Sundaramoni Venkatesan @ Rani Venkatesan Vs The State of Tamil Nadu

Court: Madras High Court

Date of Decision: March 4, 2011

Acts Referred: Civil Procedure Code, 1908 (CPC) â€" Section 11
Land Acquisition Act, 1894 â€" Section 11, 11A, 16A, 17, 4(1)

Hon'ble Judges: T. Raja, J

Bench: Single Bench

Advocate: Altaf Ahmed for K.M. Vijayan Associates in W.P. No. 4770/10, V. Chandrakanthan, in W.P. 2347 and 27434/10, N. Rajalakshmi, in W.P. 4993 of 2010, R. Karunakaran, in W.P. 5100 of 2010 and K.V. Sundarajan, in W.P. 8855 of 2010, for the Appellant; P. Wilson, AAG and A. Vijayakumar and S. Sivashanmugam, GA., for the Respondent

Final Decision: Dismissed

Judgement

T. Raja, J.
Inasmuch as all the above six writ petitions are interconnected and the issues raised therein being one and the same, they are

disposed of by this Common judgment.

2. The factual backdrop in which the present writ petitions came to be filed, of course fathomed to be a renewed legal battle rather on settled

disputes, is concisely outlined below for better appreciation.

a) One Mr. L.N. Venkatesan is the Petitioner in W.P. No. 4770 of 2010 and the Petitioners in other writ petitions seem to be his family members.

The said L.N. Venkatesan owned a land measuring about 10.33 acres in S. No. 232/1C in Kottivakkam Village, Saidapet Taluk, Chengalpattu

District. At the request of the Tamil Nadu Housing Board for implementation of South Madras Neighbourhood Scheme, the Government passed

an order on 18.02.1972 for acquisition of 275 acres of land at Kottivakkam and Thiruvanmiyur villages, whereupon, the District Revenue Officer,

Kancheepuram, submitted a Draft Notification u/s 4(1) of the Land Acquisition Act (hereinafter referred to as the ''Act'') in respect of 97.01 acres

comprised in S. Nos. 224/2, 232/1B1 etc. of Kottivakkam Village. The land of the Petitioner in S. No. 232/1C was forming part of the total

acquisition of 97.01 acres.

b) Challenging the Notification u/s 4(1) and Declaration u/s 6 of the Act whereby the Petitioner-L.N. Venkatesan''s land ad-measuring 10.33 acres

came to be included within the zone of acquisition, a writ petition came to be filed before this Court in W.P. No. 10351 of 1982. In the said Writ

Petition, the Petitioner restricted the relief in respect of 6 acres comprised in the aforesaid survey number and ultimately, by judgment dated

08.01.1988, a Division Bench of this Court allowed the prayer for the said extent of 6 acres. Since the said judgment was not challenged by way

of Appeal, the decision became final in respect of the said 6 acres. However, as against an identical order passed by the High Court in the case of

the Petitioner"s brother, the Apex Court set aside the judgment of the High Court and upheld the Notification and the said judgment is reported in

State of Tamil Nadu v. L. Krishnar, (1996) 1 SCC 250 .

c) Even during the pendency of W.P. No. 10351 of 1982, the Petitioner filed another Writ Petition in W.P. No. 7645 of 1986 in respect of the

remaining 4.33 acres of land and stay of the proceedings was ordered on 06.08.1986 and, by order dated 14.07.1987, the stay was made

absolute for taking possession alone with an observation that other proceedings may go on. Ultimately, W.P. No. 7645 of 1986 came to be

dismissed by order, dated 08.08.1997, of a Division Bench of this Court on the ground of delay and laches and, by referring to L. Krishnan

(Petitioner"s brother case decided by the Supreme Court) Case, it was specifically observed that the Petitioner, by confining the challenge in the

previous litigation in respect of 6 acres, himself made it clear that he was not challenging the acquisition of the rest of the land measuring 4.33 acres.

d) After modification of the stay order, in order to complete the award proceedings, on 18.08.1987, further enquiry notice was issued to the

Petitioner fixing the enquiry on 24.08.1987, whereupon, the Petitioner requested for grant of 10 days time and another notice, was issued to him

on 04.09.1987 fixing the enquiry on 14.09.1987 and for that, it was represented that he had received the letter only on 14.09.1987 and again, he

was requested to appear for the enquiry on 30.10.1987 for which he expressed his inability to attend the enquiry as he was not in station on

30.10.1987 & 31.10.1987 and thereafter, he failed to appear for the enquiry on 09.11.1987 and ultimately, the award came to be passed on

10.02.1988. As against the said Award, a writ petition in W.P. No. 3540 of 1988 was filed by the Petitioner- L.N. Venkatesan raising a ground

that the Award having been passed beyond the prescribed period of two years, it contravenes the provision u/s 11-A and therefore, the entire

proceedings initiated under the Act should be held to have lapsed. By Order, dated 19.07.1996, the First Bench of this Court, by meeting the

point of delay in passing of the Award, observed that the interim order obtained at the first instance in W.P. No. 10351 of 1982 and in the second

instance in W.P. No. 7645 of 1986 disabled the Land Acquisition Officer (LAO) from taking possession of the land and hence, as on the date of

judgment, there has been an interim order passed in one of those writ petitions operating against the LAO and in such peculiar circumstances

involved, the Petitioner cannot take the ground of delay and so observing, ultimately, dismissed the writ petition.

e) As against the dismissal of the aforesaid Writ Petition, the matter was taken to the Supreme Court by way of SLP Civil Nos. 5613 and 5614 of

1997 and, by judgment dated 04.04.1997, the Apex Court confirmed the order of the High Court and dismissed the SLPs concluding that both

the Notification u/s 4(1) as well as the Declaration under Section-6 do not get lapsed as there was no contravention of the provision u/s 11-A of

the Act.

f) Thereafter, challenging the Resolution, dated 27.01.2001, of the Respondent, the Petitioner filed W.P. No. 1737 of 2001, and this Court

dismissed the said writ petition, by order dated 11.10.2002, and the writ appeal preferred as W.A. No. 3469/02 came to be disposed of by the

First Bench, by judgment dated 18.11.2002, with an observation that once it was held that this Court was not having jurisdiction to dwell on a

matter because of pendency of the lis before the Apex Court, it may not be proper for the High Court to enter upon the merits of the matter.

g) When the decision of the High Court, dated 08.08.1997, rendered in W.P. No. 7645 of 1988, whereby the Petitioner''s plea for dropping the

acquisition proceedings in respect of 4.33 acres was dismissed, and the aforesaid judgment dt. 18.11.2002 passed in W.A. No. 3469 of 2002,

were challenged before the Apex Court by way of Civil Appeal No. 1897 of 1998, by judgment dated 31.03.2004, the Apex Court declined to

interfere with the decision of the Division Bench, however taking a sympathetical view on the aspect that the Petitioner had no other place to

reside, a bungalow shown to have been under construction in an area which is 80'' x 122'' was permitted to be retained by the Petitioner and the

entire remaining area was allowed to be taken over by the Housing Board with a clarification even to take possession of those portions which had

been sold off by the Petitioner. The subsequent Review Petition filed by the Petitioner in C. Nos. 1240 and 1241 of 2004 before the Apex Court

was dismissed on 0 9.08.2005. The ultimate petitions, dated 16.02.2006, 27.08.2007 and 28.01.2006, made to the Government by the Petitioner

came to be rejected by letter dated 21.05.2009 and 25.10.2010 by holding that the land in question is essentially required by the TNHB for

implementing public schemes.

h) Thus, in an incessant legal battle, apart from a writ appeal, the Petitioner relentlessly filed 4 writ petitions, of which, except W.P. No. 10351 of

1982, all other writ petitions were dismissed by detailed and reasoned orders and the matters taken up to the Supreme Court also met the same

fate.

3. In the present round of litigation, in respect of 4.33 acres of land in question, Mr. L.N. Venkatesan has filed W.P. No. 4770 of 2010 and other

Petitioners, who are the family members and in whose favour the land in question is said to have been settled, challenge the acquisition proceedings

in respect of the respective portions of land retained by them subsequent to partition/settlement on the ground of delay in passing the Award.

4. Mr. Altaf Ahmed, learned Senior Counsel appearing for the Petitioners, with great force and eloquence, argued the matter by making the

following three-fold submissions:

(a) The High Court, by its order dated 06.08.1986 passed in W.M.P. No. 1099 of 1986 in W.P. No. 7645 of 1986, granted interim stay and

later, by subsequent order dated 14.07.1987, the stay was made absolute while observing that other proceedings may go on. However, the

authorities, who ought to have passed the Award on or before 02.09.1987 in compliance with Section 11-A of the Act, passed it only on

10.02.1988 with a delay of about 5 months, thereby, the entire land acquisition proceedings in respect of 4.33 acres of land in S. No. 232/1C are

rendered invalid in the eye of law.

(b) Section-6 of the Act being analogous to Section-11, for, both the provisions are mandatory in nature, non-compliance of Section- 11-A will

automatically undo the effect of the acquisition proceedings.

(c) Having suffered an order of dismissal, dated 19.07.1996, in W.P. No. 3450 of 1988, the Petitioner approached the Hon"ble Supreme Court

and inasmuch as the said SLP came to be dismissed without considering the case of the Petitioner as regards the implication of Section-11A to the

given circumstances, the Petitioner can very well agitate the said ground by way of present writ petitions. It is reiterated that, by modification order

dated 14.07.1987, when the Court had made it clear that the stay was made absolute in respect of dispossession alone clearly observing that other

proceedings may go on, there was no stay in other aspects and thus, there was no embargo for the authority to pass the award within the

prescribed period.

According to the learned Senior Counsel, in view of the legal aspects as pointed out above, despite the fact that certain issues seem to have been

settled already, this Court may, by examining the issues now raised based on the mandatory '' time-bound obligation'' saddled by way of Section-

11-A and the abrupt failure on the part of the authority in adhering to the same, hold that the entire proceedings are liable to be set aside and so

holding, allow the writ petition.

5. In an endeavour to confute the submissions made by the learned Senior Counsel for the Petitioner, Mr. P. Wilson, learned Additional Advocate

General appearing for the Board as well as Mr. S. Shivashamugam, learned Government Advocate appearing for other official Respondents,

forcibly contended that after a couple of litigations launched at the instance of L.N. Venkatesan wherein definite findings were rendered by clearly

adverting to his restrictive stand in subjecting himself to a condition that he would not any more insist his claim for the present 4.33 acres of land

and, acting on such stand taken by him, already 6 acres of land was allowed to be retained by him and that is why, no appeal was preferred

against the order passed in the first writ petition in W.P. No. 10351 of 1982. Further, the very same issue relating to the implication of Section 11-

A was already dealt with by a Division Bench of this Court while deciding W.P. No. 3450 of 1988 (Order dated 19.07.1996) filed by the

Petitioner and the conclusion reached therein came to be affirmed by the Apex Court by judgment dated 04.04.1997. That being so, the present

proceedings are clearly vitiated by clear operation of the principles of res judicata and even otherwise, it would amount to total abuse of process of

Court. According to them, in the present round of litigations, there being no fresh issue for consideration and whatever arguments that have been

raised now having been answered by this Court as well as by the Hon''ble Apex Court, it may not be appropriate for this Court to once again

delve into the settled legal issue.

6. Even at the outset, it may be gainfully expressed that, despite the renewed and constant efforts of the Petitioners to see that the acquisition

proceedings are dropped by a judicial order and the filial endeavour of the learned Counsels to make out a case in favour of the Petitioner,

unfortunately, this Court is not in a position to appreciate the matter in the perspective of the Petitioners as it would run contra to the decisions

rendered not only by this Court as well as the Apex Court exactly on the same issue relating to the implication of Section-11A of the Act to the

instant case under given circumstances.

7. It is the core contention of the learned Senior Counsel that though an order of interim stay (of all proceedings) was granted on 06.08.1996 in

WMP No. 1099 of 1986 in W.P. No. 7645 of 1986, by virtue of the reason that such order of interim stay came to be modified by a consequent

order dated 14.07.1987, making the stay absolute in respect of taking possession alone with a specific observation that other proceedings may go

on, one must take note that, while reckoning the time-stipulation of two years to pass an Award as mandated under Section-11A of the Act, the

period during which the interim stay was in operation alone shall be excluded and if done so, it would be glaringly apparent that the present Award

came to be passed beyond the stipulated period, as a result, the rigour of the proceedings in respect of 4.33 acres in the aforementioned Survey

Number would automatically wither away, and such aspect having not been elaborately gone into in the previous litigations, as a fresh issue, the

same may now be decided by this Court.

8. The Petitioner, in the very first litigation viz., W.P. No. 10351 of 1982, was challenging the land acquisition proceedings in respect of 10.33

acres of land owned by him, however, he restricted the claim for 6 acres and left the remaining land of 4.33 acres open to the land acquisition

proceedings. In the second round of litigation viz., W.P. No. 7645 of 1986 filed for dropping the proceedings pertaining to remaining 4.33 acres of

land, the plea was dismissed by order dated 08.08.1987. In the third round, in W.P. No. 3540 of 1988, the Petitioner precisely raised the very

same issue now argued to be a fresh one, and sought to declare the Declaration under Section-6 of the Act as invalid on the ground that the

Award which ought to have been passed within two years from 24.09.1984 came to be passed much belatedly on 10.02.1998 and that even if the

period during which the interim stay was in operation was to be excluded, still there was a delay indicating contravention of Section- 11-A of the

Act. The First Bench of this Court in its judgment dated 19.07.1996, by pointing out thus,

It is not in dispute, in this case, that the Petitioner filed WP No. 10351/1982, seeking quashing of the acquisition proceedings in question, in

respect of the remaining area of 6 acres comprised in S. No. 232/1C in Kottivakkam Village, Saidapet Taluk and obtained an interim order, which

disabled the Land Acquisition Officer even though it related to a portion of the survey number in question to proceed in the matter, much less to

pass an Award...Even during the pending of W.P. No. 10351/1982, Petitioner had filed another writ petition, in W.P. No. 7645/1986 and

obtained an interim order. W.P. No. 7 645/1986 relates to the remaining portion of 4.33 acres and that writ petition is heard along with this writ

petition. However, we pass a separate order in that writ petition. The interim order obtained WP No. 7645/1986 disabling the Land Acquisition

Officer to obtain possession of the land in question, is still in operation. Therefore, from the year 1982 till to-day, there has been an interim order

passed in one of the Writ Petitions referred to above, operating against the Land Acquisition Officer, disabling him to take possession of the land.

(emphasis supplied)

and referring to a decision of the Apex Court reported in Yusufbhai Noormohmed Nendoliya v. State of Gujarat and Anr. AIR 1991 2153,

wherein, it has been held,

The said Explanation is in the widest possible terms and, in our opinion, there is no warrant for limiting the action or proceeding referred to in the

Explanation to actions or proceedings preceding the making of the award u/s 11 of the said Act. In the first place, as held by the learned Single

Judge himself where the case is covered by Section 17, the possession can be taken before an award is made and we see no reason why the

aforesaid expression in the Explanation should be given a different meaning depending upon whether the case is covered by Section 17 or

otherwise. On the other hand, it appears to us that Section 11-A is intended to limit the benefit conferred on a land holder whose land is acquired

after the declaration u/s 6 is made to in cases covered by the Explanation. The benefit is that the award must be made within a period of two years

of the declaration, failing which the acquisition proceedings would lapse and the land would revert to the landholder. In order to get the benefit of

the said provision what is required., is that the land-holder who seeks the benefit must not have obtained any order from a court restraining any

action or proceeding in pursuance of the declaration u/s 6 of the said Act so that the Explanation covers only the cases of those landholders who

do not obtain any order from a Court which would delay or prevent the making of the award or taking possession of the land acquired. In our

opinion, the Gujarat High Court was right in taking a similar view in the impugned judgment.

did not find any merit in the argument advanced and rejected the writ petition.

9. When the said order was challenged before the Apex Court by way of SLP (C) Nos. 5613-14 of 1997 (reported in L.N. Venkatesan Vs.

State of Tamil Nadu and others, , in its judgment, dated 04.04.1997, noting the contention of the Petitioner thus,

The learned Counsel for the Petitioner contends that the interim stay granted was "not to dispossess" the Petitioner and there is no impediment for

the authorities to proceed further in passing the award.

straight away, the Apex Court answered - "we find no force in the contention". Reiterating the principle laid down in Yusufbhai"s case to the effect

that owner of a land or a person, who is interested in the land, if desires to take advantage of Section-11A of the Act, he must not have obtained

an interim order against the LAO of whatsoever nature, the Apex Court pointed out that ""the interim order obtained in W.P. No. 7645 of 1986

disabling the LAO to obtain possession of the land in question, is still in operation"", and concluded that both the Notification u/s 4(1) and the

declaration under Section-6 of the Act do not get lapsed and thereby, given a quietus to the issue which is now being re-canvassed.

That being so, this Court is not able to appreciate the argument advanced by the learned Senior Counsel that such issue was never dealt with by

the Apex Court in the decision reported in L.N. Venkatesan Vs. State of Tamil Nadu and others, and that only now, the said contention is raised

afresh.

10. From the outcome of the above proceedings, the position is very clear that the validity of the entire acquisition proceedings in respect of 4.33

acres of land in question has been upheld by the Apex Court negating the rehashed issue raised in the light of Section-11A by holding that in both

Writ Petition Nos. 10351/82 and 7645/86, the Petitioner obtained interim orders and thereby, as on the date of judgment, there has been an

interim order passed in one of the above writ petitions, operating against the LAO, disabling him to take possession of the land. That being so, the

allied question would be - whether the family arrangement made by dividing the properties amongst the family members is valid in the eye of law

and whether the present writ petitions are maintainable. In this regard, it would be relevant to quote Section.16-A below:

16-A. Restriction on transfer, etc. -(1) No person or authority (other than the Government), for whom any land is acquired under this Act for any

public purpose as referred to in Sub-section (1) of Section 4, shall transfer the said land or any part thereof by way of sale, mortgage, gift, lease or

otherwise except with the previous sanction of the Government.

(2) Where it is noticed or any information has been received that any land has been transferred in contravention of Sub-section (1), the

Government may, by an order, declare the transfer to be null and void, and on such declaration, the land shall, as penalty, be forfeited to, and vest

in, the Government in Revenue Department free from all encumbrances:

Provided that no order under this Sub-section, shall be made unless such person or authority has had a reasonable opportunity of being heard.

11. In the light of the above provision, coming back to the facts of the case, it could be seen that the Petitioner, who is said to have settled the land

in dispute amongst the family members by self- assuming that the proceedings lapsed, in the year 2001 filed W.P. No. 1737 of 2001 challenging

the Resolution passed by the Respondents on 31.08.2000 and the said petition was dismissed by order dated 11.10.2002 and the appeal

preferred in W.A. No. 3469 of 2002 came to be disposed of by judgment dated 18.11.2002 wherein, it was observed thus:

The learned single Judge, having held that the matter is now within the realm of the Supreme Court for decision, still went ahead to decide on

merits, merely because, the learned Counsel have addressed their arguments on merits. But, once it is held that this Court is not having jurisdiction

to dwell on a matter because of the pendency of the lis before the Apex Court, it may not be appropriate for this Court to enter upon the merits of

the matter.

Thus, at the relevant time, the Supreme Court was yet to decide the Civil Appeal arising from the dismissal order, dated 08.08.1997, passed by

the Division Bench of this Court in W.P. No. 7645 of 1986, negativing the claim of the Petitioner for 4.33 acres of the land in question.

12. Ultimately, the Supreme Court decided Civil Appeal No. 1897 of 1998 (arising out of the order aforementioned, dated 08.08.1997, and also

out of the judgment dated 18.11.2002 rendered as above) by its order dated 31st March, 2004. Apparently, such order came to be passed after

adjudication upon the issue relating to Section 11-A by the Supreme Court in its earlier proceedings dated 04.04.1997. In the order dated

31.3.2004, the Supreme Court endorsed the view of the Division Bench of this Court which dismissed W.P. No. 7645 of 1986, to the following

effect:

the High Court was right in holding that having chosen first to challenge the Notification only qua 6 acres it was not open to the Appellants to file a

second Writ Petition at a belated state to challenge the same notification.

Further proceeding, the Supreme Court took a sympathetic view on the plea of the Petitioner that he has no other place to reside and ultimately

held as follows:

It was submitted that now, the Appellant has no other place to reside and therefore a sympathetic view may be taken and he may be allowed to

retain the residential premises in which he is residing. We, however, find that the residential premises are right in the middle of the land. Therefore it

would not be possible to allow him to retain that portion. We find that the Appellant has also started construction of one bungalow on the one side

of the land. That bungalow appears to be on an area which is 80'' x 122''. From the photos we see that the house is almost ready. We direct the

Government, without it being a precedent in any manner, to release this portion of land admeasruing 122'' x 80'' (which we are marking in Red

colour in the plan at Page 259 of the paper book). The Appellant to ensure that the construction of this house is completed within a period of one

year from today and that he shifts into this house within the same period. The Appellant to be allowed to reside in the main house for this period of

one year on his filing an undertaking to this Court within one week that within one year he will hand over the vacant and peaceful possession of the

residential house to the Respondents. The Respondents are at liberty to take possession of the remaining land, including the portions on which

other structures stand (including the out house).

Before we part with this Judgment, we clarify that we have not directed release of the portions which have been sold off by the Appellant. The

Government will be at liberty to take possession of even those portions. The Appeals stand disposed of accordingly. There will be no order as to

costs.

13. From this ultimate order passed by the Apex Court, it is clear that,

(a) out of the 4.33 acres of land in dispute, by taking a sympathetical view, the Petitioner was allowed to retain an area of 80" x 122" where-at a

bungalow appeared to be at the verge of completion of construction;

(b) The Petitioner was allowed to retain the existing residential area only for one year enabling him to shift to the above said bungalow;

(c) He was directed to file an undertaking within one week from the date of the order to the effect that within one year, he would hand over the

vacant and peaceful possession of the old residential house/remaining area to the Respondents;

(d) Furthermore, in respect of the area that was already sold off by the Petitioner, the Government was given liberty to take possession of even

those portions.

Thus, one could without any difficulty clearly see that in the light of Section 16-A of the Act and that of the directives of the Apex Court while

disposing of the aforesaid Civil Appeal, it is unambiguously outlined that except the portion earmarked for the bungalow, the entire remaining

portion including the small area which was already sold away would vest with the Government. Under such circumstances, even if the land is said

to have been settled/sold, the transactions would only be null and void and therefore, the writ petitions filed by the settlees/purchasers cannot be

entertained at all in view of Section Sec-16A of the Act which proclaims all subsequent transactions of the land covered by the Notification u/s

4(1) of the Act by way of sale, mortgage, gift, lease or otherwise are null and void. The Petitioner/L.N. Venkatesan, in pursuant to the ultimate

order passed by the Apex Court, submitted an affidavit of undertaking dated 06.05.2004 by stating thus:

I hereby undertake to hand over vacant and peaceful possession of the residential house to the Respondents within one year from the date of the

aforesaid order viz. on or before 31.03.2005.

Consequent thereto, the Review petition filed by him before the Apex Court came to be dismissed on 09.08.2005. Subsequent petitions made to

the Government for dropping the proceedings came to be rejected by letter dated 25.10.2010.

14. Therefore, when the Petitioner subjected himself to an affidavit of undertaking filed before the highest court of the land where-at, in the

previous round of litigations, the issue now sought to be raised had already been answered against the Petitioner and thereby, a quietus has been

given, it may not be and shall not be open for this Court to re-adjudicate upon such settled issue. In the decision reported in Government of Tamil

Nadu and another Vs. Vasantha Bai, , rather in very explicit terms, an identical issue has been answered thus:

We, therefore, hold that the stay of dispossession would tantamount to stay of further proceedings being taken u/s 11 and Explanation to Section

11-A covers such an order and the entire period of stay has to be excluded in computing the period of two years prescribed by Section-11A.

15. Before parting with this judgment, let me sum up the discussion, in brief, as follows:

I) Admittedly, the Notification u/s 4(1) of the Act was issued on 26.03.1975 followed by a Declaration under Section-6 thereof on 21.03.1978

and Section 11-A was operative with effect from 24.09.1984. An order of interim stay of the proceedings was obtained on 0 6.08.1986 in WMP

No. 1099 of 1986 in WP No. 7645 of 1986 and the said stay order was made absolute on 14.07.1987 with regard to taking possession alone

with an observation that the other proceedings may go on. By adverting to those sequences, the vital case and claim of the Petitioners is that when

the stay order was modified by this Court in respect of taking possession alone, the LAO should have passed an award immediately within two

years so as to save the proceedings from being lapsed u/s 11-A of the Act. When the Petitioner raised the very same issue before the Supreme

Court in SLP Civil Nos. 5613 and 5614 of 1997, by order dated 04.04.1997, the Supreme Court, while refusing to entertain such plea u/s 11-A

of the Act, dismissed the SLP holding thus:

The interim order obtained by the Petitioner in W.P. No. 7645/86 disabling the Land Acquisition Officer to obtain possession of the land in

question, is still in operation. Therefore, from the year 1982 till today (04.04.1997), there has been an interim order passed in one of the writ

petitions referred to above, operating against the Land Acquisition Officer, disabling him to take possession of the land.

In the second round of litigation also in C.A. No. 1897 of 1998, by judgment dated 31.03.2004, the Supreme Court has once again made it clear

that the acquisition proceedings are valid and, by taking a sympathetic view in favour of the Petitioner, while allowing him to retain an area of

80"x122" out of the 4.33 acres of land in dispute, directed him to file an affidavit of undertaking to surrender the remaining portion. The Petitioner

accepting to retain an area of 80" x 122", filed an affidavit of undertaking dated 06.05.2004 enabling the Government/Respondent to take

possession of the rest of the land. Thus, apart from a decision having been rendered consistently on the present plea raised, the Petitioner

submitted a plain and clear undertaking to the effect that he would hand over the remaining portion of the land on or before 31.03.2005, thereby,

even otherwise, he himself accepted that he would be bound by the verdict that the land in dispute would vest with the Government.

II) More over, the Hon"ble Apex Court in Government of Tamil Nadu and another Vs. Vasantha Bai, , followed by M. Ramalinga Thevar Vs.

State of Tamil Nadu and Others, , already laid down the ratio by settling the issue that even when dispossession alone is stayed by the Court, the

period during which such stay order operates would stand excluded from the time fixed for passing the award. In the order dated 04.04.1997,

made in SLP Nos. 5613 and 5614 of 1997, referring to Yusufbhai case, it was further made clear that in order to get the benefit of Section 11(A)

by any landlord complaining the delay in passing the award, what is required to be fulfilled is that the landlord must not have obtained any order

from a Court restraining any action or proceeding in pursuance of the declaration u/s 6 of the Act so that the explanation helps him to set aside the

entire proceedings as lapsed; for, Section 11(A) covers only those landlords, who do not obtain any order from a Court which would delay or

prevent the making of the award or taking possession of the land acquired. But, in the instant case, the Petitioner has filed four writ petitions one

after the other and 2 independent proceedings before the Hon"ble Apex Court, which finally came to an end on 31.03.2004 in Civil Appeal No.

1897 of 1998 with Civil Appeal No. 2079 of 2004.

III) In the above circumstances, the present writ petitions filed on the settled issues are struck by the principles of res-judicata. Law on res judicata

and estoppel is well understood in India and there are ample authoritative decisions by various Courts on such well known principle which, in

common, is applicable to the writ proceedings as well. The plea of res judicata, though technical, is based on public policy evolved by the Courts

in order to put an end to the litigation. While considering the doctrine of res judicata, the Apex Court in Ishwar Dutt Vs. Land Acquisition

Collector and Another, , quoted the following deduction made on such principle in Swamy Atmananda and Others Vs. Sri Ramakrishna

Tapovanam and Others, :

The object and purport of the principle of res judicata as contended in Section 11 of the CPC is to uphold the rule of conclusiveness of judgment,

as to the points decided earlier of fact, or of law, or of fact and law, in every subsequent suit between the same parties. Once the matter which was

the subject-matter of lis stood determined by a competent Court, no party thereafter can be permitted to reopen it in a subsequent litigation. Such

a rule was brought into the statute-book with a view to bring the litigation to an end so that the other side may not be put to harassment.

The principle of res judicata envisages that a judgment of a Court of concurrent jurisdiction directly upon a point would create a bar as regards a

plea, between the same parties in some other matter in another Court, where the said plea seeks to raise afresh the very point that was determined

in the earlier judgment.

IV) Therefore, when a judicial decision is already given by the Supreme Court against the Petitioner on exactly the very same issue, by order dated

04.04.1997 in SLP (Civil) Nos. 5613 and 5614 of 1997, such a judicial decision has become final as it leaves nothing to be judicially determined

or ascertained thereafter. In other words, when the issue to-day raised was already raised and the decision rendered thereon has become absolute,

complete and certain, it is not lawfully subject to subsequent recision, review or modification by the High Court. Therefore, this Court has no

jurisdiction or authority to go into the same issue decided repeatedly by the Supreme Court by its aforesaid order dated 04.04.1997 and followed

by the subsequent judgment, dated 31.03.2004, passed in C.A. No. 1897 of 1998.

V) The other aspect to be pointed out is that the Petitioner has effected certain transfers only after the Notification u/s 4(1) of the Act, and such

transfers having been prohibited by Section 16(A) of the Act, they are hereby held as absolutely null and void.

16. In the light of the foregoing discussion, I am of the considered opinion that the present writ petitions are totally devoid of any merit and

accordingly, they are dismissed. However, the parties are directed to bear their own costs. Connected Miscellaneous Petitions are closed.

17. Since the key of the property has been handed over to the Registrar General of this Court during the pendency of the proceedings, the

Registrar General is hereby directed to return the key to the 2nd Respondent/Board on filing an application before the Office.