

(1993) 08 MAD CK 0049
In the Madras High Court
Case No : W.A. No. 28 of 1992

State of Tamil Nadu and Another

APPELLANT

Vs

Rajendran and 23 Others

RESPONDENT

Date of Decision : 25-08-1993

Acts Referred:

Constitution of India, 1950 — Article 226

Land Acquisition Act, 1894 — Section 4, 4(1), 4(1)(ii), 4(2), 4(I)

Citation : (1993) 08 MAD CK 0049

Hon'ble Judges : K.A. swami, C.J.; Samasundaram, J

Bench : Division Bench

Advocate : A.S. Venkatschalamoorthy, Government Pleader, Mr. V. Sridevan for Mr. K. Sridhar, for the Appellant; Habibullah Badsha and C. Chinnaswami for Ms. E.S. Govindan and Haja Mohideen Gishti and Mr. V. Radhakrishnan, for the Respondent

Final Decision : Dismissed

Judgement

K.A. Swami, C.J.—These writ appeals are preferred against the order dated 16.9.1991 passed by the learned single Judge in W.P. Nos. 6001 of 1990, 14396, 15994 and 15995 of 1988. W.A. Nos. 28 to 31 of 1992 are by the State of Tamil Nadu and the Sub-Collector, Coimbatore against the common order dated 16.9.1991 by the learned single Judge in W.Ps. 6001 of 1990, W.P. 14396, 15994, 15995 of 1988. Whereas W.A. Nos. 37 to 40 of 1992 are also preferred against the very same order by V.L.B. Trust, Kuniyamathur, Coimbatore District for whose benefit the acquisition in question is made. All these writ petitions are decided by a common order. Learned single Judge has allowed the writ petitions and quashed the acquisition proceedings. Hence, the State Government and the V.L.B. Trust have come up in these writ appeals. In the light of the contentions urged by both sides the following points arise for consideration :-

i) Whether the time gap between the publication of the notification in the official gazette under S. 4(1) of the Act on 21.11.1984 and publication of the substance

of the said notification in the locality on 29.11.1985 has vitiated the acquisition proceedings?

ii) Whether the time gap between the two publications has been explained by the acquiring authority?

iii) Whether the time gap between the two publications has caused any prejudice to the petitioners?

iv) Whether the petitioners are guilty of laches?

v) Whether the order of the learned single Judge is liable to be interfered with?

2. Facts necessary for the purpose of considering the contentions urged under the aforesaid points on both sides are as follows:- The State Government published in the Official Gazette dated 21.11.1984 the notification dated 20.10.1984 under S. 4(1) of the Land Acquisition Act, 1894, as amended in 1984, hereinafter referred to as "the Act" in G.O. Ms. No. 1382 Education Department proposing to acquire an extent of 103.72 acres comprised in various survey numbers situated in Kuniamuthur village, Coimbatore District, for the purposes of construction of a polytechnic, a Girls' High School, Hostel Buildings, Quarters, Playground, etc. The said notification was published in the "Daily Thanthi" dated 13.11.1984

and "The Hindu" dated 20.11.1985. The substance of the notification was published in the locality on 29.11.1985. Persons interested in the lands filed objections. Enquiry under S. 5A of the Act was held on 25.4.1986 and 22.9.1986. A report was submitted by the land Acquisition Officer to the State Government under S. 5A of the Act and the same was accepted by the State Government and a declaration under S. 6(i) of the Act in G.O. Ms. No. 1857, Education Department, dated 18.11.1986

was published in the Gazette on 26.11.1986, and in the newspaper "Daily Thanthi" on 27.11.1986 and "Indian Express" on 28.11.1986, a substance of the same was also published in the locality on 28.11.1986.

3. It is also to be noticed that prior to the filing of these writ petitions, one Vijayaraghavan one of the persons interested in some of the lands acquired under the notifications in question filed W.P. No. 9150 of 1987 challenging both the notifications issued under Ss. 4(1) and 6(1) of the Act. It was dismissed on 16.9.1987. In addition to this, there was another W.R. No. 5377 of 1987, filed by one Francis questioning the Declaration made under S. 6(i) of the Act. It was also dismissed on 23.9.1987. Vijayaraghavan went up in W.A. No. 74 of 1989 and the same was dismissed on 21.12.1990 and the said judgment is reported in M. Vijayaraghavan v. State of Tamil Nadu (1993 Writ L.R. 294). The present writ petitions were filed after the aforesaid two writ petitions were dismissed. It is necessary to state the dates on which each of these writ petitions was filed. W.P. No. 14396 of 1988 was filed on 21.12.1988 and W.P. No. 6001 of 1990 was filed on 22.11.1988. W.P. Nos. 15994 and 15995 of 1988 were filed on and 5.5.1990.

We have already pointed out that W.A. Nos. 37 to 40 of 1992 are filed by the VLB Trust for whose benefit the acquisition of the lands in question has been made.

4. Learned single Judge has held that there has been delay in the publication of the substance of the notification in the newspapers and in the locality under S. 4(1) of the Act and that delay has resulted in declining of the acquisition proceedings from the publication of the notification under S. 4(1) in the official gazette, therefore, the acquisition proceedings are vitiated. On the ground of laches on the part of the petitioners, it has been held by the learned single Judge that there is no delay on the part of the petitioners in W.P. Nos. 14396, 15994 and 15995 of 1988, therefore, it is not possible to hold that there is a delay on the part of the petitioners in W.P. No. 6001 of 1990 as well. Accordingly, learned single Judge has allowed the writ petitions and quashed the land acquisition proceedings in so far as the petitioners' lands are concerned.

Points (i) to (iii) :

As these points are interconnected, they are taken up together for determination.

5. The contentions of the learned Government Pleader appearing for the appellants in W.A. Nos. 28 to 31 of 1992 and also learned counsel for the appellants in W.A. Nos. 37 to 40 of 1992 are as follows:-

i) That the lime gap between the publication of the notification under S. 4(1) of the Act in the Gazette on 21.11.1984 and the public notice of the substance of the said notification in the locality on 29.11.1985 has been sufficiently explained.

ii) That this delay or gap of time has also not caused any prejudice to the petitioners and that in fact it is the contention of learned Government Pleader that no such plea has been raised by the petitioners.

6. On the contrary, it is the contention of Mr. Habibullah Badsha, learned Senior Counsel, that the lime gap is so long that both are unlinked as such in law it amounts to non-publication of the substance of the notification issued under S. 4(1) of the Act in the locality, therefore, it must be held that there is non-compliance with the mandatory requirement of causing public notice of the substance of the notification in the locality. Consequently, according to him, the question of demonstrating any prejudice caused to the petitioners does not arise.

7. In support of the rival contentions, learned counsel have placed reliance on various decisions which will be adverted to shortly.

8. The time gap between the two events as already pointed out is about one year. The publication in the official Gazette of the Notification under S. 4(1) of the Act was made on 21.11.1984 while the public notice of the substance of the same was given in the locality on 29.11.1985. The explanation offered by the State in this regard is as follows:

11. The Amended Land Acquisition Act had obtained the assent of the President on 24.9.1984 and was published in the Tamil Nadu Government Gazette on

5.12.1984. During this nascent stage, the procedures about the publication of dailies and in the locality has not been streamlined by the Government. Due to the introduction of the amended Act, all of a sudden, the implementation of the publication in the dailies and in the locality proper attention could not be paid in view of large number of Land Acquisition Cases pending at S. 4(1) stage. An errata notification in the above case was also sent to Government for approval and publication on 5.1.1985.

9. The correct procedure to be followed about the publication in the dailies and in the locality was intimated by the District Revenue Officer to the Revenue Divisional Officer, Coimbatore. only in his letter dated 29.4.1985 received on 7.5.1985. The English notification has been translated into Tamil and necessary Tamil Publications were sent to District Revenue Officer from the office of the Revenue Divisional Officer on 8.5.1985 itself. With reference to the letter No. 46366/85-1 of the Director of Information and Public Relations, the Elegant Publicities has published the notifications in The Hindu English edition daily on 20.11.85 and in "Daily Thanthi" Coimbatore edition on 12.11.85. Soon after the publication made in the dailies by the Government, necessary locality publication was made on 29.11.85. There was no wilful intention for the belated publication in the dailies and the reasons were purely due to administrative reasons.

In reply to the averments made in Paragraphs 11 and 12 of the counter-affidavit, the petitioners in their additional affidavit have stated:-

9. It is most respectfully submitted that the averments in Para No. 11 of the Counter Affidavit do not explain the delay in publication that it could be termed as just and reasonable, it is wrong to state that the Act was amended all of a sudden. The respondents cannot take the plea that proper attention could not be paid in view of a large number of land acquisition cases pending at the 4 (1) notification stage and hence they could not implement the publication in the dailies and locality immediately. To say the least, it is an irresponsible statement. There is no justification for the long delay. The requirement, regarding publication of the substance of the notification in the locality was there, even before the amendment Act came into force. It is not as if the respondents were not aware of the method and manner of publication of the substance of the notification. It is not proper to state that the manner of publication in the dailies and in the locality had not been streamlined. It is wrong to state that the amended Act came all of a sudden and hence the publication became difficult.

10. It is respectfully submitted that after 4 (1) notification was published in the Gazette, the publication in the dailies and the substance of the notification to be published in the locality should be done within a short time. This has been insisted upon by the Government and the petitioners rely on the fact that the Government had instructed the land acquisition authorities not to delay the publication in the dailies and the locality after the publication of the 4 (1) notification in the Government Gazette. The publications are mandatory requirements and they cannot be flouted according to the whims and fancies of

the Authorities.

A similar explanation offered in the earlier writ petitions where the very same notification was questioned, was considered by a Division Bench of this Court in *Vijayaraghavan, M. v. The State of Tamil Nadu & 2 others* (1993 Writ L.R. 294) and it was observed as follows:

So far as the present case is concerned, we find there has been some explanation and that apart nothing has been said or substantiated before us to show any prejudice having been caused to or suffered by the appellant on that account. Consequently, we see no merit even otherwise in the plea either. Further, we see some force in the objection of the teamed Government Pleader on the ground of laches in raising a point of the nature at a later stage relying upon the decision reported in *State of Mysore and Others Vs. V.K. Kangan and Others*, wherein the Apex Court in paragraph 16 held as follows: -

The notification under S. 4 was published on 13.4.1987. Objections were filed by the respondent under S. 54 of the Act. The Deputy Commissioner submitted his report to the Government. The Government overruled the objections. The notification under S. 6 was published in the gazette on 19.10.1968. The Writ Petition challenging the validity of the notification was filed some time in July or August, 1969. We do not think that the respondent was entitled to challenge the validity of the notification under S. 4 of the Act as the Writ Petition challenging the notification was filed after an unreasonable lapse of time. If public notice as required by S. 4 of the Act was not given and that would vitiate the notification under S. 4 the appellant should have challenged its validity within a reasonable time of the publication of the notification. The respondent knew of the notification and filed objections under S. 5A of the Act. In these circumstances, we see no reason to accept the submission of counsel.

It may be relevant to notice that one of the explanations offered is that there was an erratum publication of the notification on 5.1.1985. It is true that when a large extent of land is acquired for a particular purpose, any error that is noticed in that notification will have the effect of withholding the entire acquisition proceedings. Therefore, though the errata is stated to relate to some other land acquired along with the lands in question under the impugned notification and not of the petitioner, nonetheless, the date of errata notification should also go to the benefit of the State in explaining the delay that has occurred in the publication of the substance of the notification in the locality. The period from 5.1.1985 to 8.5.1985 has also been explained. For the subsequent period, there is no clear explanation. However, after the notification was published in the dailies, there has not been a delay in causing public notice of the substance of the notification to be given at the convenient places in the locality because it has been done on 29.11.1985, as the notifications were published in "Daily Thanthi" and "The Hindu" on 13.11.1985 and 20.11.1985 respectively. Learned single Judge has stressed, and before us learned Senior Counsel appearing for respondents also has emphasised, that there is virtually no explanation for the

delay from 8.5.1985 to 13.11.1985 and, therefore, it is contended that S. 4(l) notification should be held to be void and consequently all further proceedings taken pursuant thereto must also fall to the ground.

9. We must now consider as to whether the delay by itself will render the proceedings void. Learned Government Pleader has placed reliance on the decision in *Deepak Pahwa and Others Vs. Lt. Governor of Delhi and Others*, wherein the following propositions have been laid down: It is mandatory to comply with the requirements of S. 4(l) of the Act which provides that apart from the publication of the notification in the Official Gazette, the same shall have to be published in two newspapers, one in the vernacular, and another in English, and the public notice of substance of that notification shall also be published at the convenient places of the locality, where the land is situated. In paragraph 3 of the Judgment, it has been held that the publication in the Official Gazette and public notice in the locality are the essential elements of S. 4(1) and not the simultaneity or immediacy of the publication and the public notice. Paragraph 3 of the judgment reads thus:

3. It may be noticed at once that S. 4(1) does not prescribe that public notice of the substance of the notification should be given in the locality simultaneously with the publication of the notification in the Official Gazette or immediately thereafter. Publication in the Official Gazette and public notice in the locality are two vital steps required to be taken under S. 4(1) before proceeding to take the next step of entering upon the land under S. 4(2). The time factor is not a vital element of S. 4(1) and there is now arrant for reading the words "simultaneously" or "immediately thereafter" into S. 4(1). Publication in the Official Gazette and public notice in the locality are the essential elements; of S. 4(1) and not the simultaneity or immediacy of the Publication and the public notice. But since the steps contemplated by S. 4(2) cannot be undertaken unless, publication is made and public notice given as contemplated by S. 4(1). it is implicit that the publication and the public notice must be contemporaneous though not simultaneous or immediately after one another. Naturally contemporaneous may involve a gap of time and by the very nature of the things, the publication in the Official Gazette and the public notice in the locality must necessarily be separated by a gap of time. This does not mean that the publication and the public notice may be separated by a long interval of time. What is necessary is that the continuity of action should not appear to be broken by a deep gap. If there is publication in the Gazette and if there is public notice in the locality. the requirements of S. 4(1) must be held to be satisfied unless the two are unlinked from each other by a gap of time so large as may lend one to the prima facie conclusion of lack of bona fides in the proceedings for acquisition. If the notification and the public notice are separated by such a large gap of time may become necessary to probe further to discover if there is any cause for the delay and if the delay has caused prejudice to any one. (Emphasis supplied)

In Paragraph 6 of the judgment, it has been further held:-

We are unable to read the observations in *State of Mysore v. Abdul Razak* as laying down any general principle that every time-gap between the publication in the Gazette and the public notice in the Gazette and the public notice in the locality is fatal to the acquisition. Apart from the physical impossibility or synchronising the publication in the Gazette and the public notice in the locality, one can visualise a variety of circumstances which may bring about a time-gap between the two. There may be a breakdown or bandh as happened in one of the reported cases in Andhra Pradesh (*Sader Anjuman Ahmedlyya Muslim Mission v. State* (AIR 1980 Andh. 246)) or there may be some other justifiable reason. This Court did not lay down any general principle that an acquisition would be retarded as void if the notification published in the Official Gazette was not accompanied or immediately followed by the Public notice. What in fact appears to have been said was that a person interested in the property can be regarded to have had notice of the proposed acquisition if both the requirements of S. 4(1) are complied with whether simultaneously or one after the other. As we said no invariable rule was laid down that an acquisition would be regarded as void whenever there was a gap of time between the publication in the Gazette and the public notice in the locality. (emphasis supplied).

In paragraph 7 of the judgment, various decisions are referred to, and the relevant portion from the decision of a Full Bench of the Andhra Pradesh High Court has been reproduced and it has been specifically approved. Paragraph 7 of the judgment is as under: -

7. We do not think that it is necessary to refer to the decision of the High Court in detail except to say that we consider *Sallkh Kapur v. State of Haryana* (AIR 1932 Punj & Har. 276); *Rattan Singh v. State* (AIR 1976 Punj & Har. 279); *Suryanarayana Reddy v. Andhra Pradesh* AIR 1983 Andh. Pra. 17 and *MOhd. Khaja v. Govt. of A.P.* (AIR 1982 HOC 270) (Andh. Pra.) were wrongly decided and that *Sunjivaiah Nagar Depressed and Backward Classes Sangh v. District Collector, Hyderabad* (AIR 1983 Andh. Pra. 142) was rightly decided. In the last mentioned case, there is a reference to several earlier Division Bench judgments and the judgment of the Full Bench which the learned Judges had followed. In particular, the learned Judges have referred to the following observations of a Full Bench of the Andhra Pradesh High Court in *Shahnaz Sallman v. Govt of A.P.* (a decision which for some unknown reason has not been reported in any of the law Reports):

There is no warrant for the contention that the publication in the Official Gazette and the notification at convenient places in the said locality should be simultaneous and be done precisely at the same time. If that were the intention of the legislature, it could have said so. Something which is not in the section cannot be imported into it. The publication of the substance of S. 4(1) notification at convenient places in the locality is required out of anxiety of the Legislature to make it certain that it is brought to the notice of the affected persons. What all that is required is that before anything is done as

contemplated by sub-S. (2), the substance of S. 4(1) notification must be published in the locality of the land. Several times it may prove to be a physical impossibility if simultaneous publication is insisted upon. It is not possible to think that the legislature has provided for an impracticable and at the same time unnecessary task. What S. 4(1) requires is that S. 4(1) notification must be published in the Official Gazette and its substance at convenient places in the said locality.

We agree with these observations.

Thus, the following propositions emerge from the decision of the Supreme Court: (i) it is mandatory to comply with the provisions of S. 4(1) (ii). The publication of the notification under S. 4(1) in the Official Gazette and public notice of the same in the locality need not be simultaneous or immediate and can be contemporaneous as it involves a gap of time; therefore, both must necessarily be separated by a gap of time, (iii) The time gap between the publication of the notification in the Official Gazette and public notice of its substance of the notification in the locality does not by itself render the acquisition void, (iv) If the two events are unlinked from each other by a gap of time so large as may lead to the prima facie conclusion of lack of bona fides in the proceedings for acquisition then it may become necessary to probe further to discover if there is any cause for the delay and if the delay has caused prejudice to anyone.

10. In the instant case, there is a time gap as already pointed out, between the Gazette publication of the notification and the public notice of the substance of the notification in the locality. There is an explanation offered for the delay which, as already referred to, was accepted in Vijayaraghavan's case by a Division Bench of this court, we have also found that there is explanation upto 8.5.1985, and the explanation from 8.5.1985 till 13.11.1985 is not specific, it is only general. If the gap of time is long as laid down by the Supreme Court in Deepak Pahwa's Case, by itself it does not lead to invalidity of the notification and the Court is required to find out whether such a delay is due to lack of bona fides in the proceedings and has caused prejudice to anyone. In this regard, it may be pointed out that the petitioners have not pleaded lack of bona fides on the part of the acquiring authority and even before us the purpose for which the acquisition is made has not been questioned. Therefore, we proceed on the basis that it is not a case in which there is lack of bona fide on the part of the acquiring authority. As far as causing prejudice to any one is concerned, there is no plea in that regard. It is not the petitioners' case that this delay has caused prejudice to them in any manner. We are of the view that in the absence of any attack by the petitioners on the motive of the acquiring authority so as to lead to lack of bona fides in the proceedings for acquisition of the lands in question and in the absence of any plea of prejudice being caused to them on account of the time-gap between the publication of the notification in the Official Gazette and the publication of substance of the same in the locality, we find it very difficult to hold, in the light of the decision of the Supreme Court in Deepak Pahwa's Case

that the acquisition is vitiated by reason of this time-gap.

11. We now take up for consideration the other decisions relied upon by learned Senior Counsel appearing for the respondents. No doubt, in *Nandakumar v. State of Tamil Nadu & another* (1986 Writ L.R. 164) a Division Bench of this Court has referred to the decision of the Supreme Court in *Deepak Pahwa's* case, but that was a case in which there was no explanation offered for the time gap between the two events. After referring to the decision in *Deepak Pahwa's* case, it was observed:

though the publication need not be simultaneous, the public notice must be contemporaneous. We have already noticed that S. 4(1) notification was published in the Gazette on 7th June, 1978 and the publication in the locality was made only on 19th December, 1978 more than six months later. No counter affidavit has been filed to show the continuity of action as required in the judgment of the Supreme Court. The learned Additional Government Pleader vaguely suggested that there was an erratum published in respect of the same some lime on 1st November, 1978 and that was the reason for the delay. We have perused the land acquisition file produced by the learned Additional Government Pleader. The erratum related to one or other of the boundaries of or 5 survey numbers and not any deletion or omission of any property. Nothing prevented the Government from publishing the notification in the locality immediately after publication in the Gazette, liven after the alleged errata published on 1st November, 1978, there was a long gap of more than one month and 19 days in the issue of public notice. We are satisfied that the continuity of action was broken by a deep gap. We arc not satisfied that the delay in the publication in the locality was caused by any bona fide reason.

Thus that was a case in which no explanation whatsoever was offered by the State Government for the lime gap that had occurred between the publication of S. 4(1) notification and the public notice of the substance of the same in the locality. In addition to this, the proposition laid down in *Deepak Pahwa's* Case that delay by itself will not render the notification void that if it is shown that the gap of time is so large as to lead to the prima facie conclusion of lack of bona fides in the proceedings for acquisition, it would be necessary to probe further to discover if there is any cause for the delay and such delay has caused prejudice to any one. This aspect had not been referred to in that decision. Hence, we are of the view that the said decision is distinguishable on the facts of that case.

12. In *P. Venkatarathinam Naidu v. State of Tamil Nadu & 2 others* (1990 T.L.N.J. 264) the decision in *Deepak Pahwa's* case was also referred to. In this case also, no counter affidavit was filed offering any explanation, which, if offered, could have been tested to find out its tenability and also as to why continuity of action was not kept up, and what were the factors that prevented the respondents from adhering to the continuity process. That being so, this decision also stands on the same footing as the one rendered in *Nandakumar v. State of Tamil Nadu & another* 1986 Writ L.R. 164 about which we have already pointed out that it is

distinguishable on facts.

13. In *Government of Tamil Nadu v. S. Jayaraman* (1992 Writ L.R. 332) the question raised before us, did not arise for consideration. It may be pointed out that in that case, the learned single Judge held that for the purpose of determining whether the Declaration under S. 6 of the Act had been made within the time prescribed under the Act, the period was to be computed from the date S. 4(1) notification was published in the official Gazette and not from the date it was last published. On that basis, it was held by the learned single judge that the Declaration made under S. 6(1) was beyond time as such the acquisition proceedings were invalid. The Division Bench, however, took the view that the time was to be computed from the last of the dates of such publication and the giving of such public notice as stated in S. 4(1) of the Act. Accordingly, it was held that the declaration under S. 6 was well within time. The question as to whether the gap of time between the publication of notification under S. 4(1) in the Gazette, and the public notice of the substance of the same in the locality would render the acquisition invalid, did not arise for consideration in that case. Therefore, we are of the view that the observation contained in paragraph 16 of the judgment cannot be held to be the ratio of the said decision. It is an obiter dictum as it did not arise for decision as such it was not required for the purpose of the decision. In addition, it has not been laid down in that case that if the gap of time is more than two months, the acquisition will be invalid. It is only stated that if the time gap exceeds two months, the acquisition proceeding is liable to be questioned. Therefore, it is not possible to read the said observation as laying down a proposition that the acquisition will be invalid if the time gap between the publication of S. 4(1) notification in the official gazette and causing public notice of the substance of the same at convenient places of the locality, exceeds two months.

14. We are of the view that in the instant case, as already pointed out, the time gap has been properly explained and even if there is no proper explanation for the period between 8.5.1985 and 13.11.1985, it cannot be held to have resulted in breaking the continuity and thereby de-linking both the events. It is also not possible to hold that it has caused prejudice to the petitioners. In fact it is not their case that any prejudice is caused to them. Further, it cannot also be said that the proceedings of acquisition lack in bona fides. Accordingly, points (i) and (iii) are answered in the negative and point No. (ii) is answered partly in the affirmative and partly in the negative as pointed out above.

15. In No. IV Laches- learned Government Pleader has laid much stress on it. According to him, W.P. No. 6001 of 1990 has been filed in the year 1990 whereas the other three writ petitions have been filed in the year 1988. If the date of publication of S. 4(1) notification viz. 29.11.1985 is taken into account, in one case there is a delay of five years and in other cases there is a delay of three years. It is also contended that even if the Declaration made under S. 6(1) of the Act is taken into consideration, the same having been published in the locality on

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

16. may be pointed out that land acquisition is made for a public purpose. If it has to be interfered with the party has to be diligent and has to approach the Court without undue delay.

17. of course, learned Government Pleader has also placed, reliance on the decision in *Tamil Nadu State Housing Board v. Shanmughasundara Nadar & three others* (1988 Writ L.R. 55) in which it has been stated:

In our view the proper occasion to raise a challenge to the invalidity of the proceedings under the I and Acquisition Act on the ground that the provisions of S. 4 have not been complied with, is before the proceedings of the enquiry under S. 5A of the Act are completed and Declaration under S. 6 is made. In such a case, if the defect is found that defect can be remedied and the proceedings can be restored.

With great respect we find ourselves difficult to agree with the aforesaid proposition because it is open to the State even after S. 5A enquiry, to drop the proceedings. Therefore, the mere fact that the aggrieved party does not approach this Court challenging S. 4(l) notification before S. 5A enquiry, and approaches this court under Art. 226 of the Constitution without undue delay after the declaration is made under S. 6 of the Act, there will be no justification

to put him out of court on the ground of laches. However, it is not necessary to consider this aspect of the matter as stated in that decision, except stating that we find it difficult to agree with the said proposition. Accordingly point No. (iv) is answered in the affirmative.

18. In the light of the findings recorded on points (i) to (iv), point No. (v) has to be necessarily answered in the affirmative. It is accordingly answered in the affirmative. For the reasons stated above, we pass the following order. The order of the learned single Judge has to be interfered with. Accordingly, the Writ Appeals are allowed. The order of the learned single Judge in W.P. Nos. 14396, 15994 and 15995 of 1988 and 6001 of 1990, dated 16.9.1991 is set aside and the writ petitions are dismissed. There will be no order as to costs.