

**Velusamy and Another Vs. the Government of Tamil Nadu, Rep. by Its Secretary, Housing and Urban Development Department, Chennai-2 and Another**

**Velusamy and Another Vs. the Government of Tamil Nadu, Rep. by Its Secretary, Housing and Urban Development Department, Chennai-2 and Another**

**SooperKanoon Citation :** [sooperkanoon.com/779413](http://sooperkanoon.com/779413)

**Court :** Chennai

**Decided On :** Jan-14-2000

**Reported in :** 2000(1)CTC530; (2000)IIMLJ48

**Judge :** K.G. Balakrishnan, C.J. and; K. Govindarajan, J.

**Acts :** Land Acquisition Act, 1872 -- Sections 4(1) and 5A; Tamil Nadu Land Acquisition Rules, 1963 -- Rules 3 and 4(1)

**Appeal No. :** W.A. Nos. 2697 of 1999 and 18 of 2000 and C.M.P. Nos. 22500 of 1999, 189 and 190 of 2000

**Appellant :** Velusamy and Another

**Respondent :** The Government of Tamil Nadu, Rep. by Its Secretary, Housing and Urban Development Department, Che

**Advocate for Pet/Ap. :** Mr. K. Veeraraghavan, Adv.

**Judgement :**

ORDER

## **Judgement Pronounced by K. Govindarajan, J.**

1. The appellants are the owners of the lands bearing S.F. Nos.301/1A2, 301/1B, 302/1B, 301/1C, 302/1A2, 301/2, 302/1C, 302/2, 311/1 and 311/2 in Kallapatti village, Coimbatore Taluk, Coimbatore District. The said lands were sought to be acquired by the Government for neighbourhood scheme by the Tamil Nadu Housing Board. A notification under Section 4(1) of the Land Acquisition Act in G.O.Ms.No.192 Housing and Urban Development Department dated 24.2.1994 was published in the Tamil Nadu Government Gazette dated 24.2.1994. The appellants claims that they have submitted their objections on 19.8.1994. After holding enquiry under Section 5A of the said Act and after considering the objections raised by the appellants, as recommended by the Land Acquisition Officer, declaration under Section 6 of the said Act was published in the Tamil Nadu Government Gazette on 28.6.1995. At this stage, the appellants have challenged the said acquisition proceedings by filing writ petitions in W.P.Nos.10426 and 10427 of 1999.

2. Mainly two points were raised in the writ petitions, namely, the lands sought to be acquired by the respondents are approved to form layouts and so they cannot be acquired, and, after getting remarks from the requisitioning body, on his objection, no further enquiry under Section 5A of the said Act as contemplated under Rule 3B of the Tamil Nadu Land Acquisition Rules was conducted, and so the entire acquisition proceedings are invalid. The learned Judge in the order dated 28.9.1999, after considering these submissions found that the same cannot be sustained and dismissed the writ petitions. Aggrieved, the writ petitioners have filed the above writ appeals.

3. We heard the learned counsel appearing for the appellants. The learned counsel has reiterated the said two submissions before us also. He has also relied on the decision of the Division Bench in Ramanujam v. Collector of Madras and 2 others, 1994 W.L.R. 326 in support of his submission that failure to hold an enquiry under Section 5A of the said Act, after getting remarks from the requisitioning body, vitiates the entire proceedings. It is no doubt in the said decision, the Division Bench of this Court, has held as follows:-

'From this, what can be gathered is only that the objections of the petitioner in W.P.No.10420 of 1985 by his letter dated 8.11.1982 were sent to the Commissioner of Corporation of Madras for remarks and that reply was obtained from the Commissioner. But, it is not mentioned in the counter affidavit when actually the said objections were sent to the Commissioner of Corporation of Madras and when actually the above said reply was obtained. That apart it is also not averred whether the said reply was communicated to the petitioner and whether there was continuation of Section 5A enquiry pursuant to the above said reply received from the Commissioner. The only allegation is that after the enquiry in 30.10.1982, when the matter was adjourned to 10.11.1982, the petitioner did not appear for enquiry on 10.11.1982. There is no record to show that the reply of the requesting authority was communicated to the petitioners. That there was no Section 5A enquiry after the above said reply was received from the Commissioner of Corporation of Madras. Therefore, it is clear that the requirements of Rule 3(b) have not been fully complied with'.

4. But, we have to appreciate whether the said decision will apply to the facts of the present case. Even according to the appellants, notification under Section 4(1) of the said Act was published in the Government Gazette on 24.2.1994 and objections for the purpose of enquiry under Section 5A of the said Act were filed only on 19.8.1994. Rule 3 of the Tamil Nadu Land Acquisition Rules is relevant to appreciate the case of the appellants, which is as follows:-

'3. Hearing of objections:- (a) If a statement of objections is filed by a person who is not interested in the land, it shall be summarily rejected.

(b) If any objections are received from a person interested in the land and within the time prescribed in sub-section (1) of Section 5-A, the Collector shall fix a date of hearing the objections and give notice thereof to the objector as well as to the department or Company requiring the land where such department is not the Revenue Department. Copies of the objections shall also be forwarded to such department or company. The department or company may file on or before the date fixed by the Collector a statement by way of answer to the objections and may also depute a representative to attend the enquiry.

Explanation:- For the purpose of this sub- rule, the Revenue Department shall be deemed to include the departments of Harijan Welfare and Backward Classes at the District level.

(G.O.Ms.No.996, Revenue, dated 19th May, 1976)

(c) On the date fixed for enquiry or any other date to which the enquiry may be adjourned by the Collector, the Collector shall hear the objector or his pleader and the representative, if any, of the department or company and record any evidence that may be produced in support of the objections'.

The said Rule refers only to the objections filed under Section 5A of the said Act. Section 5A of the said Act contemplates an objection to the acquisition of the land by any person interested in any land. According to the said provision, the said objections should be filed within thirty days from the date of the publication of the notification. So, from a cumulative reading of Section 5A and Rule 3, it is clear that only with respect to the objections filed by a person interested within 30 days from the date of publication of the notification under Section 4(1) of the said Act, the same have to be taken into consideration for the purpose of enquiry under Section 5A of the Said Act. Only with respect to such objections filed within 30 days from the date of the notification under Section 4(1) of the said Act, the procedure contemplated under Rule 3(b) of the Rules has to be followed. In this case, admittedly, the notification was published as early as on 24.2.1994. But the appellants have filed their objections only on 19.8.1994. So, the said objections cannot be construed as objections filed in accordance with Section 5A of the said Act. So, the question of following the procedure as contemplated under Rule 3(b) of the Rules will not arise. So, the said decision of the Division Bench relied on by the learned counsel appearing for the appellants cannot be made applicable to the facts of the present case.

5. The abovesaid view of ours is supported by another Division Bench of this Court reported in *Government of Tamil Nadu v. Ramaswami*, ILR (1996) 2 Mad. 299, in which the same view has been dealt with, and it is held as follows:-

'19. Rule 4(b) also does not support the view expressed by the Division Bench of this Court in W.P.No.10351 of 1982 and other connected writ petitions decided on 8.1.1988. Form B confers an optional right upon the person interested to file objections pursuant to the Form B Notice. It is no doubt true that any person interested in the land is entitled to file objections and if such person files objections within 30 days from the date of the publication of the notification under Section 4(1) of the Act. In the Gazette or from the date of publication of substance of the Notification in the locality, whichever is convenient to the person interested, such objections are required to be sent to the acquiring body, and not the other objections which are filed subsequent thereto, may be pursuant to the Form B Notice that are required to be sent to the acquiring body, and failure to send such objections will not in any way vitiate the acquisition proceedings'.

6. In view of the above said Rulings of the Division Bench, the submission of the learned counsel appearing for the appellants that their objections had been considered without holding further enquiry, after getting remarks from the requisitioning body, and so the entire acquisition proceedings are vitiated cannot be countenanced.

7. The learned counsel appearing for the appellants has further submitted that the local authority has approved the lay out, and the second respondent issued. No Objections for issuance of such lay-out. But, as held by the learned Judge, there is no prohibition under the said Act to proceed with the acquisition, if the lay-out has been approved with respect to the land in question.

8. In view of the said findings of the learned Judge, we cannot take any exception to the order of the learned Judge,

9. For the foregoing reasons, these writ appeals are dismissed accordingly. No costs, Consequently, the connected C.M.Ps, are also dismissed.