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Madras High Court

Case No: Writ Petition No. 15647 of 2012 and M.P. Nos. 2 of 2012 and 1 of 2013

N. Raju Padayachi APPELLANT

Vs

The District Collector RESPONDENT

Date of Decision: Nov. 10, 2014

Acts Referred:

- Land Acquisition Act, 1894 - Section 3(f), 4, 40(1)(a), 44B, 6

Hon'ble Judges: C.S. Karnan, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

C. S. Karnan, J.
The short facts of the case are as follows:

The 1st petitioner submits that he and his wife namely the 2nd respondent herein are the owners of agricultural lands comprised in New Survey Nos. 39/1, 48/10, 39/3, 48/1E, 40/2, 40/3 and 48/1c situated at Nannai East Village, Kunnam Taluk, Perambalur District. The 2nd respondent herein namely the Special Tahsildar, Land Acquisition, who is attached to the Adi-Dravida Welfare Department, Perambalur District issued a notification under Section 4(2) of the Tamil Nadu Land Acquisition for Harijan Welfare Scheme Act to acquire the said land for putting up a pathway to a burial ground on 29.09.2004. But no notice was served on the petitioners. Therefore, the petitioners have filed a writ petition Nos. 3104 and 3105 of 2005, on the file of this Court. This Court after verification of records allowed the writ petitions by its common order dated 18.11.2009. However, this Court directed the respondents to issue a fresh enquiry notice to the petitioners within a period of two weeks from the date of receipt of the above said copy of the common order and complete the enquiry within a period of two weeks from thereon. The petitioners state that the said order has become final and no appeal being filed against the said common orders.

2. The petitioners additionally added that the order copy was made ready on 26.11.2005 and delivered the same on 27.11.2009 and therefore the respondents should have issued notice of hearing to the petitioners on or before 11.12.2009 and complete the enquiry on or before 25.12.2009, but, the respondents have not complied with the order passed by this Court dated 18.11.2009. The petitioners state that the common order passed by this Court is binding on the respondents. In contrary to the orders passed by this Court, the 2nd respondent herein issued a notice only on 12.03.2009 after a delay of nearly four months and directed the petitioners to attend an enquiry to be held on 15.03.2010. In obedience of this Court''s order, the petitioners have attended the enquiry but on that day, no enquiry was conducted by the respondents, since the 1st respondent had other work on that day with the 2nd respondent. The petitioners have waited and finally directed to leave the office with an assurance that fresh date of enquiry will be communicated to them. But, no such notice was issued to the petitioners thereafter. In view of the above fact, the petitioners were constrained to issue a legal notice dated 06.04.2010 narrating the entire facts and also requested the authorities not to proceed with the acquisition proceedings further. Apart from the above facts the petitioner''s son namely Balusamy had also through his letter dated 20.07.2011, requested the 2nd respondent herein not to proceed with the acquisition proceedings since the time given by this Court had already expired.

3. The petitioners further added that they have also issued another legal notice dated 25.07.2011, to the 1st respondent narrating the entire facts, but there was no response or action on the part of the 1st respondent. Subsequently, the petitioner herein, on the instruction of the Village Administrative Office, Nannai Village appeared before him on 03.09.2011 and evidencing the same, they have also filed a representation before him, but nothing had happened on that day. However, the officials are constantly interfering with the petitioners possession and enjoyment of the property and also caused threat to them to have a personal negotiation and also making an attempt to create some law and order problem in the village, whenever a death occurred in the village. Thus, the petitioners are kept under constant peril. The only intention of the authority is to take possession of the land forcibly with the assistance of some vested interest. The petitioners further stated that the original notification under Section 4(2) of the Act was no longer holding good because of the fact that the respondents 1 and 2 have not complied with the order passed by this Court dated 18.11.2009 and the respondents cannot proceed further under the said notification dated 27.09.2004, even though an opportunity was given by this Court. The Villagers are using an old existing burial ground for the past eight years without any objection and there is no need for any acquisition proceedings at all.

4. The petitioners additionally added that they have also issued a legal notice dated 17.05.2012 to the respondents and the same was also acknowledged by the respondents but after a delay of nearly eight years, issued a notice dated 08.06.2012, purported to be under Rule 3(1) called upon the petitioners to submit their explanation. There was no

need to acquire the property that too agricultural lands of the petitioners to form a pathway. The harijans in the locality are using the old burial ground. The respondents have not made out any prima facie case for initiating the acquisition proceedings. The 2nd respondent had not ever stated that burial ground is meant for harijan people of Nannai Village. The mandatory direction given by this Court was not complied with and the same having raised to a fresh cause of action to the petitioners to file a fresh writ petition challenging the notification issued under Section 4(2) of the Act. Hence, the above writ petition has been filed by the petitioners.

5. The 2nd respondent namely Special Tahsildar, land acquisition, who is attached to the Adi-dravida Welfare Department has filed a counter statement and resisted the above writ petition. This respondent submits that the matter relates to acquisition of lands under Act 31 of 1978 of Tamil Nadu Acquisition of Land for Harijan Welfare Act for the purpose of laying pathway to burial ground for the welfare of adi-dravidas of Nannai Village in S.F.No. 382/1 and 39/1, etc., situated at Perambalur District. The lands situated in 31 survey numbers belonged to different land owners. Except two land owners i.e. the writ petitioner, all gave their concurrence for the acquisition of their lands for the purpose mentioned above. The two land owners i.e. the writ petitioners residence of Sathanatham Village of Kunnam Taluk in Perambalur District objected the acquisition of their lands in S.F.Nos. 282/1, 273/3, 282/17 and 39/1 in W.P.No. 3105 of 2005 and lands in Survey Nos. 274/3, 274/2, 273/3A, 282/1C and 282/1E in W.P.No. 3104 of 2005 respectively on the file of this Court. The other land owners did not file any writ petitions. As per the order of this Court in W.P.Nos. 3104 of 2005 and 3105 of 2005 dated 18.11.2005, the writ petitioner was allowed and the matter was remanded to the authorities for fresh enquiry. As per the direction of this Court, fresh enquiry was conducted and the objections of the petitioners were disposed on merits. In the same order, this Court had observed and directed the respondents to maintain status quo as on date in respect of other land owners till orders issued in acquisition proceedings.

6. Regarding this matter legal opinion of the Government Pleader of High Court, Madras had been sought for. The learned Government Pleader in his opinion dated 03.11.2010 opined that till fresh enquiry is conducted and orders are passed under Section 4(1) of the Act, in respect of the land owners who had filed Writ Petition status quo as on date has to be maintained in respect of other land owners. He had also advised the respondent to take possession of the lands after issuing the said notification. Accordingly a notice under Section 3(1) of the Act has been issued to the land owners against a fresh calling for any objection for notifying the acquisition of their lands for the said purpose by the 2nd respondent in his office Na.Ka.544/2004 dated 08.06.2012. The notice was sent to the land owners through the Village Administrative Officer of Nanni (East) Village. The land owners (Writ Petitioners) Thiru Raju Padayachi and his wife Tmt. Maniammal refused to receive the notice. Hence the Notice was served by the Village Administrative Officer of the Nannai (East) Village through affixture. Then they filed the Writ Petition in W.P.No. 15647 of 2012 on 13.06.2012. Next hearing is posted to 16.08.2012.

7. This respondent additionally added that after getting the copy of the judgment dated 18.11.2009, legal opinion of the Government Pleader of High Court of Madras was obtained and fresh notice of enquiry was issued calling for fresh objections, if any from the land owners for acquiring their lands for the said purpose. The delay mentioned by the petitioner in implementing the Court order was due to frequent changes of the land acquisition officer namely Special Tahsildar. Further, the respondent never tried to take possession of the lands of the writ petitioners forcibly. The respondents had not proceeded under the said notification dated 29.09.2004. The lands belonging to the writ petitioners find place in the midway of lands forming the pathway to the burial ground. The petitioners are wealthy pattadars. They are intending to give hindrance for the purpose of acquisition of lands for forming pathway to the burial ground of the adi-dravidas. Hence, the averments made by the writ petitioners in paragraph-4 may be discarded.

8. The contention raised on the grounds are untenable unsustainable and contrary to well settled Judicial Pronouncements.

Ground (b): In the notice issued by the 2nd respondent it has been mentioned that the lands are acquired under the Tamil Nadu Act 1978 (Acquisition of the land for Adi-Dravidar Welfare). More over in the 1st paragraph of the notice it has been mentioned that the land is proposed to be acquired for laying pathway to the burial ground. Hence this ground is baseless and needs no consideration.

Ground: (c) and (d) The delay is due to administrative reasons such as lack of adequate staff for attending the work etc. It has not caused great hardship to the petitioners because they are wealthy pattadar and the extent. Proposed to be acquired for the said purpose is very meager when compared to the lands owned by them. Hence this ground is baseless and may be discarded.

Ground (e): It is not true to say that there is no necessity to acquire the land. It is the opinion of the Writ Petitioners with bad intention to quash the action taken by the authorities for providing pathway to the burial ground of the poor and downtrodden Adi-dravidar community people. Hence this ground need not be considered.

Ground (f): This ground is imaginary accusative and false. Needs no consideration.

Ground (g): The land acquisition proceedings were retarded due to the filing of Writ Petitions by the petitioners in the year 2005. Even after the orders issued by the High Court, Madras remanding for fresh enquiry the Writ Petitioners have again filed this Writ Petition (W.P.No. 15647/2012) on flimsy grounds with bad intention to the entire land acquisition proceedings. Because, out of 21 land owners whose lands are proposed to be acquired the two Writ Petitions alone are challenging the acquisition of their lands. The remaining 19 land owners have given their consent for acquiring their lands. This shows that the Writ Petitioners are wantonly hindering the land acquisition process. Hence this

ground may be discarded.

Ground (h): Fresh enquiry notice (not notification) was issued as per the orders of the High Court, Madras remanding for fresh enquiry in W.P.No. 3104/2005 and W.P.No. 3105/2005 dated 18.11.2009. Hence there is no malafide intention in the issuance of fresh notice.

Ground (i): It is averred that the notification is illegal. But it is not correct and it is not liable to be set aside.

9. This respondent further submits that when the staff attached to the 2nd respondent''s office went to serve the notice, issued under Section 3(1) of the Act, the writ petitioners refused to receive the notice but it was served by affixture. Hence, this respondent entreats the Court to dismiss the above writ petition.

10. The 3rd respondent, was impleaded as a party after filing impleading petition. The 3rd respondent submits that the writ petitioners filed the above writ petition calling for the records relating to the notification made in Na.Ka.A.544/2004 dated 08.02.2012 issued by the 2nd respondent under Section 4(2) of the Tamil Nadu Acquisition for Harijan Welfare Scheme Act by the 2nd respondent and quash the same and consequently restraining the respondents from acquiring the agricultural lands comprised in S.F.No. 39/1, 48/1A, 39/3, 48/1E, 40/2, 40/3 and 48/1C situated at Nannai East Village, Kunnam Taluk in Perambalur District owned by the petitioners in terms of the notification dated 08.06.2012 made in Na.Ka.A.544/2004 dated 08.12.2012 issued by the 2nd respondent. Further, the petitioners have no right to file the above writ petition.

11. The fourth respondent submits that the matter relates to acquisition of lands Under Act 31 of 1978 of Tamil Nadu Acquisition of land for Harijan Welfare Act for the purpose of laying pathway to burial ground for the welfare of Adi-dravidars of Nannai (East) Village in S.F.No. 282/1, 39/1 etc. situated in Kunnam Taluk in Perambalur District. The lands situated in 31 Survey numbers belonged to different land owners. They are accepted for the Acquisition and they are given compensation from the Government, but the writ petitioners only accepted the Acquisition. All the land owners gave their concurrence for the acquisition of their lands for the purpose mentioned in Harijan Welfare Act for the purpose of laying pathway to burial ground for the welfare of Adi-Dravidars of Nannai (East) Village in S.F.No. 282/1, 39/1 etc. situated in Kunnam Taluk in Perambalur District. The Writ petitioner objected to the acquisition of their lands i.e. S.F.Nos. 28/1, 273/3, 282/17 and 39/1 in W.P.No. 3105 of 2005 and lands in S.No. 273/3, 274/2, 273/3A, 281/1C and 282/1E in W.P.No. 3104 of 2005 respectively on the file of this Court. The other land owners did not file any Writ petition. As per order of this Court in W.P.Nos. 3104 of 2005 and 3105 of 2005 dated 18.11.2009, Writ Petitions were allowed and remanded the matter to the authorities for fresh enquiry. As per the direction of the High Court, Madras, fresh enquiry was conducted and the objection of the petitioners are disposed on merits. In the same order this Court had observed and directed the

respondents to maintain status quo as on date in respect of other owners till orders passed in acquisition proceedings.

12. The fourth respondent additionally submit that the respondents 1 and 2 gave legal opinion from the Government Pleader, High Court Madras on 03.11.2010 opined that till fresh enquiry is conducted and orders are passed under Section 4(1) of the Act. Accordingly a notice under Section 3(1) of the Act has been issued to the land owners, a fresh calling for any objection for notifying the acquisition of their lands for the said purpose by the 2nd respondent in his Office No. Ka.544/2004 dated 08.06.2012. The notice was sent to the land owners through the Village Administrative Officer of Nannai (East) Village. The Writ Petitioners only refused to receive the notice, then they filed the Writ Petition before this Court in W.P.No. 15647 of 2012 on 13.06.2012.

13. The First and Second respondents intending to give hindrance to the process of acquisition of the lands for forming pathway to the burial ground of the Adi-Dravidars. The Adi-Dravidars are using the burial ground for the past 100 years and above.

14. He submits that the second respondent who issued notice mentioned that the lands are acquired under the Tamil Nadu Act 1978 (Acquisition of the land for Adi-Dravidar Welfare) more over in the 1st paragraph of notice it has been mentioned that the land is proposed to be acquired for laying pathway to the burial ground. The burial ground used by the Adi-dravidars if the Writ petition is allowed, himself and all the Adi-dravidar community people were very much affected.

15. The fourth respondent submits that if is not true to say that there is no necessity to acquire the land. It is the opinion of the Writ petitioners with bad intention to quash the action taken by the authorities for providing pathway to the burial ground of the poor and downtrodden Adi-dravidar Community people. Hence the Writ petitioners plea is bad in natural justice.

16. He further submits that totally 32 land owners are in consent to the acquisition of the land for the purpose of burial ground and pathway only the writ petitioners (Husband and wife) were objected. Hence, the writ petitioners moved before this Court for a bad intention and they are not considering the issuance of land acquisition for the purpose of Adi-dravidar Welfare. Hence, the Writ petitioner filed this writ petition not with clear hand and only to stop the Acquisition.

17. This respondent submits that the dead bodies are going on the pathway to the burial ground, if the Writ petition is allowed their community people will not be using the pathway to the burial ground. Hence the writ petition is dismissed on limini.

18. The fourth respondent submits that in our village thousands of families belong to Scheduled caste who were residing and we have only one specific burial ground in Nannai village, Kunnam Taluk, Perambalur District and the said burial ground is being used by our peoples for more than ten decades nearly 4 to 5 generations and for the

same, the Harijan people made several requests to the authority concerned to lay down the Road for the burial ground and there is existing car-tract to the burial ground and the authority concerned have taken steps to lay down the road for the said burial ground. The second respondent initiated proceedings to acquire the land for laying road for the said burial ground and the people belong to various land owners have given acceptance to acquire the land for laying down the road for the burial ground for harijana people except this petitioner. If the writ petitioners do not consent to acquire their lands for laying down the road for the burial ground for harijana people the road will not be formed. Hence, it is just and necessary that this Court dismisses the writ petition No. 15647 of 2012.

19. He submits that if the above second respondent''s proceeding is not completed in a speedy and expeditious manner the Schedule Caste people will be put into great hardship in taking the dead bodies to the burial ground for rites and honoring. Hence, the second respondent has initiated proceeding to acquire the land for laying the road for the said burial ground, the lands were acquired for the benefit of Schedule Caste people, living in the village. Under the circumstances stated above, it is prayed that this Court may be pleased to dismiss the above writ petition.

20. The highly competent counsel Mr. Pitti Parthasarathy appearing for the petitioners submits that the petitioners are owners of the subject matter of the lands situated at Nannai Village. The 2nd respondent had issued a notification under Section 4(2) of the Tamil Nadu Acquisition for Harijan Welfare Scheme Act to acquire the petitioners lands for formation of a pathway to a burial ground on 29.09.2004. But the petitioners were not served any notices. Therefore, the petitioners have filed writ petitions in W.P.Nos. 3104 and 3105 of 2005 on the file of this Court. This Court disposed the said writ petitions and directed the respondents to issue a fresh enquiry notice to the petitioners within a period of two weeks from the date of receipt of a copy of the orders and complete the enquiry within a period of two weeks from thereon. The said orders have become final. Both the orders in the writ petitions were made ready on 26.11.2009 and delivered on 27.11.2009 and therefore the respondents should have issued notice of hearing to the petitioners on or before 11.12.2009 and completed the enquiry on or before 25.12.2009, but the respondents have not complied with the orders of this Court. Therefore, the subsequent notification had been issued beyond the specified period fixed by this Court. As such, the 2nd respondent''s notification dated 08.06.2012 is not sustainable under law. The 2nd respondent issued a notice on 12.03.2010 after a delay of four months and directed the petitioners to attend an enquiry to be held on 15.03.2010. The petitioners went to the respondent''s office but no enquiry was conducted.

21. The highly competent counsel further submits that the petitioners have issued a legal notice dated 06.09.2010 narrating the entire facts and also requested the 2nd respondent not to proceed with the acquisition proceedings any further. The petitioner''s son also sent a letter to the 2nd respondent and requested the same. Besides this, he indicated that this Court order passed in the earlier writ petitions had not been executed within the stipulated period as mentioned in the orders. Further, the petitioners issued another

notice to the 1st respondent and revealed the entire factual position of the matter. Under the circumstances, the concerned Village Administrative Officer instructed the petitioners to appear before him on 03.09.2011. However, the petitioners appeared. Eventhough the Village Administrative Officer has no locus standi to conduct the enquiry. The respondents and their subordinates have been continuously interfering with the petitioners peaceful possession and personal negotiation was conducted under threat. The petitioners are small agriculturists who are depending upon the said land for their livelihood through cultivation. The highly competent counsel had produced photos and explained this Court by stating that there is an alternate metal road which leads from the residence of adi-dravida people to the old burial ground. Therefore, the petitioners land is not required for the said purpose. Further, the acquisition notification was issued in the year 2004. As on date, the new pathway to the burial ground had not been formed, since it was not required and also as the adi-dravida people of the village are using the metal road in order to go to the burial ground. The learned counsel had cited the following judgment:-

Devinder Singh and Others Vs. State of Punjab and Others,

(a) Land Acquisition Act, 1894 Section 3(f) Public purpose does not include acquisition of land for companies However the Act, being an expropriate legislation, empowers the State to acquire land for purposes other than public purpose At the same time, the provisions in that behalf must be strictly construed When the properties of a citizen is being compulsorily acquired by a State in exercise of its power of Eminent Doman, the essential ingredients thereof, namely, existence of a public purpose and payment of compensation are principal requisites therefor In the case of acquisition of land for a private company, existence of a public purpose being not a requisite criteria, other statutory requirements call for strict compliance, being imperative in character. (Paras 11, 12 and 41)

Hindustan Petroleum Corporation Ltd. Vs. Darius Shapur Chenai and Others, Relied upon.

(b) Land Acquisition Act, 1894Part II and Part VII Procedures for acquisition of land for a wing of the Government for public purpose are laid down in Part II; whereas the procedures for acquisition at the instance of a company not for public purpose and expenses are not to be borne by State, even in part, are laid down in Part VII In the latter case, provisions of section 40(1)(a) and 44B shall apply.

(c) Land Acquisition (Companies) Rules, 1963 Rule 4(1) Applies where acquisition of land is to be made for the company envisaged under Part VII of the Act Before proceeding with the acquisition of land the State must form an opinion that the lands which are going to be acquired are not good agricultural lands This is more or less a statutory policy and question of ignoring the same by the State does not arise Lands in dispute being "Shahi" lands which are indisputably agricultural lands The Act contemplates that such lands may

not be acquired. (Paras 16, 17 and 48)

Collector (District Magistrate) Allahabad and Another Vs. Raja Ram Jaiswal, Relied upon.

(d) Words and Phrases Public purpose Definition of "public purpose" as contained in Section 3(f) of the Act is an inclusive one, therefore, the said definition need not be kept confined to the matters referred to therein In a case of acquisition for a public company, public purpose is not to be assumed and the point of distinction between acquisition of lands under Part II and Part VII would be the source of funds to cover the cost of acquisition. (Paras 19, 22) Gherulal Parakh Vs. Mahadeodas Maiya and Others, Relied upon.

(e) Land Acquisition Act, 1894 Section 6(3) Conclusive nature of the declaration Well settled that where an action taken is without jurisdiction, even an order which is conclusive may be subject to judicial review An order if passed without jurisdiction amounts to colourable exercise of power. (Paras 29 and 32)

R.L. Arora Vs. State of U.P., Relied upon.

Smt. Somavanti and Others Vs. The State of Punjab and Others, Distinguished.

(f) Land Acquisition Act, 1894 Part II and Part VII State now asserting the acquisition to be under Part II and High Court"s reliance in its judgment on the proposition that once the Government had contributed any sum towards the cost of the acquisition of land, it was not necessary for the Government to proceed under Part VII of the Act do not go hand in hand The agreement provides for payment of entire compensation by the company Therefore State had not formed any opinion with regard to making any contribution at least till the agreement was executed Still the purported contribution had been made after the writ petitions were filed without explaining the need, logic or rationale thereof. (Paras 34 and 35)

(g) Land Acquisition Act, 1894 Part VII Once the appropriate Government arrives at a decision that the land sought to be acquired is needed for a public purpose covered under Part II, the court would not go behind it But when an acquisition is made under Part VII, the conditions precedents therefor as contained in the Companies Rules must be satisfied Ignorance of these would make the acquisition liable to be struck down. (Para 36)

(h) Land Acquisition Act, 1894 Section 6 The State was not only obligated to issue a notification clearly stating as to whether the acquisition is for a public purpose or for the company A declaration is to be made either for a public purpose or for a company, it cannot be for both. (Paras 38 and 39)

Shyam Behari and Others Vs. State of Madhya Pradesh and Others, Relied upon.

(i) Land Acquisition (Companies) Rules, 1963 Rule 4 Use of the word "shall" not once but twice makes it ordinarily imperative In view of the Act being an expropriatory legislation, there is no reason as to why it should be held directory. (Para 43)

State of Gujarat and Another Vs. Patel Chaturbhai Narsibhai and Others, ; (1981) 2 SCC 352; (1985) 2 SCC 152 Relied upon.

(j) Land Acquisition (Companies) Rules, 1963 Rule 4 The proper stage of applicability of Rule 4 is Section 6 of the Act and not section 4. (Para 50)

Abdul Husein Tayabali and Others Vs. State of Gujarat and Others, ; (1994) 4 SCC 675 Relied upon.

Smt. Somavanti and Others Vs. The State of Punjab and Others, Distinguished.

(k) Land Acquisition (Companies) Rules, 1963 Rule 4 A provision of a statute is either mandatory or directory; and even if it is directory, it should be substantially complied with It cannot be ignored in its entirety only because the provision is held to be directory and not imperative Unless the provisions of rule 4 are complied with, jurisdiction under Part VII of the Act cannot be exercised Impugned judgment cannot be sustained. (Paras 53 and 54)

22. The very competent additional Government Pleader Mr. M.S. Ramesh appearing for the 1st and 2nd respondents submits that the 2nd respondent had initiated land acquisition proceedings for acquiring petitioners land including neighbours lands nearby for the purpose of laying a pathway to the burial ground for the Adi-Dravida people of Nanni Village except the writ petitioners all other land owners gave consent for the acquisition of their lands for the purpose mentioned above, but the land owners had challenged the said acquisition proceedings on an earlier occasion before this Court by way of writ petition. This Court disposed the said writ petitions with liberty to the land acquisition officer for fresh enquiry. Accordingly the 2nd respondent had initiated fresh proceedings for acquiring the said land. For initiating fresh enquiry a small period delay was caused in order to absorb the administrative formalities and to obtain legal opinion from the learned Government Pleader. The said delay is neither willful nor wanton. Further, the said land is absolutely required for the Adi-Dravida people who require a pathway for the passage of dead bodies for burial. The learned counsel appearing for the petitioners has pointed out that there is an alternate through the Metro road which is highly inconvenient. Therefore, the 2nd respondent has initiated land acquisition proceedings for acquiring lands for the said purpose including the petitioners land.

23. Mr.S.Sathya Chandran, learned counsel appearing for the 3rd respondent submits that initially the 2nd respondent herein had initiated land acquisition proceedings for acquiring the lands belonging to the private individuals including the petitioners in the year 2004. The petitioners with an ill-notice had filed two writ petitions in W.P.Nos. 3104 and 3105 of 2005 before this Court and challenged the said acquisition proceedings. The

said writ petitions are disposed of. Thereafter, the 2nd respondent has strictly adhered to the land acquisition procedure for acquiring the said land, as such there is no lapse on the side of the 2nd respondent"s proceedings. The other land owners of the same village had duly considered the Adi-dravida people necessity for a pathway to the burial ground. Therefore, the petitioners different view and suggestions are not reasonable. The existing metal road never used by the Adi-dravida people as a pathway for carrying the dead bodies to the burial ground in order to avoid objections from other sections of the village population. Because of the 2nd round of litigation had been initiated by the petitioners for a lapse of 10 years, the purpose could not be achieved which is causing intense inconvenience to the Adi-dravida people, hence, the very competent counsel Mr.S.Sathya Chandran entreats the Court to dismiss the above writ petition.

24. (i)From the above discussions, this Court is of the view that the adjacent land owners of the petitioners who are belong to the same village and considering the Adi-dravida people style of living and their normal procedure for removing the dead bodies to the burial ground the formatting pathway is an essential necessity, hence they gave consent for acquiring the said lands.

(ii) For removing dead bodies from the Adi-dravida residence to the burial ground without disturbing all sections of people is of paramount importance. Therefore, the 2nd respondent herein after studying the entire situation of the village has settled for the above said arrangement. Therefore, in order to execute the purpose for laying the pathway to the burial ground for the Adi-dravida people, the petitioners land also is absolutely necessary.

(iii) Normally at the village the agricultural land guideline value and open market value is @ 1:5 ratio. Therefore, the 2nd respondent has to pay a fair compensation to the petitioners, who are also agriculturists and who should not go through severe difficulties. If the respondents 1 and 2 would pay adequate compensation, it will be a valuable incentive to purchase other lands for the petitioners who are agriculturists.

(iv) The proposal for the formation of laying a pathway to the burial ground had been initiated 10 years also, hence, it has to done at the earliest say within a period of three months after the expiry of the appeal period.

25. On considering the facts and circumstances of the case and arguments advanced by the learned counsel appearing on all sides and on perusing the impugned order of the respondent and the views as mentioned in (i) to (iv), this Court is declined to allow the above writ petition. Consequently, the notification made in Na.Ka.A-544/2004 dated 08.06.2012 issued by the 2nd respondent under Section 4(2) of the Tamil Nadu Land Acquisition for Harijan Welfare Scheme Act by the respondent for acquiring the lands in Survey Nos. 39/1, 48/1A, 39/3, 48/1E, 40/2, 40/3, 48/1C situated at Nanni East Village, Kunnam Taluk, Perambalur District is found appropriate to proceed with further within a period of three months after the expiry of the appeal period. Connected miscellaneous

petitions are closed. Accordingly ordered.