

K.Ramayammal vs The Special District Revenue Officer / on 30 July, 2024

Author: N. Sathish Kumar

Bench: N. Sathish Kumar

W.P.No.49

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 15..07..2024
Orders Pronounced on : 30..07..2024

Coram

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

Writ Petition No.4921 of 2024
and
W.M.P.No.5397 of 2024

K.Ramayammal

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-Versus-

- 1.The Special District Revenue Officer /
Land Acquisition Officer,
Tamil Nadu Road Sector Project-II, 68/136,
K.Gangai Street,
Nedunchalai Nagar, Salem 636 005.
- 2.The Divisional Engineer (Highways),
Tamil Nadu Road Sector Project-II, Tiruppur.
- 3.The Additional Chief Secretary /
Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai 600 005.
- 4.The Government of Tamil Nadu,
Rep. By its Secretary, Highways Department,
Fort St. George, Chennai 600 009.

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5.R.Kavitha,
Special District Revenue Officer /
Land Acquisition Officer,
Tamil Nadu Road Sector Project-II, 68/136,
K.Gangai Street, Nedunchalai Nagar,
Salem 636 005.

6.The Project Director,
TN Road Sector Project-II,
Chennai 600 002.

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Petition filed under Article 226 of the Constitution of India, issue a Writ of Certiorari Mandamus calling for the records relating impugned award in Roc.No.189/2021/A2, dated 21.04.2022 [actually served on the petitioner on 21.05.2023] passed by the 1st respondent in respect petitioner's lands having an extent of 441 square meters situated in S.N [Now S.No.698/6B] in Periyapuliyur Village, Bhavani Taluk, Erode District acquired by the 1st respondent and to quash the same and for a consequent direction to the 1st respondent to pass fresh Award truly in accordance mandate of The Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 and to pay the petitioner, the award amount so passed afresh along with appropriate interest in accordance with the said and compounding the same for every 6 months period after a year of taking possession, till date of payment, after deducting amount already paid to the petitioner within a period to be specified by court and also for a direction to the 4th respondent to initiate appropriate disciplinary and criminal proceedings against the 5th respondent and others

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whose names not known to the petitioner who are party to the passing of impugned Award.

For Petitioner	: Mr.N.Subramaniyan
For Respondent (s)	: Mr.U.Baranidaran, Additional Government Pleader for RR1 to 4 & 6

ORDER

This writ petition mainly challenges the Award passed by the 1st respondent in Roc.No.189/2021/A2, dated 21.04.2022 fixing compensation for the land acquired from the petitioner for the purpose of four lanning of Gopichettipalayam – Chithode (SH-15).

2. The facts leading to the filing of the present writ petition, in brief, are as follows: -

(i) The petitioner is the absolute owner of the agricultural lands measuring an extent of 1.50 Acres comprised in S.No.698/6 of Periyapuliur Village. The 1st respondent issued a notice on 27.11.2024 under Section 15(2) of the Tamil Nadu Highways Act, 2001 [TN Act 34 of 2022] proposing to acquire a portion of land measuring an 364 square meters for four lanning <https://www.mhc.tn.gov.in/judis>

3 of 49 Gopichettipalayam – Chithode (SH-15) out of total extent of Acre 1.50 cents of land owned by the petitioner. The said notification was published in Dinamani Newspaper on 03.12.2014. As the land was sought to be acquired for public purpose for widening of highways, the petitioner did not choose to object the acquisition proceedings and the petitioner was interested in getting compensation for the land acquired from her. The 1st respondent assured a fair compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013 [for short “the RECTLARR Act, 2013”]

(ii) Thereafter, notification under Section 15(1) of the Tamil Nadu Highways Act, 2001 was published in the Tamil Nadu Government Gazette dated 10.07.2019 declaring that the land measuring an extent of 441 square meters would be acquired for the intended purpose. The extent of land sought to be acquired was increased from 364 square meters to 441 square meters in the notice issued under Section 15(1) of the Tamil Nadu Highways Act.

(iii) No notification under Section 15(2) was issued in respect of 77 square meters of land which was sought to be acquired in addition to 364 square meters for which section 15(2) notification was originally issued. The petitioner made representations on 05.03.2020, 09.09.2020, 14.09.2020 and <https://www.mhc.tn.gov.in/judis> 4 of 49 21.10.2020 to the respondents objecting to the said illegalities. The respondents informed that compensation would be paid for the entire 441 square meters as per the RECTLARR, 2013.

(iv) Thereafter, the 1st respondent issued a notice dated 25.08.2020 to hold an award enquiry on 09.09.2020 under Section 19(5) of the Tamil Nadu Highways Act. The petitioner attended the award enquiry held on 09.09.2020 and produced all the land ownership documents to the 1st respondent and the same were duly acknowledged by the 1st respondent. The petitioner also handed over her representation objecting to the acquisition of 441 square meters of land instead of an extent of 364 square meters for which notification under Section 15(2) was originally issued. The petitioner also produced documents to show that house sites situated behind his land were sold for Rs.1,500 to Rs.2500/- per square feet depending upon the location of plots and requested the 1st respondent to adopt such rate. The market value in the open market is much more than Rs.2,500/- per square feet. However, the materials produced by the petitioner were not at all taken into consideration by the 1st respondent for arriving at the market value as compensation for the acquired land.

(v) The 1st respondent fixed the market value at Rs.1080/- per square meter for the adjoining land (house sites) and whereas for the petitioner's land which is also house site the 1st respondent fixed the market value only at Rs.694.13 per square meter. The petitioner made several representations, however, without furnishing any document, the 1st respondent transferred a sum of Rs.10,24,371/- to the petitioner's bank account on 29.04.2022. He made a representation on 17.05.2022 pointing out that he was paid compensation based on the lesser market value and whereas the adjacent land owners were paid compensation calculating the market value at Rs.1080 per square meters. He also requested a copy of the award under the Right to Information Act, 2005.

(vi) Pursuant to the application under RTI Act, the petitioner was furnished with a copy of the award dated 21.04.2022 through the letter of the 1st respondent dated 25.01.2023. The award does not disclose the date of award, date of taking possession, etc., and without such particulars, the petitioner could not ensure the correctness of the award.

(vii) Section 26(1) of the RECTLARR Act, 2013, mandates to take highest value out of the market value arrived at based on various methods, such as (i) market value if any specified in Indian Stamp Act for registration of sale in the area of the acquired lands, as per Section 26(1)(a); (ii) the average sale price of similar type of lands situated in the nearest village / nearest vicinity as per Section 26(1)(b); (iii) if it is not possible to work out the market value based on the above two methods, the State shall fix a floor / minimum price per square meter based on the sale price occurred in the immediate adjoining areas as per Section 26(3). The 1st respondent did not follow the said mandates and instead, simply adopted a rate on her own and the award does not state as to how the 1st respondent had arrived at Rs.694.13 per square meter as market value. There is no detail found in the award as to how an amount of Rs.9,86,891/- has been worked out and similarly on what basis interest amount of Rs.37,480/- was calculated. The award contains a false statement regarding award enquiry. The award proceeds as if the petitioner was not present during award enquiry on 09.09.2020 and in fact, the petitioner attended the award enquiry on 09.09.2020 and handed over the documents to prove her ownership to the acquired land. Therefore, the statement of fact that the award was passed on 03.08.2020 is blatantly false.

(viii) Before passing the award the provisions in the RECTLARR Act, 2013, have not been followed. Notice under Section 15(2) was published on 03.12.2014 and whereas notice under Section 15(1) was published only on 10.07.2019, after 5 years and award was passed on 21.04.2022, i.e., 3 years thereafter. The date of passing award could be three months prior to the payment i.e., on 29.01.2022, the declaration under Section 15(1) should date back two years earlier i.e., 29.04.2019. Therefore, the court should direct the 4th respondent to take into account the said date to work out the compensation taking into consideration the market values prevailed as on 29.04.2019 and pass award fixing adequate compensation as per the RECTLARR Act, 2013.

(ix) That apart, the petitioner should be adequately compensated for the period from 03.12.2014 to the deemed date of Section 15(2) notice, during which the lands of the petitioner were illegally

occupied. The statute itself provides for 12% interest from Section 15(2) notice for such period.

(x) As the entire award is against the statutory principles, this court could set aside the same invoking its writ jurisdiction and direct the authorities to rework the compensation by complying with the mandatory provisions of law.

3.1 The 1st respondent filed a counter affidavit opposing the writ petition and inter alia contending that by G.O.Ms.112, Highways and Minor Ports (NH2) Department, dated 19.09.2014, the Government of Tamil accorded administrative sanction for the four lanning of Gobichettipalayam – Chithode Rroad (SH-15) km 123/0 to 153/6. Originally an extent of 364 square meters of land comprised in S.No.698/6 of Periyapuliur village was sought to be acquired from the petitioner for the purpose of widening of four lane stretch in <https://www.mhc.tn.gov.in/judis> 8 of 49 SH-15 under the Tamil Nadu Highways Act and Section 15(2) notice was issued on 27.11.2014.

3.2. Thereafter, notice under Section 15(1) was issued on 10.07.2019 declaring the acquisition of the land belonged to the petitioner. As no objection was received from the petitioner, the 1st respondent issued a notice dated 25.08.2020 for award enquiry asking the petitioner to appear for enquiry on 09.09.2020 as per section 19(5) of the Tamil Nadu Highways Act. The petitioner was directed to bring all the documents relating to ownership of the land and hand over the same to the 1st respondent at the time of enquiry. Opportunities were given to the petitioner to show her consent or willingness as per law. Thereafter, a private negotiation was held with the land owners on 14.11.2019 by fixing the land value as 2.75 times higher than the guideline value. The land owners have not accepted the land value so fixed. Hence, permission was requested under Section 19(3) of the Tamil Nadu Highways Act from the Additional Chief Secretary / Commissioner of Land Administration, Chennai to determine the compensation under Section 19(6). The Additional Chief Secretary / Commissioner of Land Administration by letter dated 31.12.2019 in Lr.No.H2/28202/2019 accorded permission and the Government decided to acquire the land with compensation to be determined <https://www.mhc.tn.gov.in/judis> 9 of 49 under the provisions of Section 26, 27, 28, 29 and 30 of the RFCTLARR Act, 2013.

3.3. The 1st respondent found that there were 2781 sales registered between 04.12.2011 and 03.12.2014 and the same were used to ascertain the market value of the acquired land based on the market value guidelines. Out of 165 sales, 43 sales were taken up for consideration, 12 sales were discarded as the sale price is too high or too low and the remaining 31 sales were taken up for consideration and calculating the average sale price to top 16 sales (highest 50%) were selected. The average sale price at Rs.541.09 per square meter is higher than the guideline value of Rs.540/- per square meter. However, the sale price arrived at in segment – I, Annexure III-B was adopted. The market value for the land comprised in SF No.698/6B was determined as per the provisions of RFCTLARR Act, 2013, as Rs.694.13 per square meter.

3.4. The details of amount of compensation fixed and payable to the owner of the land are as under:
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<https://www.mhc.tn.gov.in/judis> 10 of 49 Sl. No. Subject Details 1 1 District 1 Erode
2 Taluk 2 Bhavani 3 Village 3 Periyapuliyur 3 Extent of Acquisition 441 square meters
4 Value of the land per Rs.694.13 square meter 5 Land Cost Rs.3,06,111.33 6
Multiplied Land Cost by Rs.3,82,639.16 1.25 7 Value of the building Rs. - Nil -

8 Value of the trees Rs. - Nil -

9 Total (6 + 7 + 8) Rs.3,82,639.16 10 100% Solatium Rs.3,82,639.16 11 12%
Additional Value for Rs.2,21,612.23 2204 days 12 Total compensation Rs.9,86,890.55
13 Rounded (to Rupees) Rs.9,86,891/- (Rupees Nine Lakh Eight Six Thousand Eight
Hundred and Ninety-

One only) 3.5. The compensation amount of Rs.10,24,371/- arrived at for the land acquired from the petitioner was transferred from the account of the Special District Revenue Officer (LA), Tamil Nadu Road Sector Project-II, Salem to the Bank account of the petitioner on 29.04.2022. The 1st respondent has <https://www.mhc.tn.gov.in/judis> 11 of 49 forwarded the representation of the petitioner dated 17.05.2022 and 24.05.202 requesting for enhancement of compensation to the Principal District Judge, Erode. Therefore, the writ petition is not maintainable.

3.6. As per the RECTLARR Act, 2013, a representation seeking determination of amount of compensation shall be made within a period of six weeks from the date of receipt of a copy of the award. As the copy of the award was received by the petitioner on 25.01.2023, she could have approached the appropriate forum of law within the time limit prescribed therefor. The determination of market value under Section 26 of the RECTLARR Act, 2013 and 12% interest as mandated under Section 30(3) of the Act was not adopted by the LAO. The 1st respondent (LAO) had submitted the representations of the landowners for enhancement of compensation to the Principal District Judge for necessary orders. The 1st respondent is ready to obey any order passed in any forum of law regarding payment of interest at 12% as mandated under section 26 of the Act.

4.1. The petitioner filed a rejoinder to the counter affidavit filed by the 1st respondent inter alia stating that pendency of L.A.O.P.No.211 of 2023 cannot be a bar to maintain the present writ petition. The issues raised in the writ petition cannot be gone into by the reference court. Originally, 364 square <https://www.mhc.tn.gov.in/judis> 12 of 49 meters of land were proposed to be acquired. Subsequently, 77 square meter was added and for that no notice under Section 15(2) was issued and served on her. The 1st respondent simply issued errata to Section 15(2) notice already issued for the acquisition of 77 square meters of land. The errata issued cannot be considered for any purpose. The petitioner was not even served a copy of errata. Therefore, this court can only go into the issue of proper date for Section 15(2) notice notionally to reckon the market value and corresponding award date to reckon interest payable under Section 30(3) and Section 80 of the RECTLARR Act, 2013. The said issue also cannot be gone into by the reference court.

4.2. The LAO has not taken into consideration the potential value of the petitioner's land which is abetting the State Highway. The identical lands developed as house sites were sold at Rs.584.25 per square meter in 2011, Rs.695.51 per square meter in 2012, Rs.2131 per square meter in 2014, and

Rs.3171.95 per square meter in 2020. The market value shall be taken based on the mortgaged values taken for the year 2019,2020 and 2021 for the house sites available on the adjoining survey field and while fixing the market value for the subject land which is commercial land, its potential value has to be taken into account. The alleged 2781 sale statistics gathered from the registration <https://www.mhc.tn.gov.in/judis> 13 of 49 department have no relevance as the same were based on guideline values. The 1st respondent (LAO) has not furnished any calculation sheet before passing the award to show based on which such calculation was arrived at by her.

5. Heard Mr.N.Subrmaniyan, learned counsel for the petitioner and Mr.U.Baranidharan, learned Additional Government Pleader, learned Additional Government Pleader, appearing for the respondents 1 to 4 and 6.

6.1 The learned counsel for the petitioner would at the outset, strenuously submit that the entire acquisition proceeding is vitiated for having not followed the mandatory procedures contained in the RECTLARR Act, 2013.

6.2 The learned counsel for the petitioner would make his submissions elaborately as under: -

(i) Originally a notification under Section 15(2) of the Tamil Nadu Highways Act, 2001 was issued on 27.11.2014 proposing to acquire the petitioner's land only to an extent of 364 square meters out of Acre 1.50 cents for the purpose of four lanning Gopichettipalayam – Chithode (SH-15) and paper publication was also effected to that effect on 03.12.2014 and 04.12.2014. Considering the public purpose for which the land was sought to be acquired, the petitioner did not make any objection for the acquisition. and <https://www.mhc.tn.gov.in/judis> 14 of 49 notification under Section 15(1) was issued on 10.07.2019 declaring the acquisition of the land belonged to the petitioner.

(ii) Thereafter, on 14.11.2018, a newspaper publication was made in the form of errata amending the earlier publications dated 03.12.2014 and 04.12.2014 informing that 441 square meters instead of 364 square meters of land belonging to the petitioner would be acquired for the intended purpose. The petitioner objected to the same and sought reasons for the enhanced land acquisition, however, there was no response from the petitioner.

(iii) While so, this court by order dated 03.07.2019 in W.P.No.22448 of 2018, this court was pleased to declare the provisions in respect of the land acquisition contained in the Tamil Nadu Highways Act, 2001 void on and from 27.09.2023 by operation of Article 254(2) of the Constitution of India.

(iv) Only thereafter, Notification under Section 15(1) was issued on 10.07.2019 for acquisition of 441 square meters instead of 364 which was actually proposed to be acquired by notification under Section 15(2) and no notice was served on the petitioner for acquisition of additional land of 77 square meters of land preceding the newspaper publications and no opportunity was given to make her objection and no order under Section 15(3) was passed. The petitioner was served with notice only for acquiring 364 square meters of <https://www.mhc.tn.gov.in/judis> 15 of 49 land out of Acre

1.50 cents.

(v) While so, Tamil Nadu Act No.38/2019 was enacted to revive the operation of the Tamil Nadu Highways Act, 2001 with respect land acquisition which the assent of the President on 02.12.2019 and by Act 38 of 2019, all the provisions of the Tamil Nadu Highways Act, 2001 except the provisions relating to the determination of compensation, stand revived with effect on and from 26.09.2013. Thus, the provision in Section 19 of the Tamil Nadu Highways Act, 2001 which provided for determination of compensation has not been revived by Tamil Nadu Act 38 of 2019.

(vi) Only thereafter, an award enquiry under Section 19(5) was conducted on 09.09.2020 and the petitioner attended the enquiry and handed over the requisite documents to establish her title which was in fact acknowledged by the respondents. Thus, when the provision in Section 19(5) became void on and from 27.09.2013, the award enquiry held under the repealed provision has become void.

(vii) There is an unreasonable and unexplained delay of more than six years between the notification under Section 15(2) and Notification under Section 15(1). Further, the award under section 19(1) was passed with an unreasonable and unexplained delay of three years, although there is a <https://www.mhc.tn.gov.in/judis> 16 of 49 mandatory provision contained under the RECTLARR Act, 2013 that the award should be passed within a period of six months. Thus, the petitioner was deprived of her right to enjoy her property as guaranteed under Article 300-A of the Constitution of India.

(viii) The petitioner was also not served with a copy of the award. The award was passed under Section 19(11) of the Tamil Nadu Highways Act, 2001 which has already been invalidated on and from 27.09.2013 and therefore, the award is vitiated for want of jurisdiction and competence.

(ix) When the provisions in the Tamil Nadu Highways Act, 2001 relating to the land acquisition except provisions for determination of compensation were declared as lapsed and the provisions of the RECTLARR Act, 2013, have not been scrupulously followed, either the entire land acquisition proceedings has to be declared as vitiated or the petitioner has to be compensated adequately for the same by advancing the date on which the market value is to be reckoned as held by the Hon'ble Supreme Court.

6.3 The learned counsel for the petitioner would lastly submit that the award date has to be the date for determining the market value for the entire land of 441 square meters acquired from the petitioner and to calculate the statutory benefits under the RECTLARR Act, 2013, the date of initial <https://www.mhc.tn.gov.in/judis> 17 of 49 Notification under Section 15(2) dated 27.11.2014 for 364 square meters and to calculate the statutory benefits in respect of the remaining 77 square meters of land, the subsequent notification by way of errata dated 14.11.2018 have to be taken into consideration and such statutory benefits have to be reckoned till the date of award i.e., on 21.04.2022.

6.4 In the view of this court, it would be more relevant to make a note that the Award was passed on 15.12.2020 and the proceedings which the petitioner mistook for award was a proceeding regarding

disbursement of amount of compensation.

7. Per contra, the learned Additional Government Pleader appearing for the respondents 1 to 4 would contend as follows:

(i) The award amount had already been transferred to the account of the petitioner. During the award enquiry, the petitioner did not make any objections and the representation given by the petitioner seeking determination of compensation has already been forwarded to the learned Principal District Judge, Erode. When the amount of compensation had already been paid to the petitioner and reference for enhancement compensation was also made to the Principal District Judge concerned, the writ petition is not at all maintainable and it is for the petitioner to work out her remedy in respect of enhanced <https://www.mhc.tn.gov.in/judis> 18 of 49 compensation and other statutory benefits and interest before the reference court.

(ii) The writ petition mainly proceeded on the factual aspects that while determining the amount of compensation for the acquired lands, different market values had been adopted for the lands acquired from the neighbouring land owners and whereas for the petitioner's land which is a commercial site and abetting the highway and has got potential value had not been considered by the LAO. Those things cannot be decided by the writ court and it is always open for the petitioner to agitate those contentions before the reference court in the pending reference for enhancement of compensation and for other statutory benefits.

(iii) Though under Section 15(2) Notification originally 364 out of Acre 1.50 Cents was sought to be acquired on noticing that there was an error crept in inadvertently with respect to the extent actually required to be acquired from the petitioner, an errata notification under Section 15(2) was issued on 14.11.2008 expressing the intention to acquire 441 square meters of land and as the petitioner did not make any objection for the acquisition of land, notification under Section 15(1) was issued on 10.07.2019 and as a sequel, the <https://www.mhc.tn.gov.in/judis> 19 of 49 lands acquired from the petitioner stand vested in the government under Section 16 of the Act.

(iv) Thereafter, LAO sent an enquiry notice on 14.11.2019 under Section 19(2) for enquiry under Section 19(5). The petitioner participated in the enquiry and submitted her written statement of defence during the award enquiry held on 09.09.2020. Thereafter, the LAO determined the fair compensation of Rs.10,24,371/- as per Section 26 of the the RECTLARR Act, 2013, by taking into account the market value guidelines collected from the registering authorities at Rs.694.13 paise per square meter and applying the multiplier for the land cost. Besides, the LAO awarded 100% solatium and 12% additional market value from the date of publication of notice under Section 15(2) till date of award on 15.12.2020. The amount of compensation was deposited into the account of the petitioner on 21.04.2022.

(v) The Award under reference in Award No.136 of 2020 was passed on 15.12.2020 and the award was not passed on 21.04.2022 as contended by the petitioner and the proceedings referred to by the petitioner was not the award proceedings and it was a proceeding issued by the LAO regarding

disbursement of the amount of compensation.

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(vi) Additional compensation was awarded for the land acquired from the petitioner from 04.12.214, the date of publication of 15(2) notification to 15.12.2020, the date of award for 2197 days and therefore, there could be no infirmities attached to the award. The petitioner cannot contend that she should have been paid additional compensation from 04.12.2014 to 21.04.2022. The petitioner, as already stated above, misconstrued the proceedings (dated 21.04.2022) relating to disbursement of compensation amount for award as if it was an award.

(vii) There is no express provision in the Tamil Nadu Highways Act, 2001 prescribing time limit for publication of award and therefore, the petitioner cannot take advantage of such delay to contend that the entire acquisition proceedings is vitiated on the ground of such delay.

(viii) The petitioner neither challenged the notification dated 10.07.2019 issued under Section 15(1) nor award dated 15.12.2020. What is challenged in the writ petition is only a communication of the 1st respondent with respect to disbursement of amount of compensation.

8. Therefore, the learned Additional Government Pleader prayed for dismissal of the writ petition.

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9. This court has considered the rival submissions and perused the entire materials placed before the court carefully.

10. At the outset, this court is unable to countenance the arguments advanced by the learned Additional Government Pleader that the writ petition does not challenge the award and what is challenged in the writ petition was a proceedings of the 1st respondent in respect of disbursement of the amount of compensation. The entire pleadings in the writ petition would show that the petitioner challenged the award enquiry proceedings and the award. The petitioner's land was acquired for public purpose and she has to be compensated adequately. On mere technicality, she cannot be non-suited.

11. The 1st respondent not disputed the fact that, a notification under Section 15(2) of the Tamil Nadu Highways Act, 2001 was issued on 27.11.2014 originally proposing to acquire only an extent of 364 square meter out of Acre 1.50 cents comprised in S.No.698/6 of Periyapuliyur from the petitioner and paper publications were effected on 03.12.2014 and 04.12.2014; while so, on noticing that there had been an error in the measurement with respect to the extent sought to be acquired, on 14.11.2018, the acquisitioning authority issued an Errata Notification dated 14.11.2008 by way of paper publication under Section 15(2) to the original Notification published in the <https://www.mhc.tn.gov.in/judis 22 of 49> newspaper on 03.12.2014 and 04.12.2014; thereafter, on 10.07.2019, the acquisitioning authority issued a notification under Section 15(1) in respect of acquisition of total extent of 441 square meters of land from the petitioner. However, as admitted by

the respondents, no notice under Section 15(2) of the Tamil Nadu Highways Act, 2001 was served on the petitioner.

12. It is relevant to note here that, in the meanwhile, a writ petition was filed in W.P.No.22448 of 2018 [Caritas India v. Union of India] mainly challenging The Right to Fair Compensation and Transparency in land Acquisition Rehabilitation and Resettlement (Tamil Nadu Amendment Act) 2014 (Tamil Nadu Act 1 of 2015) as ultra vires Article 14 of The Constitution of India and the Principal Act, namely The Right to Fair Compensation and Transparency in land Acquisition Rehabilitation and Resettlement Act 2013 (Act 30 of 2013) and a Division Bench of this court by order dated 03.07.2019 applying the doctrine of repugnancy held that provisions in the Tamil Nadu Highways Act, 2001 relating to land acquisition are void under Article 254(2) of the Constitution of India. Thereafter, the Government of Tamil Nadu have enacted Tamil Nadu Land Acquisition Laws (Revival of Operation, Amendment and Validation) Act, 2019 (Tamil Nadu Act 38 of 2019) to revive the operation of (i) the Tamil Nadu Acquisition of Land for Harijan Welfare <https://www.mhc.tn.gov.in/judis> 23 of 49 Schemes Act, 1978; (ii) the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997; and (iii) the Tamil Nadu Highways Act, 2001. Part III of Act 38 of 2019 reads as under:-

PART – III Tamil Nadu (1) All the provisions of the Tamil Revival of Act Nadu Highways Act, 2001 (Tamil Nadu operation of 34 of 2019 Tamil Nadu Act, Act 34 of 2002) (hereinafter referred to as 34 of 2022 the 2002 Act), except the provisions relating to the determination of compensation, shall stand revived with effect on and from the 26th day of September 2013.

(2) All rules, notifications, notices, orders, directions issued or any other proceedings initiated under the 2002 Act, except those relating to determination of compensation, which were in force immediately before the 26th day of September 2013 shall, for all purposes, be deemed to have been revived on and from the 26th day of September 2013.

Central Act (3) The provisions relating to the 30 of 2013 determination of compensation as specified in the First Schedule, rehabilitation and resettlement as specified in the Second Schedule and infrastructure amenities as specified in the Third Schedule to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) shall apply to the land acquisition proceedings under the 2002 Act.

<https://www.mhc.tn.gov.in/judis> 24 of 49 Central Act 11- Save as otherwise provided in this Act, Central Act 30 of 30 of 2013 the provisions of the Right to Fair 2013 not to apply Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) shall cease to apply to any land which is required for the purpose specified in sub-section (1) of section 15 of the 2002 Act and any such land shall be acquired by the Government only in accordance with the provisions of the 2002 Act.

12. Section 68 of the 2002 Act shall be Omission of omitted section 68 of 2002 Act

13. Notwithstanding anything contained Validation in any judgment, decree or order of any court, the provisions of the 2002 Act, except the provisions relating to determination of compensation, shall be deemed to have been in force in all material times during the period commencing on the 26th day of September 2013 and ending with the date of publication of this Act in the Tamil Nadu Government Gazette, and anything done or any action taken under the 2002 Act, except those relating to determination of compensation shall be deemed to have been validly done or taken under the 2002 Act.

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13. The above provisions would go to show that except provisions relating to the determination of compensation, all other provisions of the Tamil Nadu Highways Act, 2001, stood revived with effect on and from 26.09.2013. Similarly, all rules, notifications, notices, orders, directions issued or any other proceedings initiated under the 2002 Act, except those relating to determination of compensation, which were in force immediately before the 26th day of September, 2013 shall, for all purposes, be deemed to have been revived on and from the 26 th day of September, 2013. Thus, it is very clear that by enacting the Validation Act except the matters relating to determination of compensation, all other acts and notifications issued stood revived on and from 26.09.2013.

14. In this case, as already stated above, Notification under section 15(2) was issued on 27.11.2124 proposing to acquire only 364 square meters of land. Thereafter, an Errata was issued on 14.11.2018 by way of newspaper publication amending 15(2) notification which was published in the newspapers on 03.12.2014 and 04.12.2014 proposing that 77 square meters of land in addition to 364 square meters in all 441 square meters of land would be acquired from the petitioner.

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15. It is relevant to note that as far as acquisition of additional extent of 77 square meters of land is concerned, as mandated under the Tamil Nadu Highways Act, 2001, no notice under Section 15(2) was ever issued by the LAO to the petitioner, except issuing a publication of an errata notification, which was stated to be published in the newspaper on 14.11.2018. This aspect of the matter was not denied by the 1st respondent in the counter affidavit.

16. .Now, coming to the Award, according to the 1 st respondent, the Award in the instant case was passed on 15.12.2020. It is the specific stand of the 1st respondent that as far as the land comprised in S.No.698/6B is concerned, an extent of 441 square meter was in possession and enjoyment of the petitioner and on behalf of the petitioner, her son appeared for award enquiry and presented an objection relating to the acquisition of petitioner's land covered under the Notifications issued under sections 15(2) and 15(1) and not made any statement and produced any official documents. Therefore, according to the 1st respondent, award was passed in accordance with law and amount of compensation for the land acquired from the petitioner was directed to be deposited in the separate account of the Special District Revenue Officer (LA) until the land owner appeared for enquiry and produce the documents to prove the ownership of the petitioner over the acquired land.

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17. Coming to the proceedings of the 1st respondent in Roc.No.189/2021/A2, dated 21.04.2022, according to the acquisition authority, though the petitioner's son appeared for the award inquiry, he did not give any statements or produce any documents. Whereas the petitioner's case is that she herself present during the award enquiry and produced all relevant documents to prove her right and ownership over the acquired land. Based on those title documents only, amount of compensation was ordered to be released in her favour.

18. Though in the award dated 15.12.2020 it was stated that neither the petitioner appeared for enquiry nor did she produce any document, such a statement in the view of this court ex facie runs contrary to the fact, on 09.09.2020 itself the petitioner had given a written application for determination of compensation along with relevant documents in support of her claim with regard to market value guidelines, which was acknowledged by the authorities. Therefore, the very finding made in the award that no document was produced and the petitioner did not appear for award inquiry is factually incorrect. Despite having received a written objection along with all relevant documents, the 1st respondent did not advert to the objections of the petitioner submitted on 09.09.2020 and award was passed on 15.12.2020 on the ground <https://www.mhc.tn.gov.in/judis> 28 of 49 that no document was produced by the petitioner. This itself would indicate that the mandatory provisions of the RECTLARR Act, 2013, were not at all followed by the LAO at the time of passing the award.

19. Now, the only contention of the official respondents is that since the award amount had already been transferred to the bank account of the petitioner and the written objection submitted by the petitioner for determination of compensation has been referred to the Principal District Judge, Erode, the writ petition is not at all maintainable.

20. No doubt, if a person chooses to challenge an award on factual aspects, it is for him to canvass all such contentions only before the reference court. However, when statutory authorities had abdicated their responsibilities and not followed the mandatory procedures and just for the sake of passing award, issued a notice to the petitioner for award enquiry and without adverting to the objections and documents produced by the petitioner in support of her claim for enhancement of compensation, this court, being a writ court, cannot shut its doors and relegate the aggrieved to the reference court.

21. It is relevant to note that as far as determination of amount of compensation is concerned, though a notification was issued on 27.11.2014 under Section 15(2) of the Tamil Nadu Highways Act, 2001, during which <https://www.mhc.tn.gov.in/judis> 29 of 49 time, the provisions in the said Act relating to the land acquisition were not in force, all the provisions in the Tamil Nadu Highways Act, 2001 relating to the land acquisition except the provisions relating to the determination of compensation stood revived latter and therefore, while arriving at the compensation and awarding interest, the mandatory provisions contained in the RECTLARR Act, 2013 ought to have been necessarily followed by the 1st respondent. When the Tamil Nadu Highways Act, 2001 was repealed on and from 27.09.2013 by operation of law, although it was thereafter revived, compensation has to be determined only in tune with the procedures contemplated under the RECTLARR Act, 2013.

22. Therefore, insofar as determination of compensation is concerned, the provisions in the RECTLARR Act, 2013, alone have to be followed in view of the Tamil Nadu Revalidation Act 38 of 2019. Sections 26 to 30 and 69 of the RECTLARR Act, 2013, alone shall be applicable for determination of compensation in respect of the lands sought to be acquired from the petitioner under the Tamil Nadu Highways Act, 2001. As per Section 26 of the RECTLARR Act, 2013, the date for determination of market value shall be the date on which the notification has been issued under Section 11 of the Act which depends upon the period within which the declaration under Section 19(7) of the RECTLARR Act, 2013, has been issued. If there is a delay for more than 12 months from the date of notification under Section 11, in issuing declaration under Section 19(7) of the RECTLARR Act, 2013, then the entire land acquisition proceedings would get lapsed and fresh notification has to be issued.

23. The provision in Section 25 of the RECTLARR Act, 2013 also mandates that award shall be passed by the Collector within a period of twelve months from the date of publication of the declaration under section 19 and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse.

24. Further, as per Section 26 of the RECTLARR Act, 2013, determination of market value by the Collector shall be depending upon the delay in issuing the declaration under Section 19(7) of the RECTLARR Act, 2013 and delay, if any, in issuing the Award under Section 26 of the RECTLARR Act, 2013.

25. Thus, this court is of the view that time limit fixed under the RECTLARR Act, 2013 for passing the Award is applicable to the land acquisition proceedings initiated under the provisions in The Tamil Nadu Highways Act, 2001. Further, notification issued under Section 15(1) of the Tamil Nadu Highways Act, 2001, after a delay of more than five years would make the entire land acquisition proceedings get lapsed.

26. Further, as already noticed, no notice under Section 15(2) for acquiring the additional extent of 77 square meters of land from the petitioner preceding the paper publication dated 14.11.2018 in the form of errata notification, amending the earlier notification dated 27.11.2014 issued under Section 15(1) Notification and published on 03.12.2014 and 04.12.2014. On this score also, the entire land acquisition proceedings culminated into an Award dated 15.12.2020 would automatically get lapsed.

27. As there are substantial irregularities and illegalities in following the mandatory provisions regarding land acquisition as well as determination of compensation and the award was not passed within 12 months as mandated under Section 26 of the RECTLARR Act, 2013 and there is delay in passing the award in respect of acquisition relating to 364 square meters, notification under Section 15(2) would also get lapsed.

28. That apart, Award copy was also not furnished to the petitioner immediately. The respondents were not able to produce any material before this court to disprove the contention of the petitioner that he was not served with a copy of the award immediately.

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29. Now, the proceedings of the 1st respondent in Roc.No.189/2021/A2, dated 21.04.2022, a copy of which was produced in the typed set of papers, would show that the 1st respondent recorded as if before passing the award, no document was produced, this court, already found that such statement found to be factually incorrect. Therefore, now, it cannot be said that the award was passed after hearing the petitioner.

30. Merely because a reference was made to the reference court, it cannot be said that the writ petition is not at all maintainable. When the award itself was made against the very statutory provisions and procedures, how, the reference court could go into award and determine the compensation. Though the award came to be passed on 15.12.2020, a copy of the same was not furnished to the petitioner immediately as per Section 30 of the RECTLARR Act, 2013.

31. Furthermore, the parameters set out in Section 28 of the RECTLARR Act, 2013, have not been followed by the LAO while determining the award. Similarly, the criteria set out in Section 26 of the RECTLARR, 2013 to assess and determine the market value of the land have also not been adopted by the LAO.

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32. The award proceeded as if for determining the market value for the land acquired from the petitioner, only one sale had been taken up for consideration out of 117 sales. It was stated in the award that average sale price of Rs.694.13 per square meter was higher than the guideline value of Rs.540/-, the sale price of Rs.694.13 per square meter was fixed as the land value for this group of lands. There was no reason assigned in the Award, as to how the sale was taken as market value. When the market value for the adjoining land was fixed at Rs.1080/- per square feet which has got less potential value, the reasons also not properly given in the award. The interest was also not ordered as per Section 80 of the RECTLARR Act, 2013 as seen from the Award. Therefore, the entire award passed was not in accordance with the mandatory provisions in the RECTRLARR Act, 2013 and therefore, the same cannot be sustained in the eye of law.

33. In the case of Kolkata Municipal Corporation and another vs. Bimal Kumar Shah and other [2024 SCC OnLine SC 968 : 2024 (3) MLJ 552], the Hon'ble Supreme Court in para 26, 27, 28, 30, 30.1 to 30.6 has held as follows:-

“26. The constitutional discourse on compulsory acquisitions, has hitherto, rooted itself within the ‘power of eminent domain’. Even within that articulation, the twin
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34 of 49 conditions of the acquisition being for a public purpose and subjecting the divestiture to the payment of compensation in lieu of acquisition were mandated. Although not explicitly contained in Article 300A, these twin requirements have been read in and inferred as necessary conditions for compulsory deprivation to afford protection to the individuals who are being divested of property. A

post-colonial reading of the Constitution cannot limit itself to these components alone. The binary reading of the constitutional right to property must give way to more meaningful renditions, where the larger right to property is seen as comprising intersecting sub-rights, each with a distinct character but interconnected to constitute the whole. These sub-rights weave themselves into each other, and as a consequence, State action or the legislation that results in the deprivation of private property must be measured against this constitutional net as a whole, and not just one or many of its strands.

27. What then are these sub-rights or strands of this swadeshi constitutional fabric constituting the right to property? Seven such sub-rights can be identified, albeit non-exhaustive. These are : i) duty of the State to inform the person that it intends to acquire his property - the right to notice, ii) the duty of the State to hear objections to the acquisition - the right to be heard, iii) the duty of the State to inform the person of its decision to acquire - the right to a reasoned decision, iv) the duty of the State to demonstrate that the acquisition is for public purpose - the duty to acquire only for public purpose, v) <https://www.mhc.tn.gov.in/judis> 35 of 49 the duty of the State to restitute and rehabilitate - the right of restitution or fair compensation, vi) the duty of the State to conduct the process of acquisition efficiently and within prescribed timelines of the proceedings - the right to an efficient and expeditious process, and vii) final conclusion of the proceedings leading to vesting - the right of conclusion.

28. These seven rights are foundational components of a law that is tune with Article 300A, and the absence of one of these or some of them would render the law susceptible to challenge. The judgment of this Court in K.T. Plantations (supra) declares that the law envisaged under Article 300A must be in line with the overarching principles of rule of law, and must be just, fair, and reasonable. It is, of course, precedentially sound to describe some of these sub- rights as 'procedural', a nomenclature that often tends to undermine the inherent worth of these safeguards. These seven sub-rights may be procedures, but they do constitute the real content of the right to property under Article 300A, non- compliance of these will amount to violation of the right, being without the authority of law.

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30. Following are the seven principles:

30.1. The Right to notice : (i) A prior notice informing the bearer of the right that the State intends to deprive them of the right to property is a right in itself; a linear extension of the right to know embedded in Article 19(1)(a). The Constitution <https://www.mhc.tn.gov.in/judis> 36 of 49 does not contemplate acquisition by ambush. The notice to acquire must be clear, cogent and meaningful. Some of the statutes reflect this right.

(ii) Section 4 of the Land Acquisition Act, 1894, Section 3(1) of the Requisitioning and Acquisition of Immovable Property Act, 1952, Section 11 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and Section 3A of the National Highways Act, 1956 are examples of such statutory incorporation of the right to notice before initiation of the land acquisition proceedings.

(iii) In a large number of decisions, our constitutional courts have independently recognised the right to notice before any process of acquisition is commenced.

30.2. The Right to be heard: (i) Following the right to a meaningful and effective prior notice of acquisition, is the right of the property-bearer to communicate his objections and concerns to the authority acquiring the property. This right to be heard against the proposed acquisition must be meaningful and not a sham.

(ii) Section 5A of the Land Acquisition Act, 1894, Section 3(1) of the Requisitioning and Acquisition of Immovable Property Act, 1952, Section 15 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and Section 3C of the National Highways Act, 1956, are some statutory embodiments of this right.

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(iii) Judicial opinions recognizing the importance of this right are far too many to reproduce. Suffice to say that the enquiry in which a land holder would raise his objection is not a mere formality.

30.3. The Right to a reasoned decision : i) That the authorities have heard and considered the objections is evidenced only through a reasoned order. It is incumbent upon the authority to take an informed decision and communicate the same to the objector.

(ii) Section 6 of the Land Acquisition Act, 1894, Section 3(2) of the Requisitioning and Acquisition of Immovable Property Act, 1952, Section 19 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and Section 3D of the National Highways Act, 1956, are the statutory incorporations of this principle.

(iii) Highlighting the importance of the declaration of the decision to acquire, the Courts have held that the declaration is mandatory, failing which, the acquisition proceedings will cease to have effect.

<https://www.mhc.tn.gov.in/judis> 38 of 49 30.4. The Duty to acquire only for public purpose: (i) That the acquisition must be for a public purpose is inherent and an important fetter on the discretion of the authorities to acquire. This requirement, which conditions the purpose of acquisition must stand to reason with the larger constitutional goals of a welfare state and distributive justice.

(ii) Sections 4 and 6 of the Land Acquisition Act, 1894, Sections 3(1) and 7(1) of the Requisitioning and Acquisition of Immovable Property Act, 1952, Sections 2(1), 11(1), 15(1)(b) and 19(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and Section 3A(1) of the National Highways Act, 1956 depict the statutory incorporation of the public purpose requirement of compulsory acquisition.

(iii) The decision of compulsory acquisition of land is subject to judicial review and the Court will examine and determine whether the acquisition is related to public purpose. If the court arrives at a conclusion that there is no public purpose involved in the acquisition, the entire process can be set-aside. This Court has time and again reiterated the importance of the underlying objective of acquisition of land by the State to be for a public purpose.

30.5. The Right of restitution or fair compensation: (i) A person's right to hold and enjoy property is an integral part to the constitutional right under Article 300A. Deprivation or extinguishment of that right is permissible only upon restitution, <https://www.mhc.tn.gov.in/judis> 39 of 49 be it in the form of monetary compensation, rehabilitation or other similar means. Compensation has always been considered to be an integral part of the process of acquisition.

(ii) Section 11 of the Land Acquisition Act, 1894, Sections 8 and 9 of the Requisitioning and Acquisition of Immovable Property Act, 1952, Section 23 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and Sections 3G and 3H of the National Highways Act, 1956 are the statutory incorporations of the right to restitute a person whose land has been compulsorily acquired.

(iii) Our courts have not only considered that compensation is necessary, but have also held that a fair and reasonable compensation is the sine qua non for any acquisition process.

30.6. The Right to an efficient and expeditious process: (i) The acquisition process is traumatic for more than one reason. The administrative delays in identifying the land, conducting the enquiry and evaluating the objections, leading to a final declaration, consume time and energy. Further, passing of the award, payment of compensation and taking over the possession are equally time consuming. It is necessary for the administration to be efficient in concluding the process and within a reasonable time. This obligation must necessarily form part of Article 300A.

(ii) Sections 5A(1), 6, 11A, and 3
Acquisition Act, 1894, Sections 6(1)

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the Requisitioning and Acquisition of Immovable Property Act, 1952, Sections 4(2), 7(4), 7(5), 11(5), 14, 15(1), 16(1), 19(2), 25, 38(1), 60(4), 64 and 80 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and Sections 3C(1), 3D(3) and 3E(1) of the National Highways Act, 1956, prescribe for statutory frameworks for the completion of individual steps in the process of acquisition of land within stipulated timelines.

(iii) On multiple occasions, upon failure to adhere to the timelines specified in law, the courts have set aside the acquisition proceedings.

30.7. The Right of conclusion: (i) Upon conclusion of process of acquisition and payment of compensation, the State takes possession of the property in normal circumstances. The culmination of an acquisition process is not in the payment of compensation, but also in taking over the actual physical possession of the land. If possession is not taken, acquisition is not complete. With the taking over of actual possession after the normal procedures of acquisition, the private holding is divested and the right, title and interest in the property, along- with possession is vested in the State. Without final vesting, the State's, or its beneficiary's right, title and interest in the property is inconclusive and causes lot of difficulties. The obligation to conclude and complete the process of acquisition is also part of Article 300A.

ii) Section 16 of the Land Acquisition Act, 1894, Sections 4 and 5 of the Requisitioning and Acquisition of <https://www.mhc.tn.gov.in/judis> 41 of 49 Immovable Property Act, 1952, Sections 37 and 38 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and Sections 3D and 3E of the National Highways Act, 1956, statutorily recognise this right of the acquirer.

iii) This step of taking over of possession has been a matter of great judicial scrutiny and this Court has endeavoured to construe the relevant provisions in a way which ensures non-arbitrariness in this action of the acquirer. For that matter, after taking over possession, the process of land acquisition concludes with the vesting of the land with the concerned authority. The culmination of an acquisition process by vesting has been a matter of great importance. On this aspect, the courts have given a large number of decisions as to the time, method and manner by which vesting takes place.

34. The Hon'ble Supreme Court in the above said judgement has categorically held that the absence of one of the seven rights or some of them which are foundational components of a law that is in tune with Article 300-A of the Constitution of India would render the acquisition liable to be set aside.

35. Applying the law declared by the Hon'ble Supreme Court to the present facts of the case, this court found that are four sub-rights out of seven <https://www.mhc.tn.gov.in/judis> 42 of 49 sub-rights of Constitutional Right to Property outlined by the Supreme Court are absent. They are:-

(i) no notice under Section 15(2) was issued to the petitioner in respect of acquisition of 77 square meters of land which was included for the first time only in the paper

publications effected on 14.11.2018 by way of eratta notification amending the earlier 15(2) notice dated 27.11.2014 issued for the acquisition of 364 square meters of land from the petitioner and enhancing the proposed acquisition of land from 364 to 441 square meters. Thus, the petitioner was deprived of right to notice in respect of acquisition of 77 square meters;

(ii) As already stated supra, though the petitioner herself attended the award enquiry held on 09.09.2020 and submitted all relevant documents relating to her ownership, however the LAO had considered the same. She in fact consented for acquisition subject to issuance of necessary notification for acquisition of land as per law. On the other hand, the LAO recorded in the award proceedings that on behalf of the petitioner her son Dakshina Moorthy only appeared for the award enquiry and presented an objection petition expressing his objection with regard to extent of land proposed to be acquired and mentioned in 15(2) Notification and 15(1) Notification, however, he had <https://www.mhc.tn.gov.in/judis>

43 of 49 not given any statement and produced sufficient documents. This would go to show that the LAO had issued a notice under Section 19(5) just for the sake of formality and not at all considered the documents produced by the petitioner at the time of award enquiry;

(iii) In this case, a portion of the land alone was acquired and as such question of restitution and rehabilitation would not arise, however, the State is duty bound to pay fair compensation to land owners who were deprived of their rights to possess the land. The LAO has not followed the mandatory procedures in the RECTLARR Act, 2013 for determination of compensation and other statutory benefits and interests.

(iv) The acquisition proceedings also as already discussed supra was not conducted efficiently and expeditiously. As already discussed supra, there had occurred considerable delay in issuing notification under Section 15(1). Further, the award was also not passed within the time prescribed in the RECTLARR Act, 2013, and the award was passed beyond the period of one year stipulated under Section 25 of the RECTLARR Act, 2013.

36. That apart, the impugned award also suffers from procedural irregularities as no individual award detailing the particulars of compensation <https://www.mhc.tn.gov.in/judis> 44 of 49 payable and the details of payment of the compensation as specified in the First Schedule was passed and served on the petitioner immediately.

37. Although the entire acquisition proceedings is vitiated, taking into consideration the fact that the purpose for which the lands were acquired and the acquired lands had already been utilized for the purpose of four lanning the highway, there would not be any purpose served if the entire acquisition proceedings is set aside and the 1st respondent is permitted to start the acquisition proceedings afresh from the inception. The writ petition also does not challenge the notification under Section 15(2) followed by notification under Section 15(1) though expressed her grievance that she was not served any notice in respect of additional land of 77 square meters sought to be acquired

subsequently. As such, this court is of the view that as the Award dated 15.02.2020 has been passed without following any of the mandatory provisions, setting aside the award dated 15.12.2020 with a direction to the respondents to adequately compensate the petitioner after determining the market value by following the parameters in the Central Act, 2013 would alone meet the ends of justice.

38. In the light of the law declared by the Hon'ble Supreme Court and the discussions made herein above, the Award passed in Award No.136/2020-21 <https://www.mhc.tn.gov.in/judis> 45 of 49 dated 15.12.2020 insofar as it relates to the acquisition of the petitioner's land alone is set aside and the matter is remitted to the 1st respondent to pass award afresh taking into account the fact that the award date shall be the date for reckoning the market value. While determining the market value as directed above, the 1st respondent/LAO will take into account the potential value of the subject land acquired from the petitioner. The 1st respondent will also award solatium, additional market value and statutory interest, if any, as per the RECTLAR Act, 2013. The 1st respondent/LAO will take 04.12.2014 as date of publication of 15(2) notification in respect of acquisition of 364 square meters of land ie., 04.12.2014 and take 14.11.2018 as the date of publication of 15(2) notification in respect of 77 square meters of land to compute 12% interest till date of award which is to be passed. The 1st respondent / LAO shall also award statutory interest as provided under Section 80 of the RECTLARR Act, 2013 on the compensation amount after deducting the amount already paid from the date of possession and until the amount of compensation to be determined is paid to the petitioner in full. The 1st respondent/LAO shall pass award detailing the particulars of compensation payable and details of payment of the compensation as specified in the First Schedule to the RECTLARR Act, 2013.

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39. In the light of the above discussions and the facts and circumstances of the case, even though there were certain irregularities in the acquisition proceedings right from Section 15(2) notification, the same would not warrant proceeding against the 5th respondent departmentally as well criminally. The learned counsel appearing for the petitioner also did not give much importance on the same during his arguments. Therefore, insofar as the relief sought against the 5th respondent is concerned, the writ petition is liable to be dismissed.

In the result, the writ petition is allowed. The Award dated 15.12.2020 impugned in the writ petition insofar as it relates to the petitioner's lands alone is set aside and the 1st respondent/LAO shall pass fresh award taking into account the dates for determining the market value, calculating additional market value and statutory interest as directed above. The writ petition as against the 5th respondent stands dismissed. No costs. Consequently, connected WMP is closed.

Index : yes / no
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To

- 1.The Special District Revenue Officer /
Land Acquisition Officer,
Tamil Nadu Road Sector Project-II, 68/136,
K.Gangai Street,
Nedunchalai Nagar, Salem 636 005.
- 2.The Divisional Engineer (Highways),
Tamil Nadu Road Sector Project-II, Tiruppur.
- 3.The Additional Chief Secretary /
Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai 600 005.
- 4.The Government of Tamil Nadu,
Rep. By its Secretary, Highways Department,
Fort St. George, Chennai 600 009.
- 5.The Project Director,
TN Road Sector Project-II,
Chennai 600 002.

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N. SATHISH KUMAR.J.,
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