

**(1995) 03 MAD CK 0022**

**In the Madras High Court**

**Case No : Writ Petition No. 4714 of 1987**

Velathal and Others

APPELLANT

Vs

The Special Tahsildar, Land Acquisition, Adi-Dravidar Welfare  
and The Commissioner and Secretary to Govt., Social Welfare  
Dept., Govt. of Tamil Nadu

RESPONDENT

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**Date of Decision : 06-03-1995**

**Acts Referred:**

Land Acquisition Act, 1894 — Section 10, 4(1), 55, 5A, 6  
Land Acquisition Rules — Rule 1

**Citation : (1995) 03 MAD CK 0022**

**Hon'ble Judges : Kanakaraj, J**

**Bench : Single Bench**

**Advocate : R. Arunagirinathan, for the Appellant; V.R. Rajasekaran, Government Advocate, for the Respondent**

**Final Decision : Dismissed**

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## **Judgement**

Kanakaraj, J.—Petitioners 1 and 2 along with certain minor children claim to be the owners of the land measuring a total extent of 6.34

acres comprised in S. No. 61/2B in Pooluvapatty village, Coimbatore taluk. By a sale deed, dated 25-3-1986 Petitioners 1 and 2 conveyed an

extent of three acres to and in favour of the third Petitioner. While so, by G.O. Ms. No. 2568, Social Welfare, dated 14-11-1984, an extent of

3.05 acres in the said survey number was sought to be acquired for providing house sites to Adi Dravidars of Pooluvapatty village. It was

published in the Government Gazette on 19-12-1984. According to the Petitioners, they were not aware of the notification u/s 4(1) of the Land

Acquisition Act, (hereinafter referred to as the Act), and the declaration u/s 6 of the Act. They, however, received notice under Sections 9(3) and

10 of the Act and appeared for the award enquiry on 18-3-1987. In the award enquiry they offered to surrender the northern half of total extent of

6.34 acres and prayed for dropping the acquisition proceedings in respect of 3.05 acres in the southern half, which they had sold to the third

Petitioner. Ignoring this suggestion the Respondents have proceeded to pass the award. The writ petition is to quash the notification u/s 4(1) and the declaration u/s 6 of the Act.

2. A counter-affidavit has been filed by the Respondents, wherein it is admitted that the notification u/s 4(1) of the Act was issued in G.O. Ms. No.

2568, Social Welfare, dated 14-11-1984. It was published in the Gazette dated 19-12-1984 and in the local newspapers on 12-6-1985 and 13-

6-1985. The substance of the 4(1) notification was published in the locality on 3-7-1985. An enquiry u/s 5-A of the Act was held on 13-8-1985.

Before that, notices had been issued under Forms 3 and 3-A of the Rules framed u/s 55 of the Act. The second Petitioner did appear for the

enquiry u/s 5-A on 13-8-1985 and expressed that she had no objection to the proposed acquisition. Based on the report submitted by the Land

Acquisition Officer, the Government approved the declaration u/s 6 and the same was issued in G.O. Ms. No. 1360, Social Welfare, dated 23-5-

1986. It was also published in the Gazette, newspapers and the locality. It is only after the completion of the Section 5-A enquiry report, the third

Petitioner claims to have purchased three acres of lands from Petitioners 1 and 2. For the award enquiry, however, notice was issued to the third

Petitioner also and he also appeared. All the Petitioners, no doubt, suggested at the award enquiry for acquiring the northern portion of the land,

leaving out the portion sold to the third Petitioner. This was not acceptable to the Land Acquisition Officer and the offer was rejected.

Consequently, an award was passed on 25-3-1987, and it is at this stage that the writ petition has been filed.

3. Mr. R. Arunagirinathan, Learned Counsel for the Petitioners, raised the following points:

1. The time gap between the Gazette notification of the Section 4(1) notification on 19-12-1984 and the publication in the village on 13-7-1985

has not been properly explained. According to the Petitioners, this vitiates the acquisition proceedings.

2. The second point is that the publication in the village has not been done in accordance with the Rule 1 of the Rules framed u/s 55 of the Act, inasmuch as there was no copy affixed in the nearest Police Station.

3. The offer to surrender the northern portion in lieu of the acquired land had not been properly considered.

4. I had adjourned the case on several occasions to enable the Government Advocate to produce the records regarding the publication of the substance of the notification in the village. The records have been produced today and there is a clear certificate by the Village Administrative

Officer that the substance of the notification u/s 4(1) of the Act was published in the village of Pooluvapatty and the public were made known of

the same. There is also a certificate to the effect that the notification was published by torn torn in the village. There is also a certificate that the

notice was published in the Collector's office on 9-7-1985. Similarly the notification was published in the Tahsildar's office on 9-7-1985 and the

Tahsildar has certified the same. The only defect that is pointed out is that the notice was not published in the nearest Police Station. While it is

seen from the Rules issued u/s 55 of the Act, that the copy of the notice should also be affixed in the nearest Police Station, learned Government

Advocate brings to my notice G.O. Ms. No. 376, Revenue dated 6-12-1992, in and by which the requirement to affix the notice in the Police

Station was dispensed with. Learned Government Advocate has also produced before me a letter G.O. Rt. No. 605, dated 5-10-1951 directing

the Land Acquisition Manual to be suitably amended by removing the necessity to affix notices in the Police Station. I am inclined to accept the

stand taken by the Respondents that there is no more any obligation on the part of the Respondents to affix notice in the Police Station. Further,

there is sufficient proof to show that the substance of the notification was published in the village and in the office of the Collector and Tahsildar. I

am, therefore, satisfied that the requirement u/s 4(1) of the Land Acquisition Act is fully complied with. It has to be remembered that the Section

4(1) only directs publication to be given in convenient places in the locality and there is no mention of any Police Station in the said Section.

However, reliance is placed on the decision reported in A. Vembuli Naicker Vs. State of Tamil Nadu and Others, . But on a perusal of the

judgment, I do not find any support for the Petitioners' case. Inasmuch as the rules have subsequently been amended and the said amendment was

not brought to the notice of the Court. I am of the opinion that it is not necessary to follow the said ratio.

5. So far as the time gap between the Gazette publication and the publication in the locality, I am satisfied that the delay is not long enough to vitiate

the acquisition proceedings. The perusal of the records shows that there has been continuity in the acquisition proceedings and especially in the

matter of the publication of the notice in the village, in the Collector's office and in the Tahsildar's office. In *State of Tamil Nadu and Anr. v.*

*Rajendran and 23 Ors.* 1993 (2) LW 352 a Division Bench of this Court has held that even a delay of one year between the Gazette and the

publication in the village, will not vitiate the acquisition proceedings, provided the delay is properly explained. In this case, I have already pointed

out that the records do show that there has been continuity of proceedings and there is no delay, which will vitiate the proceedings. To the same

effect is the judgment of the Supreme Court in *State of Haryana and Another Vs. Raghubir Dayal*, . In that case a time gap of six months was held

to be insufficient to vitiate the acquisition proceedings.

6. So far as the last contention that the offer of the northern half of the lands had not been properly considered, I am of the opinion that the reason

given in the counter-affidavit is perfectly justified and acceptable. It is well known that an acquisition is complete once the declaration u/s 6 of the

Act is made. In this case the offer is said to have been made only at the time of the award enquiry. Even that was considered to be not feasible and

the Land Acquisition Officer, therefore, rejected the same. The Court must also notice the fact that at the enquiry u/s 5-A of the Act, the owner of

the land had stated that she had no objection for the acquisition. Therefore, in my opinion, the Petitioners are not justified in challenging these

acquisition proceedings and all the points raised by the Learned Counsel for the Petitioners are found to be unsustainable. The writ petition,

therefore, fails and the same is dismissed. No costs.