir in Thiruvallur District by connecting the two tanks viz., Kannankottai and Thervoykandigai Tank with a capacity of 1.00 TMC by two fillings. It is for the purpose of executing this project, the respondents have invoked the urgency clause as contemplated under Section 17 of the Act. When such a public purpose is sought to be achieved by the respondents, I am of the view that the respondents are justified in invoking the urgency clause. This is more so that out of 571 land owners, only few of the land owners have filed the present writ petition. Even in this batch of cases, some of the petitioners have expressed their readiness to receive the compensation amount and to this effect, letters were given by them in writing which are enclosed in the form of a typed set of papers before this Court annexed to the letter dated 04.09.2014 of the second respondent herein. The letter dated 04.09.2014 is extracted hereunder:-

"19. I submit that the particulars of interim land compensation received by the Writ Petitioners whose lands are acquired for the formation of New Reservoir near Kannankottai Thervoykandigai Reservoir Scheme is furnished below:-

Unit - I

S.No.

WP No.

Block No.

Survey No.

Extent

Interim compensation amount

Name of the land owner who filed writ petition

1.

27762/2013

4

132/2A

0.20.5

5,59,366

Thiru.Dhamodhara Naidu S/o.Kurrappa Naidu

Unit - II

S.No.

WP No.

Block No.

Survey No.

Extent

Interim compensation amount

Name of the land owner filed (Writ Petitioner)

1.

27597/2014

4

177/5

0.18.5

Patta No.798,

Thiru

Sivaprakasam son of Chockalingam

2.

27597/2013

4

186/2

0.14.0

3.

27597/2013

4

186/3

0.27.0

4.

27597/2013

4

186/6

0.17.0

Rs.20,69,497/-

5.

27597/2013

4

186/8

0.09.0

Rs.2,43,470/-

S. Sumathi, wife of Srinivasan

6.

27597/2013

5

188/2

0.89.0

Rs.24,77,625

Ramesh, son of Sivaprakasam Subashini Wife of Ramesh

7.

27597/2013

5

188/3

0.01.5

8.

27597/2013

7

214/2

0.23.5

Rs.7,16,40

9.

27597/2013

4

177/6

0.08.5

10.

27597/2013

4

177/7

0.23.0

Rs.8,52,146

2.31.0

63,59,478.00

S.No.

WP No.

Block No.

Survey No.

Extent

Interim compensation amount

Name of the land owner filed (Writ Petitioner)

1.

17548 to

5

181/6

0.08.0

410656

Suguna Muniswaran

17550 of 2014

181/7

0.07.0

19. It is also seen from the records produced before me that the bank statements duly reflect the compensation amount received by the land owners. It is further seen from the statement dated 13.05.2014 given by Mrs. Suguna, wife of Muneeswaran, who is the petitioner in WP Nos. 17548 to 17550 of 2014 that she has never given any instructions to file the writ petitions at all. In fact, Mrs. Suguna has received the compensation amount from the land acquisition officer. Further, the petitioner in WP No. 18535 of 2014 namely Mr. Pasupathy has given a statement on 20.01.2014 that the compensation amount may be paid in his name. Further, as mentioned above, out of 800.65 acres of patta land, 24 awards have been passed for acquisition of 753.22 acres of lands and 102.80 acres of land have already been taken possession during March 2014. Further, many more land owners have expressed their intention to get compensation without agitating the matter. It is also stated that at present 33% of the project work has been completed and the remaining work alone has to be completed.

20. As far as the alleged delay in initiating the acquisition proceedings is concerned, admittedly, on 04.08.2011, the Honourable Finance Minister announced that new storage capacity will be created at Thervaikandigai Village for public purpose. The Government thereafter issued G.O. Ms. No.16, Public Works Department dated 24.01.2012 according administrative sanction for formation of a new reservoir at a cost of Rs.330 crore"s. For implementing the scheme in an extent of 1252.47 acres of land, patta land measuring 692.42 acres, Poromboke land measuring 527.92 acres and forest area measuring 32.13 acre were proposed to be acquired. By letter dated 11.02.2012, the District Collector, Tiruvallur requested to sanction temporary land acquisition staff for acquiring the lands in question. Accepting the same, the Government also provided staff for execution of the project by issuing G.O. Ms. No.190, Public Works Department dated 24.07.2012. In this context, the learned Senior counsel for the petitioners would contend that in the order passed by the government according administrative sanction, reference was made only for deputing the staff and not for invoking the provisions of Section 17 of the Act to emergently acquire the lands in question. The deputation of the staff would only indicate that the lands were sought to be acquired by following the procedure prescribed under the Act, including adherence to Section 5-A of the Act, and therefore also the enquire acquisition proceedings were taken up without authority of law. This contention cannot be accepted. The Government, in exercise of the powers conferred under the Act, thought it fit to invoke the urgency clause for implementation of a project taking into account the larger interest of public and a public cause. At any rate, 33% of the project work has been completed and some of the land owners have received the compensation amount. Therefore, I do not find any reason to interfere with the invocation of Section 17 of the Act at the instance of the petitioners.

21. As regards EIA clearance, as pointed out by the learned Advocate General, it is not required as there is no Rehabilitation and Resettlement of the land owners involved in the present case. This was clarified by the Ministry of Environment

and Forest, Government of India in their letter dated 03.04.2013 stating that this is purely a drinking water scheme and it does not attract the provisions of EIA notification 2006. As regards prior permission from the forest department, according to the learned Advocate General, it was obtained subsequently. It is also seen from the records that the respondents have obtained inevitability certificate to implement the project and therefore on these grounds, I am not inclined to interfere with the acquisition proceedings.

22. In this case, the petitioners have sent repeated representations soon after they came to know about the proposal to acquire their lands. The petitioners were not made to grope in the dark and they were fully aware of the proposal to acquire their lands. In fact, the petitioners have also suggested alternative lands situate on the Southern side of the proposed site. Such alternative site shown by the petitioners was not acceptable to the respondents as they were not contiguous. It is not the case of the petitioners that they were not aware of the proposal at all and suddenly the respondents have come up with a proposal to acquire their lands. In fact, the petitioners have also contributed substantially for the delay in initiating the project by sending repeated representations.

23. In the decision of the Honourable Supreme Court (Darshan Lal Nagpal (dead) by LRs v. Government of NCT of Delhi and others) reported in 2012 (2) SCC 327, relied on by the learned senior counsel for the petitioners, the Honourable Supreme Court held that time lag of five years between proposal for acquisition of land and establishment of electrical substation and issue of notification invoking the urgency provisions is not justified by any compelling necessity. In the very same judgment, it was also held that the Lieutenant Governor also did not take a decision on the need to acquire the lands without any time lapse. The facts involved in that case is that a proposal was mooted to establish a 400/220 KV sub-station by acquiring the public lands during August 2004, however, for the next three years, except mere exchange of letters between the departments, there was no progress made. Only during July 2008, a suggestion was made to acquire the lands by invoking the emergency clause. In those circumstances, the Honourable Supreme Court held that there is nothing to indicate that even a few months time which may have been consumed in filing objections by land owners and holding of inquiry would have frustrated the object. Therefore, the Honourable Supreme Court interfered with the acquisition proceedings and quashed it. In the present case, the purpose for which the lands are sought to be acquired is for storage of water by constructing a reservoir especially when the existing four reservoirs were found to be inadequate for storing the water. There was no much delay in finalising the proposal and issuance of notification under Section 4 (1) of the Act as compared with the case before the Honourable Supreme Court of India. Therefore, the ratio laid down in the above said decision of the Honourable Supreme Court cannot be made applicable to the facts of the present case.

24. The learned senior counsel for the petitioners also relied on the decision of

the Division Bench of this Court in the case of (M. Velu v. State of Tamil Nadu and others) reported in 2010 Writ Law Reporter 934 to contend that for converting the land for industrial use, before issuing the notification under Section 3 (1) of the Tamil Nadu Acquisition of land for Industrial Purposes Act, environment clearance has to be obtained and non-compliance of the same vitiates the acquisition proceedings. The ratio laid down by the Division Bench of this Court cannot be made applicable to this case as it arises out of a dispute in respect of acquisition of lands for industrial purpose. Even otherwise, in the present case, as mentioned above, such environment clearance is not required for the present project besides that the respondents have obtained inevitability certificate from the authorities concerned.

25. In the decision of the Division Bench of this Court in the case of (S. Ekambaram and others v. Secretary, Housing and Urban Development Department, Government of Tamil Nadu, Chennai and others) reported in 2014 3 MLJ 513, relied on by the learned Advocate General, reference was made to the decision of the Honourable Supreme Court in Ramniklal N. Bhuvva v. State of Maharashtra AIR 1997 SC 1236 wherein it was held as follows:-

"Before parting with this case, we think it necessary to make a few observations relevant to land acquisition proceedings. Our country is now launched upon an ambitious programme of all-round economic advancement to make our economy competitive in the world market. We are anxious to attract foreign direct investment to the maximum extent. We propose to compete with china economically. We wish to attain the pace of progress achieved by some of the Asian countries, referred to as "Asian tigers", e.g., South Korea, Taiwan and Singapore. It is, however, recognised on all hands that the infrastructure necessary for sustaining such a pace of progress is woefully lacking in our country. The means of transportation, power and communications are in dire need of substantial improvement, expansion and modernisation. These things very often call for acquisition of land and that too without any delay. It is, however, natural that in most of these cases, the persons affected challenge the acquisition proceedings in courts. These challenge the acquisition proceedings in courts. These challenges are generally in shape of writ petitions filed on High Courts. Invariably, stay of acquisition is asked for and in some cases, orders by way of stay or injunction are also made. Whatever may have been the practices in the past, a time has come where the courts should keep the larger public interest in mind while exercising their power or grant in stay/injunction. The power under Article 226 is discretionary. It will be exercised only in furtherance of interests of justice and not merely on the making out of a legal point. And in the matter of land acquisition for public purposes, the interests of justice and the public purposes, the interests of justice and the public interest coalesce. They are very often one and the same. Even in civil suit, granting of injunction or other similar orders, more particularly of an interlocutory nature, is equally discretionary. The courts have to weigh the public interest vis-a-vis the private interest while exercising the power under Article 226 - indeed any of their

discretionary powers. It may even be open to the High Court to direct, in case it finds finally that the acquisition was vitiated on account of non-compliance with some legal requirement that the persons interested shall also be entitled to a particular amount of damages to be awarded as a lumpsum or calculated at a certain percentage of compensation payable. There are many ways of affording appropriate relief and redressing a wrong; quashing the acquisition proceedings is not the only mode of redress. To wit, it is ultimately a matter of balancing the competing interests. Beyond this, it is neither possible nor advisable to say. We hope and trust that these considerations will be duly borne in mind by the courts while dealing with challenges to acquisition proceedings.

26. As held by the Honourable Supreme Court in the above said case, the Courts have to weigh the public interest as well as the private interest. It was further held that there are many ways for redressal and quashing the acquisition proceedings alone is not the only method to sub-serve the interest of justice. If the decision of the Honourable Supreme Court is applied in this case, some of the petitioners have received the compensation amount and some opted for receiving the compensation amount without protest. The project work has commenced already and presently 33% of the work has been over. Out of the 571 land owners, whose lands were sought to be acquired, only a few have approached this Court by filing the present batch of writ petitions. Even among them, some of the petitioners have agreed for receiving the compensation amount. The project for which the lands are sought to be acquired is a public project with public cause in mind. Even though the lands of the owners have been acquired for the purpose of constructing a reservoir and the land owners have lost their lands, the project, if implemented, will definitely serve the water needs of not only the adjacent lands but will also help the Government in tackling the drinking water needs of the residents of the Chennai city. Therefore, in those circumstances, I am not inclined to grant the relief sought for in these batch of writ petitions.

27. For all the above reasons, the writ petitions fail and they are dismissed. No costs. Connected miscellaneous petitions are closed.