

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27-04-2007

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA
AND

THE HONOURABLE MR. JUSTICE J.A.K. SAMPATH KUMAR

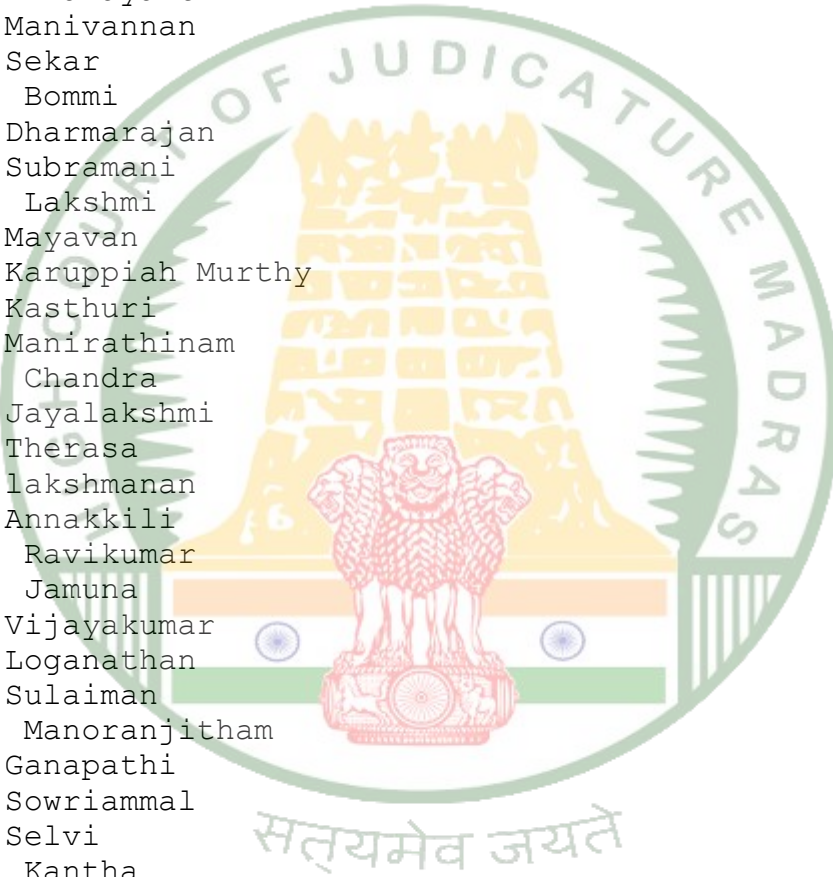
W.P.NOs.36732 of 2006, 23366 to 23371, 24182 to 24187 of 2001,
1537, 11160, 20860, 20862, 20864, 20865 of 2003 34514 of 2002,
10533 and 10534, 16010, 32335 of 2003, 24472 24879, 26138, 26146 of
2004, 5202, 11415, 12321, 16238, 32732, 32771, 32774, 33159, 33483,
33590, 35513, 35514, 37863, 40166 of 2005, 24 and 42507 of 2006
and

WPMP.NOs.30233,31777 of 2004, 25934, 25936, 25938, 25939 of
2003,29731, 31761 of 2004, 38346, 38347, 38350, 3838,38351, 4984,
13469, 38861,35711,35747, 35748, 35752, 36124, 36397, 36536, 40535,
43075 of 2005, 21, 18817 of 2006 & M.P.Nos.1 to 6 of 2006

C. Govindrajan ..Petitioner in WP.36732/2006
Joseph Tharian ..Petitioner in WP.23366/2001
John K. George, ..Petitioner in WP.23367/2001
Alexander Doss ..Petitioner in WP.23368/2001
V.E. Mathai ..Petitioner in WP.23369/2001
C.K. Prabhakaran ..Petitioner in WP.23370/2001
Mrs. Preetha Joseph ..Petitioner in WP.23371/2001
Mrs. Selvi ..Petitioner in WP.24182/2001
M. Chandrasekaran ..Petitioner in WP.24183/2001
K. Senthilkumar ..Petitioner in WP.24184/2001
Mrs. Krishnaveni ..Petitioner in WP.24185/2001
A. Kumar ..Petitioner in WP.24186/2001
K. Munusamy ..Petitioner in WP.24187/2001

1. Mr. Jayamani
2. Mrs. Tamilarasi
3. Mr. Balaiah
4. Vincent Nathan
5. Mrs. Mary
6. Mr. John Bosco
7. Mr. Indirakumar
8. Mrs. Neelavathi
9. Mr. Aravidan
10. Mrs. Boologam
11. Mr. Mathivanan
12. Mr. Duraisingam
13. Mr. Susaimanickam

14. Mrs. Mariammal
15. Mr. Thirunavukarasu
16. Mrs. Vasantha
17. Mr. Duraisamy
18. Mrs. Kalpana
19. Mr. Vasu
20. Mr. Kannan
21. Mrs. Dhanabaggiyam
22. Ms. Ramani
23. Mrs. Valli
24. Mr. Petervasan
25. Mrs. Dhamayanthi
26. Mr. Manivannan
27. Mr. Sekar
28. Mrs. Bommi
29. Mr. Dharmarajan
30. Mr. Subramani
31. Mrs. Lakshmi
32. Mr. Mayavan
33. Mr. Karuppiyah Murthy
34. Ms. Kasthuri
35. Mr. Manirathinam
36. Mrs. Chandra
37. Mr. Jayalakshmi
38. Ms. Therasa
39. Mr. lakshmanan
40. Ms. Annakkili
41. Mr. Ravikumar
42. Mrs. Jamuna
43. Mr. Vijayakumar
44. Mr. Loganathan
45. Mr. Sulaiman
46. Mrs. Manoranjitham
47. Mr. Ganapathi
48. Mr. Sowriammal
49. Ms. Selvi
50. Mrs. Kantha
51. Mr. Devaraj
52. Mr. Mariyappan
53. Mrs. Lakshmi
54. Mr. Dharmalingam
55. Mr. Dharmarajan
56. Mrs. Kalyani
57. Mrs. Kamala
58. Mr. Vairasamy
59. Mrs. Saroja
60. Mr. Nandagopan
61. Mr. Sekar
62. Mrs. Indirani



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63. Mr. Radhakrishnan
64. Mrs. Mallika
65. Ms. Malarvizhi
66. Mrs. Andal
67. Mrs. Latha
68. Mrs. Vijayalakhmi
69. Mr. Kalivu
70. Ms. Ambica
71. Mrs. Jayalakshmi
72. Mrs. Bhavani
73. Mr. Vijayakumar
74. Mrs. Susila
75. Mrs. Mariammal
76. Mrs. Valli
77. Mr. Haridoss
78. Mr. Selvanathan
79. Mr. Raja
80. Mr. Manusamy
81. Mrs. Uma
82. Mr. Asaithambi
83. Mr. Murugan
84. Mrs. Visalachi
85. Mr. Annamalaisamy
86. Mrs. Valarmathi
87. Mr. Subramani
88. Mrs. Rajeswari
89. Mrs. Meena
90. Mrs Rani
91. Mrs. Radhika
92. Mr. Vedhamuthu
93. Mrs. Lourdhumary
94. Mr. Kulanthaisamy

..Petitioners in WP.1537/2002

1. S. Narayanan
2. S. Ramani
3. S. Venkatraman
4. Lalitha
5. S. Dilly Babu
6. S. Haribabu

..Petitioner in WP.11160/2003

rep by their power agent A. Ponnambalam
and R. Muniandi alias Chandran 12,
1st Main Road, Trivalluvar Nagar,
Chennai 600 051.

- | | |
|----------------|-------------------------------|
| N. Varadarajan | ..Petitioner in WP.20860/2003 |
| N. Venkatraman | ..Petitioner in WP.20862/2003 |
| N. Padmanabhan | ..Petitioner in WP.20864/2003 |
| N. Padmanabhan | ..Petitioner in WP.20865/2003 |

K. Jayachandran ..Petitioner in WP.34514/2002

Logammal rep by her
power agent R. Backia Rai ..Petitioner in WP.10533/2003

S. Pushbarani
rep by her power agent R. Raman ..Petitioner in WP.10534/2003

Sri Balaji Nagar Residential
Association rep by its Prisident
Mr. A. Valmuni, Puzhal
Chennai 66. ..Petitioner in WP.16010/2003

C. Mani ..Petitioner in WP.32335/2003

V. Balasubramanian ..Petitioner in WP.24472/2004

S. Aruna ..Petitioner in WP.24879/2004

1. Mr. K. Jayaraman,
2. Mr. Venkatesan
3. Mr. Venkatesan
4. Mr. O. Nandagopal
5. Mr. Ganesha Reddiar
(Gopal and others)
62, Surapattu Village,
Chennai-66.

6. Ms. Thopai Chowdry Savithriammal,
7. Mr. Logiah Naidu,

8. Ms. Vittobai,
D/o. Mr. Gajendra NAidu
(Dhasaradhan

9. Ms. Kuppammal,
(Dhasaradhan and others)

10. Mr. Sagadevan,

11. Mr. Dass and others,

12. Mr. Dass and others,

13. Ms. Raniammal,

14. Ms. Sengammal,

15. Ms. Sudhanthirarani,

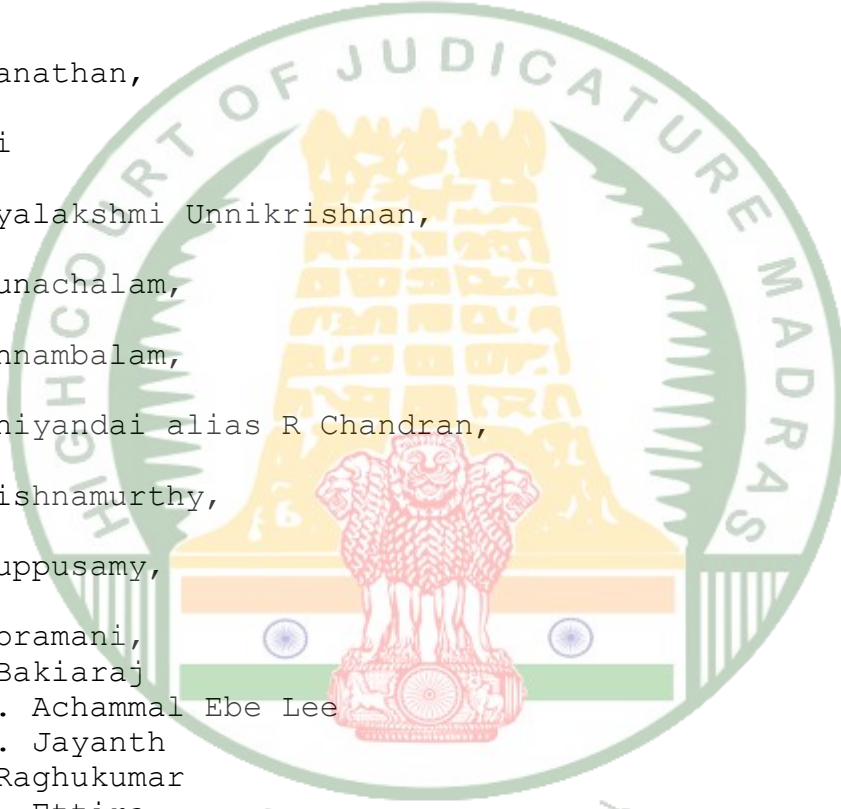
16. Ms.Balamaniammal,
Rep.by Power Agent,
Mr.C.Mani

..Petitioners in W.P.26138/2004

1. Mr. Jeyachandran
2. Mrs. Shanthi
3. Mr. Sreenivasan
4. Mr. Soundarajan
5. Mrs. Jyothi

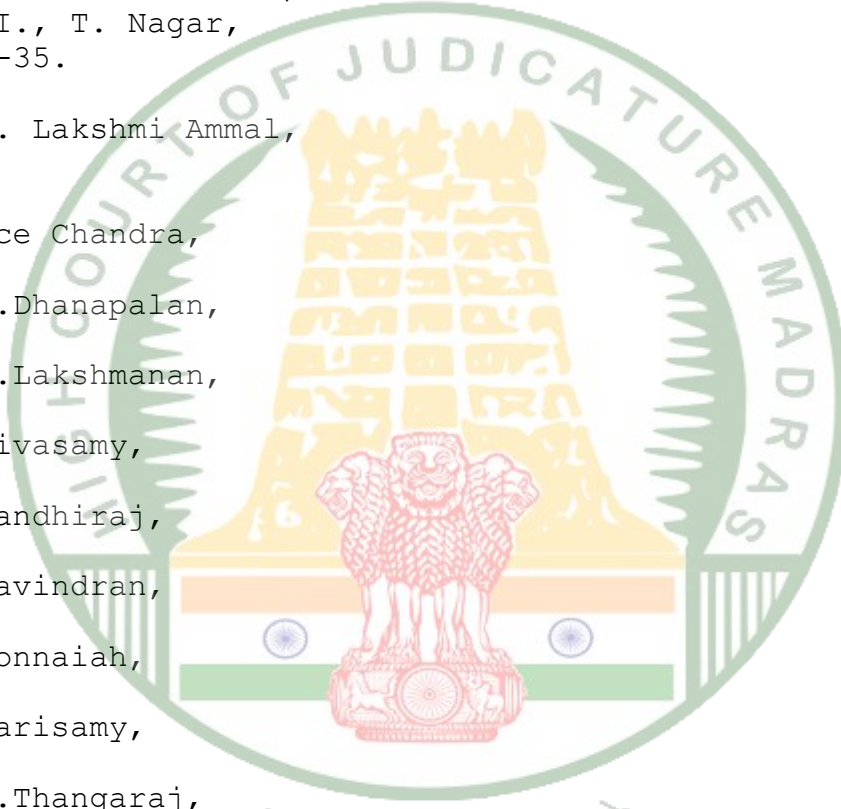
..Petitioners in WP.26146/2004

1. Viswanathan,
2. Durai
3. G.Jayalakshmi Unnikrishnan,
4. A.Arunachalam,
5. A.Ponnambalam,
6. R.Muniyandai alias R Chandran,
7. M.Krishnamurthy,
8. P.Kuppusamy,
9. P.Subramani,
10. R. Bakiaraj
11. Tmt. Achammal Ebe Lee
12. C.K. Jayanth
13. K. Raghukumar
14. A.S. Ettira
15. Cheriyan Raju
16. Beena Thomas
17. Pattathil Suresh
18. Jeena Abraham
19. Gowri Malaisamy
20. Tmt. P. Pramila
21. R. Perumal
22. Rajewari Perumal
23. R. Muthukumar
24. Mathews Attupura Maip
25. Tmt. Aswathi Mathew
26. R. Vellaisamy
27. Omana Mathew



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28. Geeboo Mathew
29. George John
30. John K. George
31. Deepa Jayanth
32. Rajamanickam
33. Jayachandran
34. Jayarama Chettiyar
35. Neena Gopalakrishnan,
36. Alpha Educational Society,
rep by its Managing Director Grace George,
No.6 IIRd Cross Street,
West C.I., T. Nagar,
Chennai-35.
37. Tmt. Lakshmi Ammal,
38. Grace Chandra,
39. Pon.Dhanapalan,
40. P.S.Lakshmanan,
41. R.Sivasamy,
42. P.Gandhiraj,
43. C.Ravindran,
44. J.Ponnaiah,
45. E.Marisamy,
46. V.V.Thangaraj,
47. Jayalakshmi Ammal,
48. M.Rangasami,
- 49 S.Kulandhai Samy,
- 50.S.Rajendran,
51. A.Shermasamy Nadar,
52. S. Kanagaraj
53. P.V. Varadharajan
54. P.V. Pushpavathi
55. Muthukumaravel



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56. Srinivasan
57. Dhanalakshmi
58. B. Manohar

... Petitioner in W.P.5202/05

M/s. Metal Forms Pvt Ltd.,
489, GNT Road, Thandal Kazhani
Village, Vadagarai Post,
Chennai 52.

..Petitioner in WP.11415/2005

1. S. B. Thomas
2. Selvaraj
3. P. Chinnasamy Naidu
4. Mrs. Malarvizhi
5. Mr. Isac Ramesh
6. Mr. Vinayagamoorthy
7. Mrs. Santhi
8. Mr. Jasudoss
9. Mr. Ranganathan
10. Mr. Nagarajan

..Petitioner in WP.12321/2005

1. Loganathan S/o Late C.V. Narayanaswamy
2. Jayanthi W/o K. Chandran
3. Rajeswari W/o R. Santhanam
4. Lakshmi W/o Jagadeesan
5. N. Navamani W/o Amalan

..Petitioners in WP.16238/2005

S. Mahaveer Kothari ..Petitioner in WP.32732/2005

Loganathan ..Petitioner in WP.32771/2005

P.C. OwSaff, S/o P.V. Chacko
No.18, Thirumal Nagar Extension

Surapathu Main Road, Chennai 99...Petitioner in WP.32774/2005

E. Sivakumar

..Petitioner in WP.33159/2005

1. Loganathan S/o Late N. Narayanasamy
2. Jayanthi W/o Late K. Chandran
3. Rajawari W/o R. Santhanam
4. Lakshmi W/o Jagadeesan
5. N. Navamani W/o P. Amalan

..Petitioners in WP.33483/2005

1. P. Rajeswari W/o Late V. Purushothaman
2. Chandran alias Chandrasekaran
3. Umapathy alias Ulaganathan
4. Mageswari D/o Late V. Purushothaman
5. Shanthi D/o Late V. Purushothaman

.. Petitioner in WP.33590/2005.

V. Burnaboss .. Petitioner in WP.35513 & 35514/2005.
Loganathan .. Petitioner in WP.37863/2005.
R. Veeraraghavan .. Petitioner in WP.40166/2005.
R. Rajalakshmi .. Petitioner in WP.24/2006.
S. Boominathan .. Petitioner in WP.42507/2006.

Vs

The Government of Tamilnadu
rep by its Secretary
Public Works (R1) Department
Fort St. George
Chennai- 600 009.

...First Respondent in W.P.36732
of 2006, 23366 to 23371/ 2001
11160/03
R1 in W.P. 20860, 20862,
20864/03, 20865/03 10533 ,
10534, 16010, 32335 of 2003,
24472 24879, 26138, 26146 of
2004, 5202, 16238, 32732, 32771,
32774, 33159, 33483, 33590,
35514, 37863, 40166 of 2005, 24
of 2006

R2 in W.P.24182 to 24187 of 2001
R2 in W.P.1537/2002, 34514/2002,
42507/2006
R4 in W.P.12321/2005

The Chief Engineer
Water Resources Organisation
Chennai Region
Chennai- 600 005.

... Second Respondent in
W.P.36732 of 2006

The Chief Engineer
Public Works Department
Chepauk, Chennai-5

... R3 in W.P.42507/2006

The District Collector
Tiruvallur

..Third Respondent in WP 36732 of
2006

The District Collector
Chennai 600 001

..Fourth Respondent in WP
36732/2006

Tamil Nadu Pollution Control
Board, rep. by itself
Member Secretary,
No.76, Anna Salai,
Chennai 600 032.

..Fifth Respondent in WP 36732/2006

The Special Tahsildar
(Land Acquisition)
Chennai City Water Ways
(Irrigation) Ambattur,
Chennai- 600 053.

... Second Respondent in 23366 to
23371/01, 11160/03, 20860, 20862,
20864, 20865/03,

R2 in W.P.10533/2003, 10534/2003,
16010/2003, 32335/2003, 24472/2004,
24879/2004, 26138/2004, 26146/2004,
5202/05, 16238/2005, 32732/2005,
32771/2005, 32774/2005, 33159/2005,
33483/2005, 33590/2005, 35514/2005,
37863/2005, 40166/2005, 24/2006 and
42507/2006

R3 in W.P.24182 to 24187 of 2001,
1537 of 2002, 11160/2003 34514/2002

The Secretary to Government
State of Tamil Nadu
Municipal Administration
and Water Supply Department
Fort St. George, Chennai 9

..Third Respondent in WP 23366 to
23371/2001 11160/2003,, 10533, 10534,
16010,

R1 in WP 24182/2001 to 24187/2001,
15337/2002 34514/2002, 42507/2006,

R3 in WP 12321/2006

R2 in WP 35513/2005

The Member Secretary
Chennai Metropolitan
Development Authority
Gandhi Irwin Road,
Egmore, Chennai 8

..Fourth Respondent in WP 23366 to
23371/2001,11160/2003, 10533,
10534/2003, 16010/2003

State of Tamil Nadu
rep. by its Joint
Secretary and Special Officer
(Land Acquisition) Public Works
Department, Fort St. George,
Chennai 9

..First Respondent in WP
11415/2004

Land Acquisition Officer
and Special Tahsildar (LA)
Chennai City Water Ways
Scheme, Ambattur, Chennai 53

..Second Respondent in WP
11415/2004

2.The Secretary to Government
Ministry of Environment
and Forest Department
Fort St. George, Chennai

4.The Secretary to Government
Public Works Department
Fort St. George, Chennai

5.The Chief Engineer,
Public Works Department,
(Irrigation Wing)
Chennai 600 005

6.The Superintending Engineer
Water Resource Officer,
Palar Basin Circle,
Chepauk, Chennai 5

7.The Chairperson
Tamil Nadu Pollution Control Board
Anna Salai, Chennai

..Respondent in WP
12321/2005

State of Tamil Nadu
rep. by its Chief Secretary
Fort St. George, Chennai.

..First Respondent
in WP 35513/2005

Petition filed under Article 226 of the Constitution of India for the issuance of writ of certiorarified Mandamus calling for the records of the respondents relating to G.O.Ms.No.432 Public Works (R1) dated 16.9.2003 and quash the same and forthwith directing the 1st respondent to appoint a Committee headed by a retired Judge of this Court and consisting of experts on water management, representatives of the petitioners and representatives of encroachers to suggest permanent solution after local inspection to the water logging and flooding problems faced by the residents of Kathirvedu village.

Petition filed under Article 226 of the constitution of India to issue a writ of Certiorari calling for the records of the first respondent relating to sec.4 (1) Notification issued in G.O.Ms.No.438 PW (R1) dated 31.8.2000 published in T.N.Government Gazette dated 20.9.2000 in so far as they relate to the land of the petitioner herein in Survey No.600-1 of Madhavaram Village, Ambattur Taluk, Thiruvallur District and quash the same in WP 23366/2001.

- 2) Survey No.600-1C and 600-2 in WP 23367/2001
- 3) Survey No.601-A2 in WP 23368/2001
- 4) Survey No.601-2 in WP 23369/2001
- 5) Survey No.600-1 A2 in WP 23370/2001
- 6) Survey No.601-3 in WP 23371/2001

2) calling for the records relating to the G.O.Ms.No./221 public works R1) dated 2.6.2003 published in T.N.Govt. Gazette dated 10.6.2003 and to quash the same in so far as it relates to the petitioner's land at survey No.28/2 measuring an extent of 0.14.5 Hectares (WP 20860/2003)

2) Land in Survey No.15/2A measuring about 0.31.0 hectares) WP No.20862/2003)

3) Land in Survey No.28/1 (Part) measuring an extent of 0.14.0 Hectares (WP 20864/2003)

4) Land in Survey No.29/3 (Part) measuring an extent of 0.15.0 Hectares (WP No.20865/2003)

3) calling for the entire records on the file of first respondent in G.O.MS.No.432 public works (R1) dated 16.9.2003 in so far as it relates to S.Nos. 61, 62, 66, 67, 70 to 79 with sub division as mentioned in the G.O.in Kathirvedu Village, Tiruvallur District (WP 32335/2003)

4) Calling for the records of section 4(1) Notification issued in G.O.MS. No.143 Public Works Department dated 4.4.2003 and section 6 Declaration issued in G.O.Ms.No.223 public works department dated

2.6.2003 as published in the Newspaper Namadhu MGR dated 4.4.2003
land 2.6.2003 quash the same (WP 11415/2004)

5.in so far as its relates to the petitioners in survey No.110/2
Karthivedu Village,. Ambattur Taluk, Tiruvallore District having a
total extent of 54 cents (WP 16238/2005)

6.G.O.Ms.No.626 dated 19.11.2003 as published in Tamil Nadu
Government Extraordinary Gazette as quash the same in so far as it
relates to the petitioner in survey No.50 /5A1 in Puthakaram
Village, Ambattur Taluk, Tiruvallure District having a total extent
of 0.01.0 hectares (WP 32732/2005)

7.calling for the records of the 1st respondent in
G.O.Ms.No.626 dated 19.11.2003 as published in Tamil Nadu
Government Extraordinary Gazette and quash the same in so far as it
relates to the petitioner in survey No.46 /3A1A of Puthakaram
Village, Ambatur Taluk, Thiruvallur District having a total extent
of 2 cents of fland forming part of 22.5.cents (WP 32771/2005)

7.in so far as it relates to the petitioner's in survey
No.48/11D and 48/12B in Puthakaram Village Ambattur Taluk
Thiruvallur District having a total extent of 0.02.0 hectares (WP
32774/2005)

8.in so far as it relates to the petitioner's land in survey
no.50/5A1 in Puthakaram Village, Ambattur Taluk, Thiruvallur
District having a total extent of 1202 sq.ft. of land having part
of 12.5.cents (WP 33159/2005)

9. in so far as it relates to the petitioner in Survey
no.46/2A in Puthakaram Village Ambattur Taluk, Tiruvallur District
having a total extent of 1.07 acres (WP 33438/2005)

10. in so far las it relates to the petitioner's land totally
admeasuring 58 cents i.e. (a)14 cents bearing survey No.50/1(b)
13.5. cents bearing survey No 50/2 (c) 14 cents bearing Survey
No.50/3 (d) 7.5. cents bearing Survey No.50/6 land (e) 9 cents
bearing Survey No.50/7A in Puthakaram Village Ambattur Tk,
Tiruvallur District (WP 33590/2005)

11.in so far as it relates to the petitioner in survey No.42/2A4A1
of Puthaklaram Village Ambattur Taluk, Thiruvallur District having
a total extent of 2 clents of land forming part of 22.5.cents (WP
37863/2005)

12.in so far as it relates to the petitioner's land in
Puthakaram Village, Ambattur Taluk, Tiruvallur District having a
total extent of 3.5. cents i.e.3 cents bearing survey No.48/12A2

land 0.5 cents bezring survey No.50/4B at pass such further order (WP 24 of 2006)

Petition presented to this Court to issue a Writ of Certiorari or any other appropriate writ, order or directions calling for the records of the respondents herein comprised in the Section 4[1] notification under the land acquisition act, 1894 in G.O.MS.NO.438 P.W.[R.1] dated 31.8.2000 and published in Tamil Nadu Government Gazette Supplement dated 20.9.2000 issued by the 2nd respondent herein and quash the entire acquisition proceedings thereunder in respect of the petitioners land and dwelling house situate at Arignar Anna Nagar, Madhavaram II Village, Ambattur Taluk, Tiruvellore District which is morefully described in the ***Annexure** hereunder and consequently directing the respondents to forbear from acquiring the above said house-sites thereon in the occupation of the petitioners herein as on date in "Primary Residential use Zone" , for any purpose. (W.P.1537/2002)

***[Xerox copy of Annexure attached herewith]**

W.P.No. 24182 of 2001 to 24187 of 2001:

To Issue a Writ of Certiorarified Mandamus or any other appropriate writ, order or directions calling for the records of the respondents herein comprised in the section 4(1) notification under the land acquisition act 1894 in G.O.Ms.No.438 PW(R1) dated 31.8.2000 and published in Tamil Nadu Govt Gazette supplement dated 20.9.2000 issued by the 2nd respondent herein and the consequential notice under Sec 9(3) and 10 of the act, issued by the 3rd respondent herein in Na. Ka. No, 11/99 A, dated 24.10.2001 and quash the entire acquisition proceedings thereunder in respect of the petitioner's house-site bearing (1) Plot No. 60 (Arignar Anna Nagar), comprised in S.No. 578/2 of Madhavaram-II Village, Ambattur Taluk, Tiruvallore District, admeasuring 600 sq.ft and consequently directing the respondents to forbear from acquiring the above said house-site thereon in the occupation of the petitioner herein as on date in "Primary Residential use zone" for any purpose W.P. 2482/2001.

2. Plot No. 76 (Arignar Anna Nagar) Comprised S.No. 578/1 of Madhavaram II Village Ambattur Taluk, Trivellore District Addmeasuring 693 sq ft in WP.No. 24183 of 2001.

3. Plot No. 55 (Arignar Anna Nagar) Comprised in S. No. 578/2 of Madharavaram II Village Ambattur Taluk, Tiruvallur District Admeasuring 600 Sq ft etc in (W.P.No.24184/2001)

4. Plot No. 133 (Arignar Anna Nagar) Comprised in S. No. 605/1 of Madharavaram II Village Ambattur Taluk, Tiruvallur District Admeasuring 600 Sq ft etc in (W.P.No.24185/2001)

5. Plot No. 144 (Arignar Anna Nagar) Comprised in S. No. 605/1 of Madharavaram II Village Ambattur Taluk, Tiruvallur District Admeasuring 600 Sq ft etc in (W.P.No.24186/2001)

6. Plot No.128 (Arignar Anna Nagar) Comprised in S. No.605/1 of Madharavaram II Village Ambattur Taluk, Tiruvallur District Admeasuring 600 Sq ft. etc in (W.P.No.24187/2001)

7. In respect of the petitioners land (Arignar Anna Nagar) Comprised in S. No. 594/-1, 604/1 of Madharavaram II Village Ambattur Taluk, Tiruvallur District Admeasuring and extent 0.82, 0.40 cents etc (in WP.No. 11160/2003)

8. Land (Arignar Anna Nagar) Comprised in S.No. 602-1 of Madharavaram II Village, Ambattur Taluk, Trivellore District Admeasuring 0.320 Hectors etc in (WP.No. 34514/2002)

9. in respect of the petitioners land (Arignar Anna Nagar) Comprised in S.No. 600-1 A-1, 601-1 of Madhavaram II Village, Ambattur Taluk, Tiruvallore District admeasuring 0.03.5, 036.5 Hectares (W.P.No. 10533/2003)

10. In respect of the petitioners land (Aringar Anna Nagar) Comprised in S.No. 603/3 of Madharavaram II Village Ambattur Taluk, Tiruvellore District admeasuring an extent 0.84 cents etc (WP.No. 10534/2003)

11. G.O.Ms. No. 144 P.W. (R1) dated 4.4.2003 published in the Tamil Nadu Government Gazeete dated 9.4.2003 issued by the First respondent herein and quash the entire acquisition proceedings thereunder in respect of the members of the petitioner's Association Land Comprised in all survey numbers notified in the above G.O. Puzhal Village, Ambatur Taluk, Tiruvallore District total admeasuring 4.81.0. hectors (W.P.No. 16010/2003)

12. G.O.Ms. No. 432 Public works (R1) dated 16.9.2003 and quash the same in so far it relates to survey Nos. 79/6 (B) part, 79/6 (c) part and 79/(D) as mentioned in the G.O. in Kathirvedu Village, Ambattur Taulk Tiruvallur District (WP.No. 24472/2004)

13. It relates to S.No.113/1A2 B with Sub Division as mentioned in the G.O. in Karhirvedu Village, Thiruvallur District and quash the same (WP.No. 24879/2004).

14. It relates to the petitioners land in Survey Numbers 61/1A1, 62/1, Pt now 62/8, 66/3A, 66/3B, 66/4A, 66/1A1, 67/2A, 70/1 pt, 70/3, 70/2, 72/1, 76/1A1A, 73/2A1, 76/2A1, 76/1B1A1. 76/2B1A1, in Kathirvedu, Ambattur Taluk, Tiruvallore District having a total extent of 224 areas and 35 sq. meters (WP.No. 26138/2004)

15. It relates to the petitioners land in Survey numbers 76/2D2, 76/3B, 77/1, 76/2C1A2A3, 76/2D1A, B.C.D.E. 76/3A2A3, 76/1A2A3 & 76/1A2A4, 76/1B1A2 in Kathirvedu Village Ambatur Taluk, Tiruvallore District having a total extent of 220 areas and 35 sq Mtrs (WP.No. 26146/2004)

16. Section 4 (1) G.O. (MS) No 30, (PW (R1) dated 2.2.2005 published in the Tamil Nadu Govt Gazette dated 3.2.2005 issued by the Ist respondent herein and quash the entire acquisition proceedings thereunder in respect of the petitioners land comprised in Survey Number morefully described in the **annexure** hereunder in 52, Puzhal Village , Flat No. 1, Ambattur Taluk, Trivallore District. **(xerox Copy annexure attached)**

17. Calling for the records of the 2nd respondent in their orders in G.O. Ms. (MA & W.S) 122 dated 14.7.1998 quash the same and direct the respondents to consider the feasibility of carrying the surplus water from the Korattur Tank through pipeline taken through the shortest route instead of the proposed schemes of carrying the surplus water from the left flank vier of Korattur tank to Madhavaram tank through open channel of 200 feet width through puthagaram and Kathirvedu Villages and for such other reliefs (WP.No. 35513/2005)

18. Calling for the records of the first respondent in their orders in G.O. MS. 423 (Public Works (R1) dated 16.9.2003 quash the same and direct the respondents to consider the feasibility of acquiring only a bare minimum portion of the property in Kathirvedu Village for the purpose of carrying the surplus water from the Korattur Tank through pipeline taken through the shortest routs instead of the proposal scheme of carrying the surplus water from the left flank veir of Korattur tank to Madhavaram tank through open channel of 200 feet width through Puttagaram and Kathirvedu village (WP.No. 35514 of 2005)

19. as published in Tamil Nadu Government Extra ordinary Gazette dated 18.9.2003 and quash the same in so far as it relates to the petitioners in survey No. 113/1A2B in Kathirvedu Village, Ambattur Taluk, Tiruvallore District having a total extent of ;4459 Sq ft and pass further orders (WP.No. 40166 of 2005)

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to desist from implementing G.O. Ms. No. 122 (MAWS) dated 14.7.98 and the subsequent order in G.O.Ms. No. 432 PWD (R1) dated 16-9-2003 in such a manner as to destroy the Kathirvedu Thangal, Puzhal, Panchayat Union, Chennai, 600 066 (WP.No. 12321 of 2005)

2. Writ of Mandamus, directing the respondents to consider the proposal pursuant G.O.Ms.No. 122 dated 14.7.1998 and utilize the 68.63 acres of Government lands which are available adjacent lands for implementation of the scheme and consequently direct the respondents to release the private patta lands belonging to the individuals from the acquisition proceedings pursuant to G.O. Ms. No. 30 PW (R1) dated 2.2.2005. (WP.No. 42507/06)

Mr. AR.L. Sundaresan Senior Counsel for Mr.K. Raja Srinivas in W.P.No.26146 of 2004

Mr.P. Jayaraman, Senior Counsel for Mr.S. Jayakumar in W.P.Nos. 34514 of 2002, 10533 & 10534 of 2003 & 11160 of 2003 & M.C. Samson in W.P.23366 to 23371/2001 , 16010/2003 & 5202/2005

Mr.S. Sundar, Senior Counsel for M/s. Sunder Mohan in W.P.Nos.20860, 20862, 20864, 20865 of 2003

Mr.N. Muthukumaraswamy, Senior Counsel for Mr.J. Srinivasan in W.P.Nos.35513 & 35514 of 2005
Mr. Muthumani Doraisamy Petitioner in W.P.36732/2006

Mr.T. Mohan in W.P.No.12321 of 2005
Mr.M.L. Ganesh for Petitioner in W.P.24182 to 24187/2001 & 1537/2002

Mr.C. Prakasam for Petitioner in w.P.32335/2003
Mr.A.A. Mohan for Petitioner in W.P.24472/2004
Mr.P.Subbareddy for Petitioner in W.P.24879/2004

Mr.M.S. Subramanian Petitioner in W.P.26138/2004
Mr.K. Goviganesan Petitioner in W.P.11415/2004
Mr.S. Natarajan Petitioner in W.P.16238, 32732, 32771, 32774, 33159, 33483, 33590, 37863 & 40166 of 2005 and 24 of 2006

Mr. S. Palaniappan Petitioner in W.P.42507 of 2006
Mr.R. Viduthalai, Advocate General for the State
Assisted by Mr.G. Sankaran & Mr.P. Subramani,
Government Advocate.

Mr.P. Wilson, Asst. Solicitor General of India for
Respondent No.1 in W.P.No.12321 of 2005

Mr.J. Ravindran for C.M.D.A.

Mr. Rita Chandrasekar for Tamil Nadu Pollution
Control Board

COMMON JUDGMENT

P.K. MISRA, J

In W.P.Nos.24472, 24879, 26146, 26138 of 2004, 16010, 32335 of 2003, 16238, 40166 of 2005 the prayer is for quashing G.O.Ms.No.432 Public Works (R1) dated 16.9.2003.

1.1 W.P.Nos.35514 and 12321 of 2005 have been filed as Public Interest Litigations for quashing G.O.Ms.No.432 dated 16.9.2003. The allegations made in both the writ petitions are same as in W.P.No.35513 of 2005.

2. W.P.Nos.23366 to 23371 of 2001, 10533 & 10534 of 2003, 11160 of 2003, 34514 of 2002, 24182 to 24187 of 2001, 1537 of 2002 have been filed to quash G.O.Ms.No.438 PW (R1) dated 31.8.2000.

3. In W.P.Nos.20860, 20862, 20864 & 20865 of 2003 prayer is to quash G.O.Ms.No.221 Public Works (R1) dated 2.6.2003 published in Tamil Nadu Gazette on 10.6.2003 so far as it relates to the petitioners land in Manjambakkam village, Ambattur Taluk in Tiruvallur District.

4. W.P.No.35513 of 2005 has been filed as a Public Interest Litigation for quashing G.O.Ms.No.122 dated 14.7.1998 and to consider the feasibility of carrying the surplus water from the Korattur tank through pipeline instead of the proposed scheme of carrying surplus water from the left flank weir of Korattur tank to Madhavaram tank through open channel of 200 feet width through Puthagaram and Kathirvedu villages.

4.1 W.P.No.42507 of 2006 has also been filed as a public interest litigation to consider the proposal pursuant to G.O.Ms.No.122 dated 14.7.1998 and utilize the Government lands for implementation of the scheme and to release the private lands belonging to the individuals from acquisition proceedings pursuant to G.O.Ms.No.30 dated 2.2.2005.

5. W.P.No.16010 of 2003 has been filed by Sree Balaji Nagar Residential Association on behalf of the residents of Puzhal Village, Balaji Nagar in respect of survey numbers described in the writ petition. Prayer in this writ petition is for quashing G.O.Ms.No.144 P.W. (R1) dated 4.4.2003.

6. W.P.No.5202 of 2005 has been filed by several persons of Puzhal Village for quashing G.O.Ms.No.30 P.W.(R1) dated 2.2.2005 in respect of the lands of the petitioners.

7. W.P.Nos.32732, 32771, 32774, 33159, 33483, 33590, 37863, and 24 of 2006 have been filed for quashing G.O.Ms.No.626 dated 19.11.2003 so far as it relates to the land of the petitioners in Puthakaram village in Ambattur Taluk.

8. W.P.No. of 2006 has been filed by one resident of Kadirvedu village for himself as well as a public interest litigation.

Prayer in this writ petition is for quashing G.O.Ms.No.432 dated 16.9.2003 and directing the respondent Government to appoint a Committee headed by a retired Judge of the High Court and of experts on water management, representatives of the petitioners and representatives of encroachers to suggest permanent solution after local inspection to the water logging and flooding problems faced by the residents of Kathirvedu village.

Kathirvedu village is situated within the limits of Puzhal Panchayat Union. There is a perennial source of water body known as Kathirvedu Thangal, which is rain fed and serves to recharge the ground water in more than 2000 open wells and borewells in the area. Totally 11 CMDA approved residential colonies comprising of 1500 houses are in the vicinity. It is stated in the affidavit that due to encroachments, several water bodies in North Madras area have lost their character and become non-existent. The effect of such illegal encroachments is during rainy season several areas in northern part of Chennai become inundated with floods as the excess water cannot get discharged to the sea. It is further stated that because of industrialization without proper drainage and sewerage planning some water bodies such as Ambattur and Korattur tanks have become contaminated. The report of Directorate of Public Health and Preventive Medicine, Department of Water and Sewage Examination, King Institute Campus, Guindy reveals that water quality of Korattur tank has been lost and has become a sewerage storage tank. It is further stated that originally the natural overflow water of one tank would reach the other tank through naturally formed channels and ultimately reach Bay of Bengal. However, because of industrialization and encroachment this has been affected. The natural over flow from Ambattur tank,

Korattur tank and Kolathur tank and excess water from Madhavaram tank used to drain into Captain Cotton Canal through Madhavaram Right Bank Surplus Channel. The width of such channel was originally about 12 metres, but because of illegal encroachments, Madhavaram right Bank Surplus Channel got shrunk from 12 metres to 2 to 6 metres at several places. Because of such encroachments, the entire area in and around Madhavaram tank and Kathirvedu village including Thanikachalam Nagar get submerged in flood water during rainy season. With a view to solve this problem, originally the authorities wanted to restore the natural course of Madhavaram Right Bank Surplus Channel so that it can carry natural surplus water to Captain Cotton Canal and from there to Bay of Bengal. But, subsequently such thinking was changed on the pretext that more areas had been encroached upon. Since Madharavaram Right bank Surplus Channel was completely encroached, the authorities were contemplating to use the other alternative channel that existed linking Korattur tank with Madhavaram tank and administrative sanction was accorded by the Government as per G.O.Ms.No.248 dated 21.4.1999. However, before the project could be implemented, the alternative water channel was also blocked by encroachment. As per G.O.Ms.No.432 dated 16.9.2003, the Government decided to construct an open channel connecting Korattur tank with Madhavaram tank through Kadhirvedu Thangal water body. It is stated that this new proposal of the Government linking Korattur tank, which is now filled with contaminated effluents, with Madhavaram tank, which is one of the water sources for supply of potable water to Chennai city, would constitute a health hazard and will adversely affect the interest of the residents. Apart from the apprehension of water pollution, the petitioner has also pointed out that in view of the level difference between the right and left banks of Madhavaram tank and in view of the natural land gradation which allows water to flow from West to East, any attempt to tinker with the natural flow of water would lead to disastrous consequences. The proposed embankment from Madhavaram tank towards Kathirvedu Thangal will prevent the draining of rain water from both sides of the canal into Madhavaram tank. It is also indicated that the scheme now visualized does not take into account the proposed elevation of National Highways Bye pass road connecting Maduravoil to Madhavaram as such National Highway bye pass road is to cut through the proposed water channel connecting Korattur lake with Madhavaram tank via Kathirvedu Thangal. The criss-crossing of proposed elevated National Highway bye pass road and proposed Korattur Channel course - Madhavaram tank via Kadirvedu Thangal with embankments will lead to submerging of area during rainy season. It is also stated that the existing National Highway, namely, G.N.T. Road linking Chennai and Nellore runs across the Madhavaram tank east to west. The existing arrangement has 6 numbers of vents which cannot take the load of the rain water during rainy season and number of vents in the G.N.T. National

Highways road crossing Madhavaram tank has to be increased to accommodate the surplus over flow of 3000 cusecs to Korattur tank. It is also stated that any step by the authorities to increase the Right Flank Weir of the Madhavaram tank without first making provision for connecting the Left Bank of the Madhavaram Tank with the Red Hills Surplus Channel would lead to disastrous consequences as the water would not flow against the natural gradient as the natural gradient is west to east and not from east to west. During rainy season, the adjacent colonies would thus become flooded. Apart from the above apprehensions expressed, the petitioner has highlighted regarding the technical report prepared by the Former Director, Centre for Water Resources, Anna University. Such report has indicated among other things :-

"The Natural drainage in Tamil Nadu is generally towards the East as the ground slopes down to the Bay of Bengal. Therefore, any flood diversion proposal should also follow this direction. Any other attempt may have detrimental consequences.

The (proposed open) Channel is taken along a circuitous route and hence the length is high and the bed slope is very mild. The proposed channel will also obliterate the Kathirvedu Thaangal which is the only fresh water storage pond which recharges the Ground Water in the area which is not desirable. Also, the Channel has an acute turn. The consequences are: (i) the cross section of the Channel will be large requiring large land area to be acquired at a high cost; and (ii) the hydraulic function of the channel will create flooding, scouring and silting at the location of the turn.

Any attempt to drain off the water from Madhavaram tank should finally reach Captain Cotton Canal. Diverting the flow to the Red Hills surplus course may not be viable because of the ground levels at Madhavaram Tank left Surplus Course. Therefore it is recommended that the flood diversion canal should necessarily follow the original direction of flow from the Madhavaram Tank right surplus course."

9. The petitioner has also suggested that underground pumping system can be implemented so that the industrial effluent/sewerage water filled Korattur lake would not pollute water source of Kathirvedu Thangal or potable water source of Madhavaram tank which is used for metro water. The petitioner has also pointed out that instead of removing the encroachers of water bodies including canals and channels, the authorities have chalked out an alternative plan which contains many practicable defects and

which would also affect the lawful residents. The petitioner has therefore prayed for appointing a Committee headed by a retired Judge and consisting of experts as well as representatives of the locality and representatives of the encroachers to suggest permanent solution.

10. In the typed set of papers filed along with the writ petition, the petitioner has enclosed the report of the Chief Water Analyst of the Directorate of Public Health and Preventive Medicine Department of Water and Sewage Examination dated 5.7.2005. Such report indicates:-

"The sample of water collected from the above source is slightly Greenish and highly turbid in physical appearance with Earthy odour.

Judged from the results of chemical analysis it is extremely mineralised, sulphated and brackish with the 5720 mg/l of total solids, 7400 mg/l of sulphate and 2180 mg/l of chloride which are exceeding the maximum permissible limits of 400 mg/l and maximum permissible limits of 2000 mg/l, 400 mg/l and 1000 mg/l respectively as prescribed in BIS for a drinking water. The high figure of 165 for oxygen absorbed value (Tidy's Test). Presence of Ammonical nitrogen and Albuminoid nitrogen indicate that the source is heavily contaminated with organic impurities. Hence the lake water is unfit for using as a source for drinking purpose.

Microscopical examination reveals the presence of wide varieties of Phytoplanktons and zooplanktons which are also indicating the recent and continuous contamination of the lake water.

Bacteriologically also it is of very poor quality indicating the presence of high bacteria density and high coliform index. Isolation of E.Coli I Organisms in the water is indicative of faecal contamination.

Hence the proposal to develop Korattur lake as a drinking water source should be dispensed with.

Further the lake should be protected against dumping of solid/liquid wastes from industries nearby. Arrangements may be made to store only rain water in the lake by adopting proper lake management techniques in order to protect the ground water sources like open wells, bore wells in the panchayat area."

11. In the typed set of papers, the petitioner has also

enclosed alternative proposal for flood diversion channel from Korattur tank prepared by Dr.M. Kaarmegam, Former Director, Centre for Water Resources, Anna University. The report inter alia has indicated :-

"OBSERVATION

The Channel is taken along a circuitous route and hence the length is high and the bed slope is very mild. The proposed channel will also obliterate the Kathirvedu Thaangal which is the only fresh water storage pond which recharges the Ground Water in the area which is not desirable. Also, the Channel has an acute turn. The consequences are: (i) the cross section of the Channel will be large requiring large land area to be acquired at a high cost; and (ii) the hydraulic function of the channel will create flooding, scouring and silting at the location of the turn."

The report also contains an Alternate Proposal. The Conclusion and Recommendation are as follows :-

"CONCLUSION

(i) As can be seen above, taking the channel along the shortest route has reduced the width from 40m to 20m. This means that the land requirement has been reduced to half. Consequently, the overall cost should also be considerably reduced.

(ii) Since the channel is straight, there will not be flow congestions. As a result, there will not be any scouring and silting problems. The flood water clearance will be fast.

RECOMMENDATION

Any attempt to drain off the water from Madhavaram tank should finally reach the Captain Cotton Canal. Diverting the flow to the redhills surplus course may not be viable because of the ground levels at Madhavaram Tank left Surplus Course. Therefore it is recommended that the flood diversion canal should necessarily follow the original direction of flow from the Madhavaram Tank right surplus course."

12. A counter affidavit has been filed on behalf of Respondents 1 to 4, which is sworn to by the Special Secretary to the Government. In paragraph 3 of the counter, it has been stated :-

"3. With regard to the averments made in para 2 and 3 of the affidavit, it is submitted that on account of increase in population in the residential areas, the drainage water from the residential areas has to fall in the already existing water courses causing thorough flow

of flood water in the water courses. Without the knowledge of the Government officials, some miscreants have encroached upon some portions of water course areas. Even then, the Government is making its earnest arrangements to avoid inundation of flood water in the water bodies and ensure free flow of flood water and drainage water in the water courses to prevent devastating effects. Necessary steps are taken to evict the encroachments by following due course in accordance with law. It is not correct that the entire water bodies lost their character and became non existence because of the illegal encroachments. The Government after examination of the various factors like loss of lives during the flood on 27-11-1997, have decided to have flood alleviation scheme in and around Madhavaram, Thanikachalam Nagar, Korattur and Ambattur, etc. Accordingly in GO.Ms.No.321, Housing and Urban Development Department, Dated 12-08-1998 the Government have accorded the Administrative Sanction for undertaking flood alleviation measures and improvements of storm water system in Chennai Metropolitan Area at a total cost of Rs.300 Crores as a comprehensive scheme for improving City Waterways & Drainage system in Chennai Metropolitan Area."

12.1 In the counter it is further stated that due to urbanisation, the area had become large and they do not have proper drainage systems to drain storm water. Care has been taken by the Government for protecting the water bodies from being polluted by the adjoining industries and by public and the Tamil Nadu Pollution Control Board is taking vigilant action against the erring industries. The contention that there is total contamination and conversion in water bodies is therefore denied. It is further stated that Ambattur tank and Korattur tanks are recharged by rain water which will in turn will cater to the water supply to greater Chennai in future. It is stated that Madhavaram tank receives surplus water from Korattur tank and Ambattur tank in addition to the rain water from its own catchments. The volume of surplus water of Madhavaram tank during flood is 5000 cusecs. At present the surplus water of Madhavaram tank flows through weirs on both the flanks. The flood water flows through the weir at the right flank enters Kodungaiyur drain and Kodungaiyur tank through thickly populated area of Devaki Nagar, Thanikachalam Nagar and finally reaches Buckingham Canal, which is one of the components of the scheme already implemented by the Government. It is further stated:-

"8. Topographically it is not possible to push or discharge the entire flood water of Madhavaram tank right flank surplus course and is separated by the well defined ridge. The captain cotton canal is a different storm

water canal which originates from Simpson's to Vyasarpody tank. It also flows through the thickly populated residential areas of Vyasarpody, Sharma Nagar, Kodungaiyur and finally reaches Buckingham canal. Hence, discharging the surplus water from Madhavaram tank right flank weir to the surplus of Redhills tank via Captain Cotton canal is not at all technically feasible. It is therefore submitted that the schemes of surplus course from Korattur tank to Madhavaram tank under the schemes envisages permanent flood relief to the residential areas of Korattur, Thanikachalam Nagar and Kodungaiyur villages by forming wider surplus course without draining into Captain Cotton canal for providing permanent flood relief. It is pertinent to note that the Madhavaram right flank leading from Madhavaram tank to Kodungaiyur tank is newly formed under the scheme. The width of Captain Cotton canal said to have been reduced is not at all affecting this scheme which has already been carried out.

9. It is further submitted that the implementation of the scheme namely Construction of storm water drain along the right flank surplus of Madhavaram tank through Thanikachalam Nagar which was ordered by this Hon'ble High Court in WP.No.1689/95 is one of the component works under Chennai Metropolitan Development Authority flood prevention and drainage scheme."

It is proposed to dispose the surplus water of Korattur tank from its left flank through a well defined and well protected surplus course to Madhavaram tank. The proposal was based on the field investigation and detailed alternative analysis conducted by the consultant M/s. Mott. Mac. Donald of United Kingdom, which was approved by the Government after review by various connected Departments. It is claimed that 80% of the work as per the scheme has been completed. Since the right flank weir cannot carry 5000 cusecs water, the proposed channel is planned to form from Korattur tank to Madhavaram tank and from Madhavaram tank to Redhills tank surplus course through the available poramboke lands with additional patta lands which are free from any encroachments by habitations in surrounding villages. It is further stated:

"12. The right flank weir of Madhavaram tank has developed houses and well established housing colonies, hence carrying entire surplus discharge of about 5000 cusecs through right flank weir is not technically and socially possible. However, a pacca masonry drain has been constructed for 3 Kms length after evicting the encroachments in the poramboke lands of surplus course to give relief to the public of the residential areas from the inundation. Moreover, the left flank weir chosen was

found to be barren and low lying in nature for implementation of storm water canal. The patta lands along the left flank surplus course of both the tanks are not developed due to the presence of the water logging areas and Government poromboke lands along its alignment. Hence, the Government has decided to form a well defined and well protected surplus course in which minimum development has taken place. There was no such well developed structures or buildings on the lands by which the canal along the left flank weir is proposed to be formed. All the lands now chosen for acquisition are still barren and vacant. Considering the feasibility of implementing the scheme and the lands available for easy acquisition of lands alternative water channel was necessitated to be formed invoking the urgency clause.

13. With regard to the averments made in para 9 & 10 of the affidavit, it is submitted that the surplus course of Korattur tank has been proposed to be carried through a designed earthen channel for discharging about 3000 cusecs with required embankments on both sides and also necessary cross masonry works such as Culvert, Bridges, etc. would be put by acquiring the patta lands existing along its alignment. Hence, Kathirvedu Thangal will not be affected in any way instead this will be protected by forming banks on its both ends with necessary inlet & outlet arrangements along the surplus course, thus getting filled every time when surplus water flows in his Surplus course."

It is further stated :-

"17. It is also submitted that the Government is taking serious efforts to evict the illegal encroachments who have encroached water bodies and water courses. The scheme of surplus course is a separate scheme which carries only storm water drain. National Highways authorities are taking separate project for widening the existing road with provisions for required vents in the surplus course. There will not be any serious consequences as averred by the petitioner. The contention of the petitioner that "the entire area will be submerged during rainy season and the villages will have to loose their properties because of the proposals" is totally not correct. The surplus course will carry only the flood water and drain to the tanks, thus avoiding inundation of adjoining villages and the lives and properties of the people will be saved. There are number of vents in the G.N.T. National Highway road crossing Madhavaram tank is found adequate to carry the designed surplus water from Korattur tank."

It is further stated that suggestion regarding carrying of surplus water through pumping system instead of open channel system is not technically feasible and it is highly uneconomical and would lead to danger in case of any failure.

13. A rejoinder has been filed by the petitioner. It has been indicated therein that G.O.Ms.No.321 Housing and Urban Development dated 12.8.1998 does not include formation of Koratur surplus course. The petitioner has reiterated the assertion that Ambattur and Korattur tanks are filled with sewerage and industrial effluents and such water is not fit for drinking purpose. It is further reiterated that interest of the illegal encroachers is being protected. It is further stated that the proposal and field investigation and detailed analysis conducted by the UK Consultant Miott.Mac Donald dealt with the flood alleviation and improvement of storm water drainage system in Chennai Metropolitan area and does not relate to forming a new canal linking the polluted Korattur tank water to Madhavaram tank. The allegation that 80% of the scheme has already been implemented is denied as untrue and the only work which taken place is the formation of temporary embankment for a distance of 1 KM out of the total distance of 28 Kms and no work has taken place with reference to construction of bridges or culverts. The petitioner has again reiterated regarding the fact that in view of the construction of the highways, the scheme cannot be implemented unless more number of vents are provided which is not within the control of the State Government. It is also stated that construction of embankments will affect natural flow of water thereby preventing rain water from surrounding areas to drain into the canal/Madhavaram lake.

14. On a perusal of the affidavit of each writ petition either filed by the individuals or as the public interest litigations, the following contentions are highlighted:-

(1) As per the initial scheme the proposal was to clear the encroachment around Cotton Captain Canal and the surrounding areas so that the water could be discharged. But, subsequently such scheme has been abandoned and a modified scheme has been sought to be implemented with a view to protect the encroachers, which is on the face of it is arbitrary and opposed to all canons of justice and fairplay.

(2) The proposal to connect Ambattur Tank to Korattur tank with a canal and thereafter to construct the channel upto Kadhirvedu thangal and thereafter connecting it to Madhavaram tank would result in polluting the water sources such as Madhavaram tank as well as Kadhirvedu Thangal and, therefore, such scheme obviously being against public interest, should not be permitted to be completed.

(3) Apart from the above grounds, which are raised either by some of the individuals or in the shape of Public Interest Litigations, the individual land owners have also focussed on the question of invocation of urgency clause and it has been submitted that there was no justification for invoking the urgency clause.

15. We have heard Mr. Muthukumaraswamy, Senior Counsel, Mr.P. Jayaraman, Senior Counsel, Mrs. Nalini Chidambaram, Senior Counsel, Mr.S. Sundar, Senior Counsel, Mr.AR.L. Sundaresan, Senior Counsel for the individual land owners as well as in the Public Interest Litigations and Mr.R. Viduthalai, Advocate General for the State. The other Counsels have adopted the submissions made by the Senior Counsels.

16. One of the main contentions raised in almost all the cases is relating to invocation of the urgency clause. It has been submitted that the scheme sought to be implemented surfaced more than a decade before. Even after publication of declaration under Section 4 of the Land Acquisition Act, the authorities had progressed in a lackadaisical fashion like a meandering river and no efforts were to complete the proceedings within a reasonable period. Keeping in view the pre-declaration procrastination post declaration delay, it is apparent that the urgency clause should not or rather could not have been invoked.

17. The learned Advocate General appearing for the State on the other hand submitted that in view of the importance of the scheme and urgent necessity to avoid flooding of many areas it was decided to go ahead with the land acquisitions without any avoidable delay and bottleneck by invoking the urgency clause. It is further submitted that merely because there has been some subsequent delay on account of various factors including the fact that the scheme got bogged down because such land acquisitions became mired in legal wranglings, it cannot be said that there was no necessity nor justification to invoke the urgency clause.

18. In AIR 1971 SC 1033 (JAGE RAM AND OTHERS v. THE STATE OF HARYANA AND OTHERS), it was observed :-

"10. Now coming to the question of urgency, it is clear from the facts set out earlier that there was urgency. The Government of India was pleased to extend time for the completion of the project up to April 30, 1969. Therefore urgent steps had to be taken for pushing through the project. The fact that the State Government or the party concerned was lethargic at an earlier stage is not very relevant for deciding the question whether on the date on which the notification was issued, there was urgency or not. The conclusion of the Government in a given case that there was urgency is entitled to weight,

if not conclusive."

(Emphasis added)

19. In AIR 1984 SC 1721 (DEEPAK PAHWA ETC., v. LT. GOVERNOR OF DELHI AND OTHERS), it was observed :-

"8. The other ground of attack is that if regard is had to the considerable length of time spent on inter-departmental discussion before the notification under Section 4(1) was published, it would be apparent that there was no justification for invoking the urgency clause under Section 17(4) and dispensing with the enquiry under Section 5-A. We are afraid, we cannot agree with this contention. Very often persons interested in the land proposed to be acquired make various representations to the concerned authorities against the proposed acquisition. This is bound to result in a multiplicity of enquiries, communications and discussions leading invariably to delay in the execution of even urgent projects. Very often the delay makes the problem more and more acute and increases the urgency of the necessity for acquisition. It is, therefore, not possible to agree with the submission that mere pre-notification delay would render the invocation of the urgency provisions void. We however wish to say nothing about post-notification delay. In *Jage Ram v. State of Haryana* this Court pointed out the fact that the State Government or the party concerned was lethargic at an earlier stage is not very relevant for deciding the question whether on the date on which the notification was issued, there was urgency or not. In *Kasireddy Papaiah v. Government of Andhra Pradesh* it was held,

" delay on the part of tardy officials to take the further action in the matter of acquisition is not sufficient to nullify the urgency which existed at the time of the issue of the notification and to hold that there was never any urgency".

This decision was followed in AIR 1986 SC 2025 (STATE OF U.P. v. SMT. PISTA DEVI AND OTHERS), wherein it was observed :-

"5. ... The question for consideration is whether in the circumstances of the case it could be said that on account of the mere delay of nearly one year in the publication of the declaration it could be said that the order made by the State Government dispensing with the compliance with Section 5-A of the Act at the time of the publication of the notification under Section 4(1) of the Act would stand vitiated in the absence of any other material. In this case there is no allegation of any kind

of mala fides on the part of either the Government or any of the officers, nor do the respondents contend that there was no urgent necessity for providing housing accommodation to a large number of people of Meerut city during the relevant time. The letters and the certificates submitted by the Collector and the Secretary of the Meerut Development Authority to the State Government before the issue of the notification under Section 4(1) of the Act clearly demonstrated that at that time there was a great urgency felt by them regarding the provision of housing accommodation at Meerut. The State Government acted upon the said reports, certificates and other material which were before it. In the circumstances of the case it cannot be said that the decision of the State Government in resorting to Section 17(1) of the Act was unwarranted."

The decision of the Supreme Court in AIR 1977 SC 183 (NARAYAN GOVIND GAVATE v. STATE OF MAHARASHTRA) was distinguished. On the other hand, the following observation of Justice Chinnappa Reddy in AIR 1975 Andhra Pradesh 269 (Kasireddy Papaiah (died) v. Government of A.P.) was cited with approval:

"That the housing conditions of Harijans all over the country continue to be miserable even today is a fact of which courts are bound to take judicial notice. History has made it urgent that, among other problems, the problem of housing Harijans should be solved expeditiously. The greater the delay the more urgent becomes the problem. Therefore, one can never venture to say that the invocation of the emergency provisions of the Land Acquisition Act for providing house sites for Harijans is bad merely because the officials entrusted with the task of taking further action in the matter are negligent or tardy in the discharge of their duties, unless, of course, it can be established that the acquisition itself is made with an oblique motive. The urgent pressures of history are not to be undone by the inaction of the bureaucracy. I am not trying to make any pontific pronouncements. But I am at great pains to point out that provision for house sites for Harijans is an urgent and pressing necessity and that the invocation of the emergency provisions of the Land Acquisition Act cannot be said to be improper, in the absence of mala fides, merely because of the delay on the part of some government officials."

(Underlined by the Supreme Court)

20. In (1993) 2 SCC 84 (RAJASTHAN HOUSING BOARD AND OTHERS v. SHRI KISHAN AND OTHERS), while considering the scope for interference by the courts relating to the conclusion of the

Government on the question of urgency, it was observed :-

"14. . . . It must be remembered that the satisfaction under Section 17(4) is a subjective one and that so long as there is material upon which the Government could have formed the said satisfaction fairly, the Court would not interfere nor would it examine the material as an appellate authority. This is the principle affirmed by decisions of this Court not under Section 17 (4) but also generally with respect to subjective satisfaction."

21. The decision of the Supreme Court in AIR 1986 SC 2025 (cited supra) was followed in (1996) 1 SCC 9 (JAI NARAIN AND OTHERS v. UNION OF INDIA AND OTHERS), wherein it was observed :-

"5. . . . The emergency must be reflected in the need of the acquisition. The existence of urgency is a matter which is entirely based on the subjective satisfaction of the Government. The courts do not interfere unless the reasons given are wholly irrelevant and there is no application of mind. When a notification under Section 4 of the Act uses the expression "is likely to be needed" it may be necessary, in a given case, to examine the records or the attendant circumstances to satisfy that there was material before the Government justifying the order under Section 17, dispensing with the provisions of Section 5-A of the Act. If the public purpose on the face of it shows that the land is needed urgently, that by itself is a relevant circumstance for justifying the action under Section 17(4) of the Act...."

22. In (1996) 2 SCC 549 (CHAMELI SINGH AND OTHERS v. STATE OF U.P. AND ANOTHER), while considering the aspect of pre-notification as well as post-notification delay, it was observed :-

"15. The question, therefore, is whether invocation of urgency clause under Section 17(4) dispensing with inquiry under Section 5-A is arbitrary or is unwarranted for providing housing construction for the poor. In Aflatoon v. Lt. Governor of Delhi (SCC at p.290), a Constitution Bench of this Court had upheld the exercise of the power by the State under Section 17(4) dispensing with the inquiry under Section 5-A for the planned development of Delhi. In Pista Devi case 10 this Court while considering the legality of the exercise of the power under Section 17(4) exercised by the State Government dispensing with the inquiry under Section 5-A for acquiring housing accommodation for planned development of Meerut, had held that providing housing accommodation is national urgency of which court should

take judicial notice. The pre-notification and post-notification delay caused by the officer concerned does not create a cause to hold that there is no urgency. Housing conditions of Dalits all over the country continue to be miserable even till date and is a fact of which courts are bound to take judicial notice. The ratio of Deepak Pahwa case was followed. In that case a three-Judge Bench of this Court had upheld the notification issued under Section 17(4), even though lapse of time of 8 years had occurred due to inter-departmental discussions before receiving the notification. That itself was considered to be a ground to invoke urgency clause. It was further held that delay on the part of the lethargic officials to take further action in the matter of acquisition was not sufficient to nullify the urgency which existed at the time of the issuance of the notification and to hold that there was never any urgency. In Jage Ram v. State of Haryana this Court upheld the exercise of the power of urgency under Section 17(4) and had held that the lethargy on the part of the officers at an early stage was not relevant to decide whether on the day of the notification there was urgency or not. Conclusion of the Government that there was urgency, though not conclusive, is entitled to create weight. In Deepak Pahwa case this Court had held that very often persons interested in the land proposed to be acquired may make representations to the authorities concerned against the proposed writ petition that is bound to result in multiplicity of enquiries, communications and discussions leading invariably to delay in the execution of even urgent projects. Very often delay makes the problem more and more acute and increases urgency of the necessity for acquisition. In Rajasthan Housing Board v. Shri Kishan (SCC at p.91), this Court had held that it must be remembered that the satisfaction under Section 17(4) is a subjective one and that so long as there is material upon which Government could have formed the said satisfaction fairly, the Court would not interfere nor would it examine the material as an appellate authority. In State of U.P. v. Keshav Prasad Singh (SCC at p.590), this Court had held that the Government was entitled to exercise the power under Section 17(4) invoking urgency clause and to dispense with inquiry under Section 5-A when the urgency was noticed on the facts available on record. In Narayan Govind Gavate case a three-Judge Bench of this Court had held that Section 17(4) cannot be read in isolation from Section 4(1) and Section 5-A of the Act. Although 30 days from the notification under Section 4(1) are given for

filing objections under Section 5-A, inquiry thereunder unduly gets prolonged. It is difficult to see why the summary inquiry could not be completed quite expeditiously. Nonetheless, this Court held the existence of prima facie public purpose such as the one present in those cases before the Court could not be successfully challenged at all by the objectors. It further held that it was open to the authority to take summary inquiry under Section 5-A and to complete inquiry very expeditiously. It was emphasised that:

"... The mind of the officer or authority concerned has to be applied to the question whether there is an urgency of such a nature that even the summary proceedings under Section 5-A of the Act should be eliminated. It is not just the existence of an urgency but the need to dispense with an inquiry under Section 5-A which has to be considered."

16. It would thus be seen that this Court emphasised the holding of an inquiry on the facts peculiar to that case. Very often the officials, due to apathy in implementation of the policy and programmes of the Government, themselves adopt dilatory tactics to create cause for the owner of the land to challenge the validity or legality of the exercise of the power to defeat the urgency existing on the date of taking decision under Section 17(4) to dispense with Section 5-A inquiry.

17. It is true that there was pre-notification and post-notification delay on the part of the officers to finalise and publish the notification. But those facts were present before the Government when it invoked urgency clause and dispensed with inquiry under Section 5-A. As held by this Court, the delay by itself accelerates the urgency: Larger the delay, greater be the urgency. So long as the unhygienic conditions and deplorable housing needs of Dalits, Tribes and the poor are not solved or fulfilled, the urgency continues to subsist. When the Government on the basis of the material, constitutional and international obligation, formed its opinion of urgency, the court, not being an appellate forum, would not disturb the finding unless the court conclusively finds the exercise of the power mala fide. Providing house sites to the Dalits, Tribes and the poor itself is a national problem and a constitutional obligation. So long as the problem is not solved and the need is not fulfilled, the urgency continues to subsist. The State is expending money to relieve the deplorable

housing condition in which they live by providing decent housing accommodation with better sanitary conditions. The lethargy on the part of the officers for pre and post-notification delay would not render the exercise of the power to invoke urgency clause invalid on that account."

(Emphasis added)

23. In (1997) 9 SCC 78 (UNION OF INDIA AND OTHERS v. PRAVEEN GUPTA AND OTHERS), it was observed :-

"8. But, as stated earlier, since the acquisition is for shifting of timber business from the walled city to the outskirts of the city, shifting itself is for urgent purpose, viz., to relieve the traffic congestion in the walled city. Under those circumstances, the exercise of power under Section 17(4) cannot be said to be unwarranted in this case. It is true that there was a delay, from the date of the notification under Section 4(1) of the Act in publication of the declaration under Section 6. When it was pointed out that no counter-affidavit was filed in the High Court explaining the delay, we directed the learned counsel for the State to produce the record. An averment has been made in the special leave petition that the delay was due to enquiry being conducted into the objections filed before the Lt. Governor in this behalf and until the objections were overruled, declaration under Section 6 could not be published. The note in the office file and the running file do indicate that certain persons kept on making representations right from 1983 and as far as present notification is concerned, objections had been received on 25-4-1990 and, thereafter, they have been considered after the Lt. Governor directed to enquire into the matter and submit the report. Consequently, they conducted the enquiry and submitted the report.

9. It is now settled legal position that decision on urgency is an administrative decision and is a matter of subjective satisfaction of the appropriate Government on the basis of the material available on record. Therefore, there was no need to pass any reasoned order to reach the conclusion that there is urgency so as to dispense with the enquiry under Section 5-A in exercise of power under Section 17(4). It is then contended by Shri Sanghi that as per the revised Master Plan, only 37 hectares of land was needed for establishment of timber depots, though extensive land was sought to be acquired. When that objection was taken, we passed the order directing the

competent officer to file an affidavit. By our proceedings dated 24-8-1995, it was observed as under:

"In view of the specific averments made in the written submissions of the respondents regarding the location of the timber depots in terms of the master plan, it requires clarification by the Delhi Administration whether the lands in Siraspur and Libaspur are still required for the purpose mentioned in the notification, namely, planned development of Delhi and shifting of the timber depots from the Teliwara area into the new places."

24. In AIR 1997 SC 1284 (A.P. SAREEN AND OTHERS v. STATE OF U.P. AND OTHERS), it was observed that the fact that sufficient time was lapsed, after publication of notification under Section 4, to publish declaration under Section 6 was not considered as a ground to come to the conclusion that urgency had ceased.

25. In (1999) 2 SCC 384 (BHAGAT SINGH v. STATE OF U.P. AND OTHERS), it was observed :-

"28. It has to be stated that the appellant has not alleged mala fides against the respondents. It is not for this Court to decide whether these plots are necessary or not for the proposed market. Learned counsel for the State, Ms Niti Dikshit argued, - with reference to the plan, - that the plots of these appellants were necessary inasmuch as the market had to be approached from this side where the appellants' property was located. The vacant land on the other side not being adjacent to be the proposed market, could not be acquired. The Government was able to get some land in land ceiling proceedings and from the Gaon Sabha and therefore with the monies available and earmarked for the market, it was considered that more land should be acquired keeping in view the future plans for the development of the market. It is now planned that in the first phase, there will be four sub-phases in the following manner for 24 shops: 24 shops, 40 shops and 4 auction halls. Nearly Rs.2 crores were set apart for development of Ac 18.00 initially.

29. We are of the view that the above facts do show that development of the market is in various phases and the future development of the market in a growing town

like Agra was kept in mind while acquiring this area. It is not for this Court to say that there was no need to acquire the appellants' lands for the market and that the remaining land was sufficient. If such a contention were to be accepted, each of the owners could equally advance such an argument making the scheme wholly unworkable. These appeals are therefore liable to be dismissed."

26. In (2002) 4 SCC 160 (FIRST LAND ACQUISITION COLLECTOR AND OTHERS v. NIRODHI PRAKASH GANGOLI AND ANOTHER), it was observed :-

"5. The question of urgency of an acquisition under Sections 17(1) and (4) of the Act is a matter of subjective satisfaction of the Government and ordinarily it is not open to the court to make a scrutiny of the propriety of that satisfaction on an objective appraisal of facts. In this view of the matter when the Government takes a decision, taking all relevant considerations into account and is satisfied that there exists emergency for invoking powers under Sections 17(1) and (4) of the Act, and issues notification accordingly, the same should not be interfered with by the court unless the court comes to the conclusion that the appropriate authority had not applied its mind to the relevant factors or that the decision has been taken by the appropriate authority mala fide. Whether in a given situation there existed urgency or not is left to the discretion and decision of the authorities concerned. If an order invoking power under Section 17(4) is assailed, the courts may enquire whether the appropriate authority had all the relevant materials before it or whether the order has been passed by non-application of mind. Any post-notification delay subsequent to the decision of the State Government dispensing with an enquiry under Section 5-A by invoking powers under Section 17(1) of the Act would not invalidate the decision itself specially when no mala fides on the part of the Government or its officers are alleged. Opinion of the State Government can be challenged in a court of law if it could be shown that the State Government never applied its mind to the matter or that action of the State Government is mala fide. Though the satisfaction under Section 17(4) is a subjective one and is not open to challenge before a court of law, except for the grounds already indicated, but the said satisfaction must be of the appropriate government and that the satisfaction must be, as to the existence of an urgency. The conclusion of the Government that there was urgency,

even though cannot be conclusive, but is entitled to great weight, as has been held by this Court in *Jage Ram v. State of Haryana*. Even a mere allegation that power was exercised mala fide would not be enough and in support of such allegation specific materials should be placed before the court. The burden of establishing mala fides is very heavy on the person who alleges it. Bearing in mind the aforesaid principles, if the circumstances of the case in hand are examined it would appear that the premises in question were required for the students of National Medical College, Calcutta and the notification issued in December 1982 had been quashed by the Court and the subsequent notification issued on 25-2-1994 also had been quashed by the Court. It is only thereafter the notification was issued under Sections 4(1) and 17(4) of the Act on 29-11-1994, which came up for consideration before the High Court. Apart from the fact that there had already been considerable delay in acquiring the premises in question on account of the intervention by courts, the premises were badly needed for the occupation by the students of National Medical College, Calcutta. Thus, existence of urgency was writ large on the facts of the case and therefore, the said exercise of power in the case in hand, cannot be interfered with by a court of law on a conclusion that there did not exist any emergency. The conclusion of the Division Bench of the Calcutta High Court, therefore, is unsustainable."

27. Learned Advocate General in his usual fairness has also brought to our notice the decision of the Supreme Court, wherein it was found that there was no justification in invoking the urgency clause.

One such decision is reported in AIR 1977 SC 183 (*NARAYAN GOVIND GAVATE v. STATE OF MAHARASHTRA AND OTHERS*), wherein it was observed :-

"4. The third group of land was also the subject-matter of identically similar notifications under Section 4 of the Act dated June 13, 1964 together with identically worded declarations-cum-directions under Section 17(4) of the Act. This land was notified under Section 6 of the Act on September 28, 1964 followed by the notice under Section 9, sub-sections (3) and (4) of the Act on October 28, 1964.

37. We think that Section 17(4) cannot be read in

isolation from Section 4(1) and 5-A of the Act. The immediate purpose of a notification under Section 4(1) of the Act is to enable those who may have any objections to make to lodge them for purposes of an enquiry under Section 5-A of the Act. It is true that, although only 30 days from the notification under Section 4(1) are given for the filing of these objections under Section 5-A of the Act, yet, sometimes the proceedings under Section 5-A are unduly prolonged. But, considering the nature of the objections which are capable of being successfully taken under Section 5-A, it is difficult to see why the summary enquiry should not be concluded quite expeditiously. In view of the authorities of this Court, the existence of what are prima facie public purposes, such as the one present in the cases before us, cannot be successfully challenged at all by objectors. It is rare to find a case in which objections to the validity of a public purpose of an acquisition can even be stated in a form in which the challenge could succeed. Indeed, questions relating to validity of the notification on the ground of mala fides do not seem to us to be ordinarily open in a summary enquiry under Section 5-A of the Act. Hence, there seems to us to be little difficulty in completing enquiries contemplated by Section 5-A of the Act very expeditiously.

38. Now, the purpose of Section 17(4) of the Act is, obviously, not merely to confine action under it to waste and arable land but also to situations in which an inquiry under Section 5-A will serve no useful purpose, or, for some overriding reason, it should be dispensed with. The mind of the officer or authority concerned has to be applied to the question whether there is an urgency of such a nature that even the summary proceedings under Section 5-A of the Act should be eliminated. It is not just the existence of an urgency but the need to dispense with an inquiry under Section 5-A which has to be considered.

It was further observed :-

"40. In the case before us, the public purpose indicated is the development of an area for industrial and residential purposes. This, in itself, on the face of it, does not call for any such action, barring exceptional circumstances, as to make immediate possession, without holding even a summary enquiry under Section 5A of the Act, imperative. On the other hand, such schemes generally take sufficient period of time to enable at

least summary inquiries under Section 5A of the Act to be completed without any impediment whatsoever to the execution of the scheme. Therefore, the very statement of the public purpose for which the land was to be acquired indicated the absence of such urgency, on the apparent facts of the case, as to require the elimination of an enquiry under Section 5A of the Act."

28. However, as already noticed, this decision was distinguished in AIR 1986 SC 2025 (cited supra). This later decision was subsequently followed in the decisions already noticed.

29. As has been observed in several decisions by the Supreme Court, the question of acquisition under Section 17(1) and 17(4) of the Land Acquisition Act is on the basis of subjective satisfaction of the Government and ordinarily does not open to the Court to sit in judgment in an objective manner over such subjective satisfaction. It may be that any scheme is likely take its own time for implementation. It is also matter of common experience that very often many of the schemes which are required to be urgently implemented get mired in unnecessary administrative and legal wranglings. Similarly merely because at times many matters are pending before the Court of law and the persons in charge of administration are not alert enough to seek for early disposal of matters, cannot be construed as a ground for coming to a conclusion at a subsequent stage that initially there was no urgency. It is no doubt true that the right conferred under Section 5-A of the Act is a valuable right, but in a given case such right is subject to the power of eminent domain of the State and obviously subject to the provision regarding acquisition of land by invoking the urgency clause and unless it is shown that decision of the Government for invocation of the urgency clause is of arbitrariness, mala fides or non-application of mind, ordinarily the court should not interfere with the discretionary matters, which are based on subjective satisfaction of the appropriate authority.

30. Keeping in view the above, even though it may appear as if there has been some delay at different stages, but it cannot be said that the subjective satisfaction of the Government for invoking the urgency clause was arrived at on the basis of any irrelevant consideration or extraneous consideration.

31. In several writ petitions allegations have been made, which have been repeated in course of hearing, that the initial plan was to evict some of the encroachers so that Captain Cotton

Canal would be free of any encroachment and there would be efficient discharge of excess rain water. In the counter affidavit filed by the State it is clearly indicated that keeping in view the volume of water likely to be discharged, the existing system and the Captain Cotton Canal would not be adequate and therefore the present scheme is required to be implemented. It is also apparent from the counter and other materials on record that the proposal has been considered at different levels by different authorities, including the experts. The allegation that only with a view to protect the encroachers the alternate plan has been envisaged is very vague. In none of the writ petition, any specific allegation has been made relating to any particular influential encroacher. It is of course true that initially the process indicated the problem would be solved by removing few encroachers and re-locating them. However, in view of passage of time, such a course did not appear to be practicable to the Government, and therefore, the alternative scheme has been conceived and has been partly implemented.

32. Even though it is the duty of the Government to remove the encroachers, that cannot be considered as a ground for observing that the alternative scheme made by the Government is vitiated by mala fides. It is to be kept in view that in the present writ petitions the specific prayer is neither for removing the encroachers nor any of the encroacher has been named, far less impleaded, but the prayer is for quashing the scheme relating to the proposed canal and to quash the land acquisition proceedings.

33. According to the case of the petitioners it would have been much better for the Government to have followed the original scheme and to remove the encroachers and, therefore, the alternative plan of acquiring more lands and constructing a canal in a different route did not justify. However, we are not able to accept the contention of the petitioners that the scheme is vitiated by any extraneous consideration or has been envisaged with a view to protect the encroachers. The Government being aware of the practical difficulties has considered the alternative scheme, which is now sought to be implemented by various land acquisition proceedings. It is also not in dispute that some progress had been made. It would not be appropriate at this stage for this Court to substitute its own wisdom and observe that a particular scheme is to be followed. Since the scheme now envisaged by the Government cannot be considered to be arbitrary and wholly irrational, we decline to interfere with such scheme.

34. The apprehension expressed in some of the public interest litigations that the Madhavaram tank and Kadhirvedu Thangal would become polluted in course of time on account of

contaminated water flowing from Ambattur tank and Korattur tank, appears to be justified. Even though there is some dispute as to whether the water of Ambattur tank is already polluted or not, the fact remains that once such water from Amattur tank connects to another tank through open channel, the possibility of foul water and contaminated water including other rubbish ultimately polluting the Kadirvedu Thangal and Madhavaram tank looms large. There cannot be any two opinion regarding the requirement of solving the flood problem and it is apparent that after rainy season many of the areas remain water logged on account of absence of proper drainage system. Therefore, the present scheme has been conceived by the State after lot of deliberation.

35. The vague allegation that such alternative scheme is to protect some influential people is difficult to accept. Even though we cannot appreciate the attitude of the Government in not taking effective steps to remove the encroachers, we cannot lose sight of the requirement of completion of the project at an early date. At the same time we cannot lose sight of the fact that possibly the entire Nation and certainly people of Tamil Nadu know about the water shortage problem faced by the people of Tamil Nadu. Similarly the problem relating to drinking water in Chennai is quite well known. Therefore, it is obviously the duty of the Government to protect all sources of potable water so that the inconvenience caused to the inhabitants is minimised. It is therefore necessary that all possible efforts should be made to see that the water of any of the tank to be connected through artificial channel is not contaminated. After having given our anxious thought to the above problem, we fee that adequate steps should be taken by the appropriate authorities to establish water treatment plant at vantage points so that no contaminated water would flow into Korattur tank, Kadirvedu Thangal and ultimately to Madhavaram tank. When the project of such a magnitude has been envisaged and it is claimed by the respondent that major portion has been completed, there is no doubt in our mind that additional resources can be mobilised for establishing atleast three water treatment plants at vantage points to prevent the water of Madhavaram tank, Kadirvedu Thangal and Korattur tank from being polluted in any manner. Such project should be completed as expeditiously as possible, preferably within a period of six months.

36. With the above observations and directions, all the writ petitions filed by the land owners challenging the validity of the Land Acquisition Proceedings are dismissed and all the writ petitions, namely, W.P.Nos.12321,35513,35514 and 36732 of 2006 are disposed of subject to the directions regarding the establishing of water treatment plants. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

dpk

To

1. The Secretary
Government of Tamil Nadu,
Public Works (R1) Department,
Fort St. George,
Chennai 600 009.
2. The Chief Engineer,
Water Resources Organisation,
Chennai Region,
Chennai 600 005.
3. The District Collector, Tiruvallur.
4. The District Collector,
Chennai 600 001.
5. The Member Secretary
Tamil Nadu Pollution Control Board,
No.76, Anna Salai, Chennai 600 032.
6. The Chief Engineer
Public Works Department
Chepauk, Chennai-5.

7. The Special Tahsildar
(Land Acquisition)
Chennai City Waterways (Irrigation)
Ambattur, Chennai- 600 053.

8. The Secretary to Government
State of Tamilnadu
Municipal Administration and Water
Supply Department, Fort St. George,
Chennai-9.

9. The Member Secretary
Chennai Metropolitan Development Authority
Gandhi Irwin Road, Egmore, Chennai-8.

10. The Joint Secretary and Special Officer
State of Tamilnadu
(Land Acquisition)
Public Works Department
Fort St. George, Chennai-9.

11. Land Acquisition officer and
Special Tahsildar (LA)
Chennai City Waterways Scheme
Ambattur, Chennai- 600 053.

12. The Secretary to Government
Ministry of Environment and Forest Department
Fort St. George, Chennai.

13. The Superintending Engineer
Water Resource Officer, Palar Basin Circle,
Chepauk, Chennai-5.

14. The Chairperson
Tamilnadu Pollution Control Board,
Annasalai, Chennai.

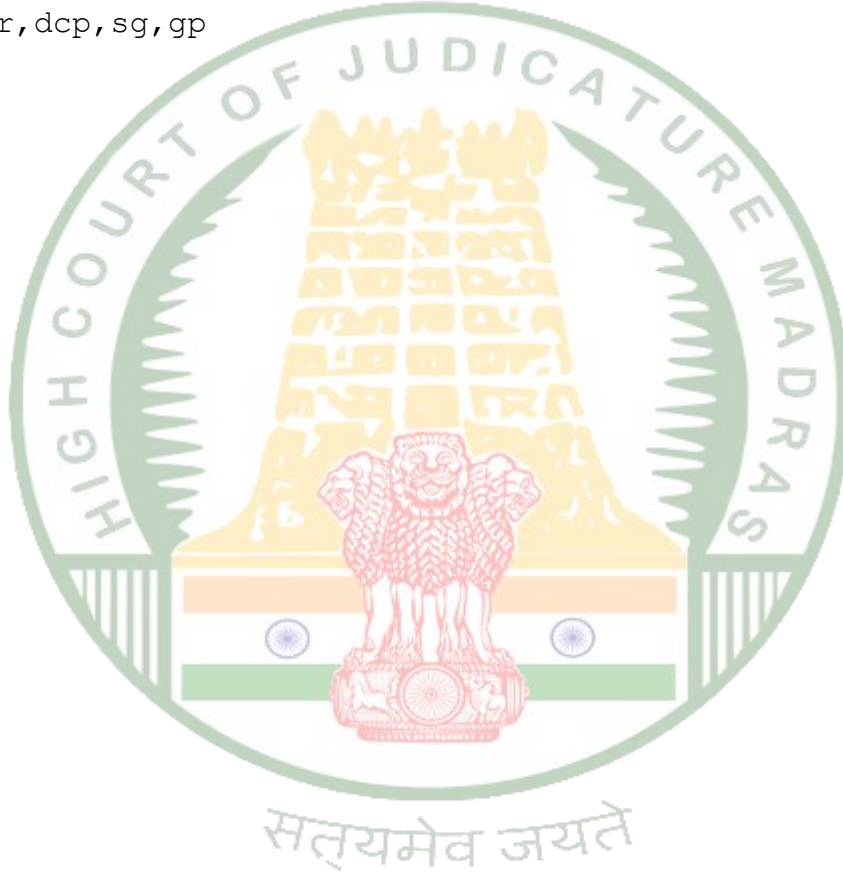
15. The Chief Secretary
State of Tamilnadu,
Fort St. George, Chennai.

2 ccs to Mr.S. Jayakumar, Advocate, sr. 30070 & 30072
1 cc to M/s. Muthumani Doraisamy, Sr. 30010
1 cc to Mr.J. Srinivas, Advocate, Sr. 29682
1 cc to Mr.S. Palaniappan, Advocate, Sr. 30071
1 cc to Mr.T. Mohan, Advocate, sr. 30141

1 cc to Mr.A.A. Mohan, Advocate, Sr. 29443
1 cc to Mr.K. Raja Srinivas, Advocate, sr. 29684
7 ccs to Mr.M.L. Ganesh Advocate, sr. 29899 to 29904
10 ccs to Mr.S. Natana Rajan, Advocate, Sr. 29499 to 29508

COMMON ORDER IN W.P.NO.
36732/06 AND BATCH

VC (CO)
kk, km, sr, dcp, sg, gp



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