

L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....R

ITEM NO.119

COURT NO. 6

SECTION XII

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 4810 OF 2000@@  
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC

Executive Engineer & Admn. ... Appellant  
Officer, TNHB

Vs.

P. Venkatesan & Ors. ... Respondents

WITH

C.A.NO.3004/2001 & 3005/2001@@  
CCCCCCCCCCCCCCCCCCCCCCCCCCCC  
(With Appl(s) for permission to place addl. documents on  
record)

Date: 31-07-2001 This/These matter(s) was/were called  
on for hearing today.

CORAM :  
HON'BLE MR. JUSTICE V.N. KHARE  
HON'BLE MR. JUSTICE B.N. AGRAWAL

For appellant (s) Shri T.L. Viswanatha Iyer, Sr. Adv.  
Mr. V. Balaji, Adv. with  
Mr. P.N. Ramalingam, Adv.

For respondents 1-7 Mr. K. Ramamoorthy, Sr.Adv.  
Mr. R. Ayyam Perumal, Adv.

UPON hearing counsel, the Court made the following  
O R D E R

.....L.....I.....T.....T.....T.....T.....J

.SP1

C.A.Nos.4810/2000 & 3004/2001@@  
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC

Civil Appeals are allowed.

C.A.No.3005/2001@@  
CCCCCCCCCCCCCCCC

List tomorrow.

Anju Arora

(S. Krishnan)  
Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4810 OF 2000

Executive Engineer & Admn. Officer, TNHB

& Appellant

vs.

P. Venkatesan & Ors.

& Respondents

(with C.A. 3004 of 2001)

O R D E R

Land measuring 50 acres was sought to be acquired for a housing scheme undertaken by the Tamil Nadu Housing Board, which is appellant herein. A notification dated 31.5.1991 was issued under Section 4 of the Land Acquisition Act proposing to acquire land situate in Hosur, Dharmapuri District in the State of Tamil Nadu. This area included the land of the respondents herein. Subsequently, a notification under Section 6 was issued on 2.9.1994. The Land Acquisition Officer gave an award in respect of the land which was acquired under the aforesaid notifications. It is alleged that on 29.2.1996 the possession of the land was taken by the appellant. In January, 1993 the respondents herein filed a petition under Article 226 of the Constitution before the Madras High Court challenging the land acquisition proceedings. On 10.1.1996 the said Writ Petition was dismissed. The respondents thereafter filed another writ petition being Writ Petition No.15858 of 1996 wherein the prayer was that the land belonging to the writ petition be excluded from acquisition proceedings. The learned Single Judge of the Madras High Court disposed of the said writ petition by directing the State Government to consider and dispose of the representation, if made by the respondents. The respondents herein in pursuance of the said judgment preferred a representation to the State Government wherein they prayed that their land be released from acquisition. The State Government by an order dated 26.3.1999 rejected the said representation. Respondent thereafter in March, 1999 filed third writ petition being Writ Petition No.5806 of 1999, challenging the order of the State Government dated 26th March, 1999 rejecting their representation. However, in the body of the petition, it was alleged that the award of the Land Acquisition Officer dated 2nd September, 1994 is illegal on the ground that it did not have the prior approval of the State Government but no relief was sought for setting aside the award given by the Collector. The learned Single Judge was of the view that since the award did not have the prior approval of the State Government, it has no legal sanction and he, therefore, quashed the award dated 2nd September, 1984. Aggrieved the Housing Board preferred a Letters Patent Appeal, which was dismissed. It is against the said judgment, the appellant is in appeal.

Learned counsel appearing for the appellant urged that the High Court committed serious mistake of law in quashing the award when there was no prayer in the writ petition for setting aside the award. We find substance in the argument. A perusal of writ petition shows that no relief was sought for quashing the award dated 2nd September, 1994. In the absence of such a prayer in the writ petition the award given by the Collector could not have

been set aside. Only dispute in the writ petition was whether the respondent's land deserves to be released from the acquisition. Instead of deciding the question involved in the writ petition, the High Court has set aside the award which was beyond the scope of the writ petition.

Learned counsel appearing for the respondents then urged that in this appeal this Court may consider the case of the respondents for release of their land. We are of the opinion this is not a subject matter of judicial review unless any infirmity is pointed out in the order of the State Government. We, therefore, reject the prayer of the respondents' counsel.

For the aforesaid reasons we find that the judgment under challenge is not sustainable in law. We, therefore, set aside the judgment under challenge. Appeals are allowed. There shall be no order as to costs.

& & & & & & & & .J.  
(V.N. Khare)

& & & & & & & & .J.  
(B.N. Agrawal)

New Delhi,  
July 31, 2001.

1

4