

SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)

**Fathimabi, Vs. the State of Tamil Nadu, Rep. by Its Commissioner and Secretary, Housing and Urban Development Department and the Special Tahsildar (Land Acquisition), Unit Iv, Tamil Nadu Housing Board**

**Fathimabi, Vs. the State of Tamil Nadu, Rep. by Its Commissioner and Secretary, Housing and Urban Development Department and the Special Tahsildar (Land Acquisition), Unit Iv, Tamil Nadu Housing Board**

**SooperKanoon Citation :** [sooperkanoon.com/839947](http://sooperkanoon.com/839947)

**Court :** Chennai

**Decided On :** Jul-13-2006

**Reported in :** (2006)3MLJ917

**Judge :** P. Sathasivam and ;V. Dhanapalan, JJ.

**Acts :** [Land Acquisition Act, 1894](#) - Sections 4(1) and 6

**Appeal No. :** Writ Appeal Nos. 2807 to 2810 of 2002 and WAMP Nos. 5035, 5037, 5039 and 5041 of 2002

**Appellant :** Fathimabi, ;k.R. Rahamathullah, ;k.R. Athavullah Basha and K.R. Ismail

**Respondent :** The State of Tamil Nadu, Rep. by Its Commissioner and Secretary, Housing and Urban Development Depar

**Advocate for Def. :** C. hirusaran, Government Adv.

**Advocate for Pet/Ap. :** K.M. Santhanagopalan, Adv.

**Disposition :** Appeal allowed

## **Judgement :**

### **P. Sathasivam, J.**

1. Aggrieved by the common order dated 14.08.2001 made in W.P.Nos.9318 to 9321 of 1993, the appellants / land owners have filed the above appeals.

2. Heard Mr. K.M. Santhanagopalan, learned Counsel for the appellants and Mr. C. Thirumaran, learned Government Advocate for the respondents.

3. In the light of the order to be passed hereunder, we are of the view that there is no need to traverse all the factual details; however, the fact remains that the learned single Judge, by the impugned common order, quashed the declaration under Section 6 of the [Land Acquisition Act, 1894](#) (in short ' the Act ') and all further proceedings subsequent to Section 4(1) notification leaving the notification under Section 4(1) of the Act in tact with the liberty granted to the respondents to proceed further in accordance with law.

4. The learned Counsel for the appellants, by drawing our attention to the fact that inasmuch as Section 4(1) notification was published in the Tamil Nadu Government gazette dated 13.06.1990; in newspapers on 16.06.1990 and in the locality on 02.07.1990, in the light of the proviso to Section 6 and Explanation (1) appended to that Section, as interpreted by the Supreme Court in the case of Padmasundara Rao v. State of Tamil Nadu : [2002]255ITR147(SC) , the respondents are not permitted to proceed further based on the notification issued under Section 4(1) of the Act in the year 1990.

5. There is no dispute regarding the date of publication of Section 4(1) notification in the gazette, newspapers and in the locality. Likewise, all the writ petitions were filed by the petitioners/ appellants on 03.05.1993 and the learned Judge quashed all proceedings subsequent to Section 4(1) notification, on 14.08.2001. As per the proviso and Explanation (1) appended to Section 6 of the Act, which came into force on 24.09.1984, the respondents are not entitled to proceed further with the existing 4(1) notification, which was of the year 1990. This is also clear from the above cited decision of the Supreme Court. It is clear from the said decision that

the limitation starts from the date on which the original notification came to be made. In our case, by the common order, the learned Judge, quashed the entire proceedings subsequent to Section 4(1) notification. In view of the fact that the writ petitions were filed on 03.05.1993 and even if we apply Explanation (1) appended to Section 6 of the Act, we are of the view that the respondents are not empowered to proceed further with the existing 4(1) notification. In this regard, it is worthwhile to refer to the conclusion of their Lordships in para 15, which reads as under.

15. ... If the Legislature intended to give a new lease of life in those cases where the declaration under S. 6 is quashed, there is no reason why it could not have done so by specifically providing for it. The fact that legislature specifically provided for periods covered by orders of stay or injunction clearly shows that no other period was intended to be excluded and that there is no scope for providing any other period of limitation. The maxim 'actus curia neminem gravabit' highlighted by the Full Bench of the Madras High Court has no application to the fact situation of this case.

6. It is clear that only the period to be excluded is the period of pendency of writ petition and writ appeal. Even if we exclude both the said period, in view of the fact that 4(1) notification in these cases came to be made in 1990 and the writ petitions were filed only in 1993, we accept the contention raised by the learned Counsel for the appellants and the respondents are not entitled to proceed further based on the 4(1) notification issued in the year 1990. Accordingly, though the learned Judge quashed all further proceedings subsequent to 4(1) notification, in view of the above discussion, we make it clear that the respondents are not permitted to proceed further with the existing 4(1) notification, as observed by the learned Judge. To this extent, we allow the writ appeals. No costs. It is made clear that if the respondents so desire, they are free to proceed afresh by issuing fresh 4(1) notification, in accordance with law.

In view of disposal of the main appeals, connected WPMPs., are closed.