

JAINULABUDEEN AND ORS.
v.
THE GOVT. OF TAMIL NADU AND ORS.

MAY 4, 1994

[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

Land Acquisition Act. 1894 : Land Acquisition—Validity of—When better land available for public purpose—Also a major portion of proposed scheme on land acquired dropped—Notification acquiring land quashed.

The State of Tamil Nadu initiated proceedings for acquisition of certain lands resulting in these appeals. During the hearing of the appeals this Court directed the State Government to ascertain whether the land was still needed for a public purpose, being a suitable one or there was other better land available. In the Affidavit filed on behalf of the State it was asserted that the land in question was suitable for establishing taluk office and sub-treasury office. However, from the record it was evident that (i) in the vicinity of the existing taluk office there were large open areas available for acquisition whereas the land in question was situated at a place far away from the place where taluk office is found; (ii) a major part of the initial proposal to acquire 20 acres of land as a compact block to establish college of Music, taluk office, sub-treasury office, sub-jail etc. has also been dropped.

Allowing the appeal, this Court

HELD : In view of the fact that major part of the proposal appears to have not been pursued, the proposal to have a compact block no longer subsists. Considered from this perspective and in view of the fact that there are other agricultural open lands available for acquisition either to the north or to the south of the taluk office abutting the main road, there would be no justification for proceeding with the acquisition of the lands in question. Accordingly, the notification issued and published as regards the lands in question is quashed. [901-A-C]

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 1751 and 1752 of 1990.

A From the Judgment and Order dated 18.12.89 for the Madras High Court in W.A. Nos. 1069 & 1070 of 1989.

A.T.M. Sampath and Ms. Pushpa Rajan for the Appellants.

B A.Mariarputham and S. Balakrishnan for the Respondents.

The following Order of the Court was delivered :

C We need not dilate upon the previous history of this case. Suffice to state that on April 6, 1994 when the appeals had come up for hearing, this Court directed the respondents to produce the record and also a responsible officer to file an affidavit whether the disputed land is still needed for a public purpose being a suitable one or there is no other better land available to establish taluk office at Thiruvaiyaru. Pursuant thereto, an affidavit had been filed by one G.V. Suresh, R.D.O., Thanjavur, Tamil Nadu in which it is stated that the Government had proposed to open a sub-treasury at Thiruvaiyaru. In view of the fact that Sub-Taluk was elevated to the status of regular Taluk they needed larger buildings, there being congestion in the existing building and the Commissioner for Land Revenue along with the District Collector and other officers, when inspected different lands and identified the present lands as suitable for Taluk office and sub-treasury office. Accordingly the proceedings for acquisition, it is stated, were initiated.

F In the record produced, a plan is available. From that plan it would appear that the existing Taluk Office is situated on the west of the main road and to the east of the main road, apart from the built-up-town, there are large open areas available for acquisition. The land in question admittedly, is situated at a place far away from the place where Taluk Office is found and is in a deviation road leading to Kumbhakonam. It is also stated by the appellants that to the north of this area an extent of 18 acres of land is still available for acquisition.

G From the report of the Commissioner for Land Revenue, it becomes clear that initially a proposal was made to acquire 20 acres of land as a compact block to establish Raja's College of Music with all attended facilities and 5 acres of land for establishing taluk office, sub-treasury office, sub-jail etc. It would appear that the lands needed for the construction of the music college are no longer needed. It becomes also clear that

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in the present land there is a well developed coconut tope, paddy and sugarcane fields. They are situated at lower level than the road by 2 to 3 feet. We do not propose to go into the controversy whether the proceedings to acquire land for Music college were pursued or dropped as being unnecessary for the purpose of this case. A

The Commissioner appears to have been persuaded with the idea of the Collector to acquire the entire land for putting up a compact block and their extensions of Raja College of Music with attached facilities etc. In view of the fact that major part of the proposal appears to have not been pursued, the proposal to have a compact block on longer subsists. Considered from this perspective and in view of the fact that on the main road there are other agricultural open lands available for acquisition either to the north or to the south of the taluk office abutting the main road, we find that there would be no justification for proceeding with the acquisition of the lands in question. The Notification issued and published on 23rd July, 1981 is accordingly quashed, as regards the lands in question. It is needless to mention that it is open to the authorities to acquire any other lands suited for the purpose of establishing the regular taluk office and other offices. The appeals are allowed. B C D

In the circumstances, the parties are directed to bear their own cost.

T.N.A.

Appeals allowed.