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IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 21/ 11 / 2025

JUDGMENT PRONOUNCED ON : 02 / 12 / 2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

S.A.NOS.172, 185 & 198 OF 2022
AND 262, 264 & 288 OF 2024
AND
CMP NOS.3504, 3649 AND 3904 OF 2022

S.A.NO.172 OF 2022

1.The District Collector,
Dharmapuri District,
Dharmapuri.

2.The Special Tahsildar,
(ADW)/Land Acquisition Officer,
Dharmapuri. ... Appellants / Respondents

Vs.

A.S.Ranganathan (died)

1.R.Sulokshana (died)
2.R.Narashimman
3.R.Malini
4.R.Chandrasekaran

... Respondents / Appellants

(Amended as per I.A.No.24/2017
dated September 18, 2017)

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(Respondent No.1 Died. Her Legal Heirs/Legal Representatives are already on record as Respondent Nos.2 to 4. Memo filed and recorded by Order dated November 21, 2025 of this Court)

PRAYER IN S.A. NO.172 OF 2022: Second Appeal filed under Section 100 of the Code of Civil Procedure, 1908 read with Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, praying to set aside the Judgment and Decree dated July 31, 2019 made in C.M.A. (LA) No.32 of 2004 on the file of Principal Sub Court, Dharmapuri, modifying the Award No.12/ADW/99-2000, Na.Ka.No.2397/97(A), dated March 29, 2000 on the file of the Special Tahsildar (ADW) cum Land Acquisition Officer, Dharmapuri.

S.A.NO.185 OF 2022

1.The District Collector,
Dharmapuri District,
Dharmapuri.

2.The Special Tahsildar,
(ADW)/Land Acquisition Officer,
Dharmapuri. ... Appellants / Respondents

Vs.

Natarajan ... Respondent / Appellant

PRAYER IN S.A.NO.185 OF 2022: Second Appeal filed under Section 100 of the Code of Civil Procedure, 1908 read with Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, praying to set aside the Judgment and Decree dated July 31, 2019 made in C.M.A.(LA)No.27 of 2004 on the file of Principal Sub Court, Dharmapuri, modifying the Award No.12/ADW/99-2000,

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Na.Ka.No.2397/97(A), dated March 29, 2000, on the file of the Special Tahsildar (ADW) cum Land Acquisition Officer, Dharmapuri.

S.A.NO.198 OF 2022

1.The District Collector,
Dharmapuri District,
Dharmapuri.

2.The Special Tahsildar,
(ADW)/Land Acquisition Officer,
Dharmapuri. ... Appellants / Respondents

Vs.

Kalyani ... Respondent / Appellant

PRAYER IN S.A.NO.198 OF 2022: Second Appeal filed under Section 100 of the Code of Civil Procedure, 1908 read with Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, praying to set aside the Judgment and Decree dated July 31, 2019 made in C.M.A.(LA)No.33 of 2004 on the file of Principal Sub Court, Dharmapuri, modifying the Award No.12/ADW/99-2000, Na.Ka.No.2397/97(A), dated March 29, 2000, on the file of the Special Tahsildar (ADW) cum Land Acquisition Officer, Dharmapuri.

For Appellants in S.A.Nos.172, 185 & 198 of 2022	:	Ms.Anitha Special Government Pleader
For Respondent(s) in S.A.Nos.172 and 185 & 198 of 2022	:	Mr.V.R.Anna Gandh

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S.A.NO.262 OF 2024

A.S.Natarajan ... Appellant / Appellant

Vs.

1.State represented by The District Collector,
Collectorate post,
Avvai Nagar,
Dharmapuri – 636 705.

2.The Special Tahsildar/Land Acquisition Officer,
Adi Dravida Welfare,
Dharmapuri Town and District. ... Respondents / Respondents

PRAYER IN S.A.NO.262 OF 2024: Second Appeal filed under Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, read with Section 100 of the Code of Civil Procedure, 1908, praying to set aside the Judgment and Decree dated July 31, 2019 made in C.M.A.(LA)No.27 of 2004 on the file of Principal Sub Court, Dharmapuri, modifying the Award No.12/ADW/99-2000, Na.Ka.No.2397/97(A), dated March 29, 2000, on the file of the Special Tahsildar (ADW) cum Land Acquisition Officer, Dharmapuri.

S.A.NO.264 OF 2024

Kalyani ... Appellant / Appellant

Vs.

1.State represented by
The District Collector,
Collectorate post,
Avvai Nagar,
Dharmapuri – 636 705.

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2.The Special Tahsildar/Land Acquisition Officer,
Adi Dravida Welfare,
Dharmapuri Town and District. ... Respondents / Respondents

PRAYER IN S.A.NO.264 OF 2024: Second Appeal filed under Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, read with Section 100 of the Code of Civil Procedure, 1908, praying to set aside the Judgment and Decree dated July 31, 2019 made in C.M.A.(LA)No.33 of 2004 on the file of Principal Sub Court, Dharmapuri, modifying the Award No.12/ADW/99-20, Na.Ka.No.2397/97(A), dated March 29, 2000, on the file of the Special Tahsildar (ADW) cum Land Acquisition Officer, Dharmapuri.

S.A.NO.288 OF 2024

A.S.Ranganathan (died)

1.R.Sulochana (died)
2.R.Narasimman
3.R.Malini
4.R.Chandrasekaran ... Appellants / Appellants

(Appellant No.1 Died. Her Legal Heirs/Legal Representatives are already on record as Appellant Nos.2 to 4. Memo filed and recorded by Order dated November 21, 2025 of this Court)

Vs.

1.State represented by
The District Collector,
Collectorate post,
Avvai Nagar,
Dharmapuri – 636 705.

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2.The Special Tahsildar/Land Acquisition Officer,
Adi Dravida Welfare,
Dharmapuri Town and District. ... Respondents / Respondents

PRAYER IN S.A.NO.288 OF 2022: Second Appeal filed under Section 13 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, read with Section 100 of the Code of Civil Procedure, 1908, praying to set aside the Judgment and Decree dated July 31, 2019 made in C.M.A.(LA)No.32 of 2004 on the file of Principal Sub Court, Dharmapuri, modifying the Award No.12/ADW/99-20, Na.Ka.No.2397/97(A), dated March 29, 2000, on the file of the Special Tahsildar (ADW) cum Land Acquisition Officer, Dharmapuri.

For Appellant(s) in S.A.Nos.262, 264 & 288 of 2024	:	Mr.V.R.Anna Gandhi
For R1 & R2 in all S.A.Nos.262, 264 & 288 of 2024	:	Ms.Anitha Special Government Pleader

COMMON JUDGMENT

Since all the captioned Second Appeals have one and the same Award at their core, and since the issues involved are one and the same, all these Second Appeal are disposed of by this Common Judgment.

2. An extent of 1.55.5 Hectare of land comprised in Survey Nos.362/5, 362/6, 362/7 and 363/5 of Adhiyaman Kottai Village, Dharmapuri Taluk, was acquired by the District Collector of Dharmapuri

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under 'the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 [Act No.31 of 1978]' ['the 1978 Act' for short] and notification under Section 4 thereof was published in the District Gazette on November 26, 1999. The aforesaid extent of land belonged to four people as tabulated hereunder:

S.No.	***Registered Owner***	***Survey No.***	***Extent in Hectare***
1.	S.Natarajan S/o Subramani	362/5	0.36.5
2.	S.Ranganathan S/o Subramani	362/6	0.34.5
3.	S.Venkatarama nan S/o Subramani	362/7	0.37.5
4.	O.C.Narayana samy S/o Chinnasamy, and S.Rajasekar	363/5	0.47.0
Total Extent			**1.55.5**

3. The 'Special Tahsildar (ADW) cum Land Acquisition Officer, Dharmapuri' [henceforth 'L.A.O.'] collected details of all the sale transactions that took place one year prior to the date of publication in the District Gazette i.e., between November 26, 1998 and November 25, 1999, for the purpose of determination of market value of the acquired land under Rule 4 of 'the Tamil Nadu Acquisition of Land for Harijan

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Welfare Scheme Rules, 1979' ['1979 Rules' for short]. 28 sales had taken place within the aforesaid period. The L.A.O. rejected 5 sale transactions out of the total 28, as the land involved therein had well-irrigation. Further rejected 14 sale transactions as they were situate 1.5 Kms away from the acquired land. Further rejected 8 sale transactions as they were situate 2 Kms away from the acquired land. Thus, out of the 28 sale transactions, the L.A.O. rejected 27 sale transactions. The L.A.O. took the sale transaction dated April 21, 1999 as the exemplar one. The land covered under the exemplar sale transaction is an extent of 1.11.0 Hectare situate in Survey No.200/2 and was sold totally for Rs.80,000/- [Rs.72,072/- per Hectare]. According to the L.A.O., the acquired land as well as the land covered under the exemplar sale transaction do not have trees, well and buildings; both the lands have same soil standards and are similar in nature; both the lands are situate within a 0.8 Km radius. Hence, the L.A.O. fixed the market value of the acquired land at Rs.72,072/- per Hectare, based on the exemplar sale transaction under Section 7 of the 1978 Act. The L.A.O. added 15% solatium under Section 7 (2) of the 1978 Act and awarded a total compensation of Rs.1,28,883/- vide Award No.12/ADW/99-2000 dated March 29, 2000 passed in the proceedings in Na.Ka.No.2397/97(A). The split up is hereunder:

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S. No.	Registered Owner	Extent in Hectare	Market Value (Rs.72,072/- per Hectare)	Solatium (15%)	Compensation
1.	Natarajan S/o Subramani	0.36.5	Rs.26,306/-	Rs.3,946/-	Rs.30,252/-
2.	Ranganathan S/o Subramani	0.34.5	Rs.24,865/-	Rs.3,730/-	Rs.28,595/-
3.	Venkataramanan S/o Subramani	0.37.5	Rs.27,027/-	Rs.4,054/-	Rs.31,081/-
4.	O.C.Narayanasamy S/o Chinnasamy and S.Rajasekar	0.47.0	Rs.33,874/-	Rs.5,081/-	Rs.38,955/-
Total		1.55.5	Rs.1,12,072/-	Rs.16,811/-	Rs.1,28,883/-

4. Feeling aggrieved by the compensation awarded, all the registered owners except O.C. Narayanasamy, S/o Chinnasamy and S.Rajasekar preferred Civil Miscellaneous Appeals under Section 9 of 1978 Act read with Rule 6 of 1979 Rules before the 'Principal Sub Court, Dharmapuri' [henceforth 'First Appellate Court'], arraying the State of Tamil Nadu represented by District Collector, Dharmapuri and the L.A.O. as respondents. C.M.A. (LA) No.27 of 2004 was preferred by Natarajan,

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C.M.A. (LA) No.32 of 2004 was preferred by Ranganathan and C.M.A. (LA) No.33 of 2004 was preferred by Venkataramanan's wife - Kalyani.

5. As the Civil Miscellaneous Appeals arose out of one and the same Award, a joint trial was conducted and a Common Judgment was passed by the First Appellate Court. Based on the Memorandum of Grounds of Appeal, the First Appellate Court framed the following issues:

> *"(1). Whether these appeals shall be allowed?*
>
> *(2). What is the quantum of compensation, the solatium and the interest rate that the appellants are entitled to?"*

6. During trial, on the side of the appellants in the Civil Miscellaneous Appeals, said Natarajan was examined as P.W.1, said Kalyani was examined as P.W.2, Chandrasekaran son of said Ranganathan was examined as P.W.3 and one Munusamy was examined as P.W.4. and Ex-A.1 and Ex-A.2 were marked. On the side of the respondents therein, Tamil Selvi, Special Tahsildhar, ADW, was examined as R.W.1 and Ex-R.1 to Ex-R.3 were marked.

7. After hearing both sides, the First Appellate Court concluded that the L.A.O. failed to produce the Sale Deed pertaining to the exemplar sale transaction. Both sides did not produce any document to show the

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market value in the vicinity of the acquired land. Considering the fact that the District Collector Office and other Government Offices are situate within 2 Kms from the acquired land, and after considering the sale transaction in Ex-A.1, the First Appellate Court fixed Rs.10/- per sq. ft. as the land value, applied 25% deduction towards development charges, deducted the compensation already awarded by the L.A.O., then added 30% solatium and arrived at a total compensation of ***Rs.10,21,192/-*** along with 6% interest from the date of possession till the date of deposit, in addition to the compensation awarded by the L.A.O. Split up figure is as follows:

S. No.	***Registered Owner***	***Extent in Hectare***	***Compensation by L.A.O.***	***Additional Compensation Payable [(Rs.10/- X Extent in sq. ft.) - 25 % thereof - Compensation awarded by L.A.O. + 30% thereof]***
1.	Natarajan S/o Subramani	0.36.5	Rs.30,252/-	Rs.3,43,145/-
2.	Ranganathan S/o Subramani	0.34.5	Rs.28,595/-	Rs.3,24,893/-
3.	Venkatarama nan S/o Subramani	0.37.5	Rs.31,081/-	Rs.3,53,154/-

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8. Feeling aggrieved by the same, the respondents therein preferred S.A. Nos.172, 185 and 198 of 2022, and the appellants therein have preferred S.A. Nos.262, 264 and 288 of 2024, under Section 13 of the 1978 Act read with Section 100 of the CPC.

9. The Second Appeal in S.A. Nos.172, 185 and 198 of 2022 were admitted on March 18, 2022 on the following substantial questions of law:

> *"(i)Whether the lower court is correct in awarding 30% of solatium instead of 15% of solatium contemplated under section 7(2) of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978?*
>
> *(ii)Whether the appeal is barred by limitation?*
>
> *(iii)Whether the lower court is correct in entertaining the appeal filed in 2004 against the Award passed in the year 1999 [**Sic**. 2000], when the Section 9 r/w 6 of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 states appeal is to be filed within 6 weeks from determination of award?"*

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10. Similarly, the Second Appeals in S.A. Nos.262, 264 and 288 of 2024 were admitted on April 05, 2024 on the following substantial question of law:

> *"Whether the learned Subordinate Judge was right in ignoring Exhibits A1 and A2, which are exemplar Sale Deeds of lands which are situate near by the acquired lands, without assigning any reason?"*

11. Ms.Anitha, learned Special Government Pleader appearing for the appellants in S.A.Nos.172, 185 & 198 of 2022, who are also the respondents in in S.A.Nos.262, 264 & 288 of 2024, would argue that as per Rule 6 of the 1979 Rules, the appeal must be filed within six weeks from the date of receipt of the Order under Section 7 of the 1978 Act. Even as per the registered owners / their legal representatives, they received the Award copy on June 2, 2003 which means they ought to have filed the appeal on or before July 14, 2003. But the appeals were preferred on September 9, 2003 i.e., they were filed beyond the period of six weeks prescribed under the 1979 Rules. Further, as per Section 3 of the Limitation Act, 1963, irrespective of whether limitation has been set up as a defense, the Court shall look whether the Suit / Appeal / Application is filed within the prescribed period of limitation. Further, in this matter, the question of limitation is a pure question of law and hence,

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can be raised at the time of Second Appeal.

11.1. She would further argue that the property covered under Ex-A.1 - Sale Deed is situate in a *Natham* land in a well-formed and well-developed residential area. The land covered under Ex-A.2 is an approved layout for residential purposes, that too abutting the state highways. Whereas the acquired land is a rain fed agricultural land [*Manavari Punjai*]; it does not have any well or other source of irrigation. Further, acquired land is a vast extent of land viz., 1.55.5 Hectare, whereas the land covered in Ex-A.1 and Ex-A.2 are not more than 1248 sq. ft. In other words, value of smaller extent of developed land, cannot be compared to vast extent of agricultural land to arrive at the market value of the latter. The First Appellate Court failed to consider these aspects, fixed the market value at Rs.10/- per sq. ft. without any rational basis, erred in fixing the Solatium at 30% against the provisions of Section 7 of 1978 and thereby grossly erred in enhancing the compensation. Accordingly, she would pray to allow the Second Appeals in S.A.Nos.172, 185 & 198 of 2022, dismiss those in S.A.Nos.262, 264 & 288 of 2024 and confirm the quantum of the compensation awarded by the L.A.O.

12. On the other hand, Mr.V.R.Anna Gandhi, learned Counsel for the appellants in S.A.Nos.262, 264 & 288 of 2024, who are also the

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respondents in the other Second Appeals, would argue that L.A.O. did not conduct enquiry as per Section 7 of the 1978 Act read with Rule 5 of the 1979 Rules. More specifically, the L.A.O. failed to communicate the Award under Section 7 (3) of the 1978 Act; the L.A.O. furnished the copy of the Award only on June 2, 2003 at the request of the registered owners / their legal representatives. The Civil Miscellaneous Appeals were filed soon thereafter. Moreover, the L.A.O. and the District Collector did not raise the point of limitation before the First Appellate Court. Since limitation in this matter is a mixed question of fact and law, they are precluded from raising the said point before the Second Appellate Court, for the first time.

12.1. He would further argue that the acquired lands are situate in a developed area having all facilities such as transport, education, entertainment, temples, quick access to District Collectorate & District Police Office, *etc*. Further, an east-west main road abuts the acquired land. The property covered under Ex-A.1 is situate in Survey No.748 in Adhiyaman Kottai *Natham*, which is a residential area situate within 1.2 Kms from the acquired land. The acquired land is better in terms of facilities and features compared to the land covered under Ex-A.1. He would further argue that the land covered under Ex-A.2 - Sale Deed

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situate in an approved layout for residential area, is within 1.6 Km radius from the acquired land. The First Appellate Court failed to consider these aspects. The L.A.O. failed to consider the sale transactions that took place within 1.6 Kms radius from the acquired land. Further, he failed to produce the data Sale Deeds and the exemplar Sale Deed dated April 21, 1999. Accordingly he would pray to allow the Second Appeals in S.A.Nos.262, 264 & 288 of 2024, dismiss those in S.A.Nos.172, 185 & 198 of 2022 and enhance the quantum of the compensation awarded by the First Appellate Court.

13. Heard on either side. Perused the entire evidence available on record.

14. As regards the Substantial Questions of Law No.(i) framed in S.A. Nos.172, 185 and 198 of 2022, Section 7 (2) of the 1978 Act prescribes 15% solatium on the market value arrived under Section 7 (1) thereof. The constitutional validity of the 1978 Act was first challenged before this Court and was struck down as being ultra vires the Constitution of India. On appeal by special leave before the Hon'ble Supreme Court in ***State of Tamil Nadu -vs- Ananthi Ammal*** [*(1995) 1 SCC 519*], the Hon'ble Supreme Court upheld the constitutional validity of the 1978 Act except sub-section 1 of Section 11 of the 1978 Act in so

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far as it provides for payment of compensation amount in instalments. Relevant extract reads as hereunder:

> *"17. ... In our view, the provision in regard to the payment of the compensation amount by instalments in this manner is wholly unreasonable. The owner of the land or another person interested therein would require compensation in lieu of the land forthwith to re-establish himself, whether in a new residence or on another piece of agricultural land or otherwise. The provisions of the section in this behalf are clearly severable. The said Act can stand even when the provisions in regard to the payment of the compensation amount by instalments are excised. To the extent that Section 11 provides for payment of compensation by instalments it is ultra vires Article 14. The provisions of Section 11(1) subsequent to the words "in a lump sum" must, therefore, be struck down.*
>
> ... ...
>
> *20. ...Except for the provisions of Section 11(1) of the said Act insofar as they provide for payment of the compensation amount in instalments, the said Act is intra vires the Constitution. Section 11(1) is valid only to this extent:*
>
> > *"11. Payment of amount.— (1) After the amount has been determined, the prescribed authority shall tender payment of the amount to the persons entitled thereto and shall pay it to*

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them—

(i) in a lump sum."

The rest of Section 11(1) is ultra vires the Constitution."

15. In view of ***Ananthi Ammal's Case***, it is clear that the provisions of the 1978 Act, other than sub-section 1 of Section 11 in so far as it deals with payment of compensation in instalments, are clearly valid. That is to say, Section 7 (2) of the 1978 Act prescribing 15% Solatium is valid.

16. It is true that the Land Acquisition Act, 1894 [Central Act No.1 of 1894] originally provided 15% Solatium in addition to the market value for lands acquired thereunder. In the year 1984, an amendment was introduced in Section 23 (2) of the Land Acquisition Act, 1894 and thereby Solatium was enhanced from 15% to 30%. Probably, the First Appellate Court taking into account the aforesaid Section 23 (2), awarded Solatium at 30%. The Land Acquisition Act, 1894 is a Central Act and the 1978 Act is a special state legislation. Hence, as per the maxim "*generalia specialibus non derogant*", the special Act prevails over the general Act. Moreover, Section 21 of the 1978 Act provides an overriding effect to the 1978 Act over other Acts and hence, when there is any

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contradiction or inconsistency, it will not affect the provisions of the 1978 Act. Therefore, the award of 30% Solatium by the First Appellate Court is against the provisions of law. The findings of the First Appellate Court *qua* Solatium is incorrect. The L.A.O. had rightly added 15% Solatium. **Substantial Questions of Law No.(i) framed in S.A. Nos.172, 185 and 198 of 2022 is answered accordingly.**

17. As regards the Substantial Questions of Law Nos.(ii) and (iii) framed in S.A. Nos.172, 185 and 198 of 2022, Section 9 of the 1978 Act provides remedy of appeal to the person who does not agree with the amount prescribed by the authority under sub-section 2 of Section 7 of the 1978 Act within the time period as may be prescribed. Following the 1978 Act, the 1979 Rules were framed whereof Rule 6 provides six weeks' time from the date of receipt of a copy of the Order passed under Section 7 (3) of the 1978 Act for filing an appeal under Section 9 of 1978 Act.

18. The case of the registered owners / their legal representatives is that the L.A.O. did not conduct an enquiry as per Rule 5 of the 1979 Rules and that they did not receive the copy of the L.A.O's Order under Section 7 (3) of 1978 Act until June 2, 2003 which was served at their request. The same has been stated in Paragraph No.14 of the

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Memorandum of Ground of Appeal in all the three Civil Miscellaneous Appeals. Paragraph No.14 reads thus:

> *"(14)The appellants were not served with a copy of award passed by the Land Acquisition Officer. Instead, he furnished the award copy to the appellants only on 02-06-2003 at their request. The appellants have not yet received compensation as they were not aware of passing of the award. However they are now taking steps for receiving the amount."*

19. Further, P.W.1 to P.W.3 have also clearly deposed that they did not receive Notice under Sections 4 (2), 5 and 7 (3) of the 1978 Act and further that they received the copy of the Order under Section 7 (3) only on June 2, 2003 that too only at their request. The respondents before the First Appellate Court i.e., the District Collector and the L.A.O. did not cross-examine them at all in this regard. It is settled law that non cross-examination of material evidence is deemed to be admitted.

20. It is apposite to extract Section 7 of 1978 Act and Rule 6 of 1979 Rules hereunder:

Section 7:

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*"7. **Determination of amount.—**(1) The amount payable in respect of any land acquired under this Act shall be the market value of such land on the date of publication of the notice under sub-section (1) of section 4.*

(2) In addition to the market value of the land as provided above, the prescribed authority shall, in every case, award a sum of fifteen per centum on such market value as solatium in consideration of the compulsory nature of the acquisition.

(3) The prescribed authority shall, after holding an inquiry in the prescribed manner, determine by order, the amount payable under sub-section (1). A copy of the said order shall be communicated to the owner of such land and every person interested therein."

Rule 6:

*"**6. Appeal against order of amount determined.—** Any person, who does not agree to the amount determined by the prescribed authority under sub-section (3) of section 7 of the Act, may prefer an appeal to the Court within a period of six weeks from the date of receipt of the copy of the order of the prescribed authority."*

21. In view of afore-extracted Section 7 and Rule 6, the burden is upon the L.A.O. to prove that the Order copy was communicated / served to the registered owners / their legal representatives. Despite the specific

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stand taken by the registered owners / their legal representatives in Paragraph No.14 of the Memorandum of Grounds of Appeal in all the Civil Miscellaneous Appeals, the L.A.O. failed to adduce any document in this regard. In Ex-R.1 - Award as well, there is no copy marked to the registered owners. Further, R.W.1 did not depose anything with regard to notice to the registered owners and limitation. Furthermore, the L.A.O. and the District Collector did not raise the plea of limitation before the First Appellate Court, no point for consideration was framed *qua* limitation and limitation point was not argued before the First Appellate Court.

22. Even according to the registered owners / their legal representatives, the Order copy was received by them only on June 2, 2003. If it is so, the Civil Miscellaneous Appeals ought to have been filed within 6 weeks therefrom. However, all the three Civil Miscellaneous Appeals were filed on September 9, 2003 which is after the lapse of 6 weeks prescribed under the 1979 Rules. There is no sufficient information available before this Court as to whether the Civil Miscellaneous Appeals were taken on file after condoning the delay. However, the Civil Miscellaneous Appeals have been numbered which leads to a presumption that the delay has been condoned. It is apposite to mention

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here that the Code of Civil Procedure, 1908 ('CPC' for short) is applicable to an appeal under Section 9 just like how it is applicable to the further appeal under Section 13 of the 1978 Act and hence, request for condonation of delay is entertainable by Section 9 Court as well as Section 13 Court. When Section 13 is considered as the Second Appeal, logically, Section 9 is the First Appeal. Hence, though there is no express mention in Section 9 unlike Section 13 about the applicability of the CPC, it can be understood that it is applicable to Section 9 Court as well. One more reason to support the above finding is that Section 3 (c) of the 1978 Act which provides the definition of 'Court' reads that 'Court' means Jurisdictional Subordinate Court, in absence thereof, the Jurisdictional District Court, and these two Courts being Courts of Civil Judicature, hence CPC is applicable. Therefore, condonation of delay is permissible and as stated *supra*, this Court presumes that the First Appellate Court condoned the delay under Order XLI Rule 3-A of the CPC.

23. Moreover, whether the L.A.O. communicated the Order copy to the registered owners in time and whether the delay was condoned by the First Appellate Court / Section 9 Court are all question of fact and not question of law. Hence, the question of limitation becomes a mixed question of law and fact in the facts and circumstances of this case. In

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view of the settled position of law that in the absence of the plea of limitation before the First Appellate Court, the same cannot be raised before the Second Appellate Court, that too when it is a mixed question of law and fact and not a pure question of law [vide the Judgment of Hon'ble Supreme Court in ***Ramji Singh Patel -vs- Gyan Chandra Jaiswal***, reported in ***(2018) 14 SCC 120***].

24. Hence, this Court is of the view that the Civil Miscellaneous Appeals were not barred by limitation. **Substantial Questions of Law Nos.(ii) and (iii) framed in S.A. Nos.172, 185 and 198 of 2022 are answered accordingly.**

25. Coming to the one and only Substantial Questions of Law framed in S.A. Nos.262, 264 and 288 of 2024, Ex-A.1 and Ex-A.2 are the exemplar Sale Deeds evidencing the sale of some lands in the vicinity of the acquired land. The First Appellate Court failed to consider Ex-A.1 and Ex-A.2 in a proper manner. Non-appreciation of Ex-A.1 and Ex-A.2 grossly affects the rights of land owners. Hence, it is a Substantial Questions of Law under Section 100 of the CPC [See Judgment of Hon'ble Supreme Court in ***Sir Chunilal V. Mehta and Sons Ltd. -vs- Century Spinning and Manufacturing Co. Ltd.,*** reported in ***AIR 1962 SC 1314***].

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26. As evidenced by Ex-R.3 - Topography Sketch, the acquired land is situate abutting an east-west road. According to the registered owners, within 1 Km radius from the acquired land, there is a north-south state highway bearing no.17. Towards the east of the north-south state highway, residential area and a higher secondary school are situate. P.W.1 to P.W.3 in their evidence, in addition to the aforesaid facts, deposed that the District Collector Office, Tamil Nadu State Transport Corporation Depot, Inspection Bungalow, District Police Office, Forest Office and Official Residences of various Government officials are situate within 1 Km radius from the acquired land. R.W.1, the Special Tahsildhar for ADW in her cross-examination, admitted that the District Collector Office is situate within 2 Kms from the acquired land; that most of the government offices are situate around the District Collector Office; that the acquired land is in a developed area with electricity, transport, drainage, schools, commercial complexes and other facilities; that Dharmapuri to Salem National Highways is situate near to the acquired land. It is relevant to extract hereunder the cross-examination of R.W.1:

> '. . . Mu;$pjk; bra;ag;gl;l epy';fs; FoapUf;f tPL fl;l jFjpahdit vd;Wk;/ nkYk; gadhspfs; tPL fl;o FoapUf;f rk;kjk; bjuptpj;jjhy; jhd; Mu;$pjk; bra;ag;gl;lJ vd;why;/ rupjhd;. epyk; Mu;$pjk; bra;ag;gLtjw;fhf 19.01.1999 ,y;

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gpupt[4(1) mwpf;ifapd; go tpsk;gug;gLj;jg;gl;lJ vd;why; rupjhd;. Mu;$pjk; bra;ag;gLtjw;F xU tUlj;jpw;F Kd;g[Mu; $pj fpuhkj;jpy; bkhj;jk; 28 fpua';fs; eilbgw;Ws;sJ vd;gjd; mog;gilapy; tpiy epu;zak; bra;ag;gl;Ls;sJ vd;W brhy;ypa[s;nsd;. Mdhy; rhu; gjpthsh; mYtyfj;jpypUe;J Mu;$pj fpuhkj;jpy; fpuakhd Mtz';fspd; efy;fis rku;g;gpj;Js;nshkh vd;why;/ ,y;iy. fpuhk g[y vz;.2000/2I khjpup epykhf nju;t[bra;Js;sjhf brhy;ypa[s;nsd;/ Mdhy; ehd; rku;g;gpj;Js;s v.k.rh.M.3 ,y; mt;thwhd epyk; Fwpg;gplg;gltpy;iy. ehd; brhy;tJ nghy; khjpup fpuaKk; eilg;bgwtpy;iy vd;whYk;/ khjpup epyKk; me;j fpuhkj;jpy; ,y;iy vd;whYk;/ rupay;y. mjdhy; Mu;$pj epyj;jpw;F eh';fs; epakpj;Js;s kjpg;ghdJ jtwhdJ kw;Wk; bgha;ahdJ vd;why;/ rupay;y. Mu;$pj fhyj;jpnyna rJuo +.30/-ypUe;J +.50/- tiu tpw;gid Mfpa[s;sJ vd;why;/ rupay;y. 24.05.1999 ,y; Mu;$pj fpuhk g[y vz;.742 ,y; rJuo +.24/- tPjk; tpw;fg;gl;Ls;sJ vd;why;/ rupay;y. k.rh.M.1/ 2 Fwpg;gpl;Ls;s fpua Mtzk; v.k.rh.M.2 ,y; Fwpg;gplg;gltpy;iy vd;why;/ rupjhd;. ju;kg[hp khtl;l Ml;rpau; mYtyfj;jpypUe;J mjpakhd; nfhl;il Mu;$pj epy';fs; Rkhu; 2 fp.kP bjhiytpy; cs;sJ vd;why;/ rupjhd;. Mu;$pj epy';fs; cs;s gFjp tsu;r;rpaile;j fpuhk';fs; vd;whYk;/ kpd;rhu trjp/ nghf;Ftuj;J trjp/ FoePu;trjp/ rhiy trjp/ fHpt[ePu; fhy;tha; trjp/ gs;spfs; kw;Wk; tzpf tshf';fs; cs;s tsu;r;rpaile;j gFjp vd;why;/ rupjhd;. mjpakhd; nfhl;il gFjp

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ju;kg[up khtl;lj;jpnyna Rw;Wyh gFjp vd;why; rupjhd;. 1965 Mk; Mz;L ju;kg[hp khtl;lj;ij jiyikaplkhf bfhz;L jdp khtl;lkhf gpupf;fg;gl;lJ vd;why;/ rupjhd;. jh;kg[hp khtl;l muR mYtyf';fs; midj;Jk; ju;kg[hp khtl;l Ml;rpah; mYtyfj;ij Rw;wp jhd; cs;sJ vd;why; rupjhd;. mjpakhd; nfhl;il Mu; $pj epyj;ij xl;o jhd; ju;kg[hp nryk; njrpa beLtrhiy bry;fpwJ vd;why;/ rupjhd;. ,d;W mjpakhd; nfhl;il xU rJuo +.1000/- bgWk; vd;why;/ rupay;y. Mu;$pj epyj;jpw;F eh';fs; eph;zaj;Js;s kjpg;g[kpf kpf FiwthdJ vd;why;/ rupay;y. Mu;$pj epy';fs; eh';fs; eph;zapj;Js;s kjpg;g[kpf kpf/ FiwthdJ vd;why;/ rupay;y. Mu;$pj epy';fs; FoapUg;g[f;fhf vLj;jjhy; rl;lg;go rJuo fzf;fpy; jhd; kjpg;g[epu;zak; bra;ag;gl ntz;Lk; vd;why;/ rupay;y . . .'

27. While determining the market value of a land, potentiality of the land for development should also be taken into account along with its location and other aspects. From the evidence of P.W.1 to P.W.3, R.W.1 as well as the topography sketch, it is discerned that the acquired land is situate abutting a main road and there are various features and facilities like the availability of schools, transport facilities, water facilities, temples, hospitals, etc., within 1.6 Km radius from the acquired the land. Further important government offices like the District Collectorate, District Police Headquarters, etc. are all situate within 5 Km radius.

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Moreover, there is a state highway within 1 Km radius from the acquired land. The L.A.O. himself has stated in the Award that the acquired land is a raised piece of rain fed land [*Manavari Punjai*] and fit for building residential houses. Further, the beneficiaries have also consented to live in the acquired land. What could be gathered from the above is that, the acquired land is having all basic facilities as well as some attractive features, which increases its potentiality; however, it needs some development for proper utilisation of the facilities.

28. The L.A.O. has not produced the data Sale Deeds as well as the exemplar Sale Deed before the First Appellate Court. However, exemplar Sale Deed dated April 21, 1999 [Document No.974 of 1999 on the file of Sub-Registrar, Dharmapuri (West)] has been produced before this Court vide the typed set of papers. This Court cannot consider the same at this stage in the absence of Order XLI Rule 27 Application. Even while assuming otherwise, there is no evidence available on record to show that the lands covered thereunder are fit for residential purposes and has the potentiality for house sites. The lands thereunder are sold as agricultural land and hence, though they are similar in nature and soil standards when compared to the acquired land, it cannot be considered. Comparing them with the acquired land which is fit for residential purposes, house plots

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and has better potentiality, would be nothing short of comparing apples and oranges. On the other hand, the registered owners have presented two Sale Deeds, one dated May 24, 1999 viz., Ex-A.1 and another dated June 7, 1999 viz. Ex-A.2. The land covered under Ex-A.2 -Sale Deed is situate nearly 1.5 Kms away from the acquired land. It is situate in a well-defined approved layout abutting the state highways. On the other hand, the land covered under Ex-A.1 is a *Natham* land situate within 1.2 Kms from the acquired land. Out of Ex-A.1 and Ex-A.2, Ex-A.2 is now rejected by this Court for the land covered thereunder is not only far away, but also abuts state highways and its value cannot be equated to that of the acquired land. To put it differently, Ex-A.1 is relatively closer in terms of not only distance, but also the potentialities. Even as per the L.A.O., the acquired land is fit for residential purposes. Hence, to fix the market value of the acquired land, the value of similar lands fit for residential purposes alone to be considered and the land under Ex-A.1 meets that criteria.

29. However, it has to be borne in mind that Ex-A.1 is much smaller in extent compared to the acquired land and that the acquired land needs more development to reach residential standards. It is true that the value of a developed small extent of land cannot be taken as a criterion

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for determining the value of a large underdeveloped extent of land as it would be akin to comparing apples and oranges. But in the absence of a better comparison, this Court can very well take Ex-A.1, make necessary deductions for development and determine the market value of the acquired land.

30. The principle of deduction and the concept of deducting developmental charges have been elaborately considered by the Hon'ble Supreme Court in ***Subh Ram -vs- State of Haryana***, reported in ***(2010) 1 SCC 444***. It was held as follows:

> *"27.Administrator General of W.B. v. Collector, Varanasi [(1988) 2 SCC 150] contains a precise statement as to the concept of deducting development cost. This Court stated: (SCC p. 157, para 12)*
>
> > *"12. It is trite proposition that prices fetched for small plots cannot form safe bases for valuation of large tracts of land as the two are not comparable properties. ... The principle that evidence of market value of sales of small, developed plots is not a safe guide in valuing large extents of land has to be understood in its proper perspective. The principle requires that prices fetched for small developed plots cannot directly be adopted in valuing large extents. However, if it is shown that the large extent to*

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be valued ... is ripe for use for building purposes; that building lots that could be laid out on the land would be good selling propositions and that valuation on the basis of the method of hypothetical layout could with justification be adopted, then in valuing such small, laid out sites the valuation indicated by sale of comparable small sites in the area at or about the time of the notification would be relevant. In such a case, necessary deductions for the extent of land required for the formation of roads and other civil amenities; expenses of development of the sites by laying out roads, drains, sewers, water and electricity lines, and the interest on the outlays for the period of deferment of the realisation of the price; the profits on the venture, etc. are to be made. In Brig. Sahib Singh Kalha v. Amritsar Improvement Trust [(1982) 1 SCC 419] , this Court indicated that deductions for land required for roads and other developmental expenses can, together, come up to as much as 53 per cent. But the prices fetched for small plots cannot directly be applied in the case of large areas, for the reason that the former reflects the 'retail' price of land and the latter the 'wholesale' price."

(emphasis supplied)

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This Court referred to and relied upon several earlier decisions including three-Judge Bench decisions in Mirza Nausherwan Khan v. Collector (LA) [(1975) 1 SCC 238] and Padma Uppal v. State of Punjab [(1977) 1 SCC 330].

28. In Chimanlal Hargovinddas v. Special Land Acquisition Officer [(1988) 3 SCC 751] this Court held: (SCC pp. 755-56, para 4)

> *"4. (15) ... a large block of land will have to be developed by preparing a layout, carving out roads, leaving open space, plotting out smaller plots, waiting for purchasers (meanwhile the invested money will be blocked up) and the hazards of an entrepreneur. The factor can be discounted by making a deduction by way of an allowance at an appropriate rate ranging approximately between 20 per cent to 50 per cent to account for land required to be set apart for carving out lands and plotting out small plots. The discounting will to some extent also depend on whether it is a rural area or urban area, whether building activity is picking up, and whether waiting period during which the capital of the entrepreneur would be locked up, will be longer or shorter and the attendant hazards."*

It should be noted that deduction of 20% to 50% referred to therein is only in regard to the land to be

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earmarked for roads, community areas, etc. and does not refer to further deduction towards the expenses of development.

29. In K.S. Shivadevamma v. Asstt. Commr. & Land Acquisition Officer [(1996) 2 SCC 62] this Court held: (SCC p. 65, para 10)

> *"10. It is then contended that 53% is not automatic but depends upon the nature of the development and the stage of development. We are inclined to agree with the learned counsel that the extent of deduction depends upon development need in each case. Under the Building Rules 53% of land is required to be left out. This Court has laid as a general rule that for laying the roads and other amenities 33-1/3% is required to be deducted. Where the development has already taken place, appropriate deduction needs to be made. In this case, we do not find any development had taken place as on that date. When we are determining compensation under Section 23(1), as on the date of notification under Section 4(1), we have to consider the situation of the land development, if already made, and other relevant facts as on that date. No doubt, the land possessed potential value, but no development had taken place as on the date. In view of the obligation on the part of the owner to hand over the land to the City Improvement*

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Trust for roads and for other amenities and his requirement to expend money for laying the roads, water supply mains, electricity, etc. the deduction of 53% and further deduction towards development charges @ 33-1/3%, as ordered by the High Court, was not illegal.”"

31. In Ex-A.1 - Sale Deed, the sale price is Rs.25/- per sq. ft. Ex-A.1 pertains to a *Natham* land which would point out that Ex-A.1 would be better in terms of road and other facilities compared to the acquired land but relatively inferior compared to well-formed locations like in Ex-A.2. Roads in the vicinity of the land covered under Ex-A.1 may not be as wide and planned as those in the vicinity of land covered under Ex-A.2. The acquired land would need significant developments in the form of plot layouts, wide roads, extension of water and electricity connection to each plots, drainage system, etc., which facilities would also consume more extent of land and require lumpsum financial investments. This means a significant amount needs to be deducted towards developmental charges. Hence, this Court is inclined to deduct 17% towards developmental charges, apart from the standard deduction of 33%. This Court need not explain standard deduction and developmental charges as they have been elaborately dealt with in ***Subh Ram's Case (cited supra)***

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by Hon'ble Supreme Court. Thus, a total of 50 % is to be deducted when the market value of the acquired land is taken as that of the land in Ex-A.1. Further as held above, 15% is the correct Solatium payable under the 1978 Act.

32. With the market value being assessed at Rs.25/- per sq. ft. subject to a 50% deduction, and the Solatium payable being 15%, the compensation is calculated as per the following table:

S.No.	***Registered Owner***	***Extent in Hectare***	***Extent in Sq. ft.***	***Enhanced Compensation***			
				Market Value		***15% Solatium (c)***	***Total (a) - (b) + (c)***
				Sq. ft. X Rs.25/- (a)	***Deduct 50% (b)***		
1.	Natarajan S/o Subramani	0.36.5	39265	9,81,650	4,90,825	73,624	5,64,450
2.	Ranganathan S/o Subramani	0.34.5	37116	9,27,900	4,63,950	69,593	5,33,543
3.	Venkataramanan S/o Subramani	0.37.5	40344	10,08,600	5,04,300	75,645	5,79,945

33. As the registered owners / their legal representatives had already received the compensation awarded by the L.A.O., the same shall be subtracted from the enhanced compensation determined by this Court.

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The following table compares the compensation awarded by the L.A.O., additional compensation by the First Appellate Court, as well as the Compensation now payable, as determined by this Court (after deducting the compensation awarded by the L.A.O.):

S. No.	***Registered Owner***	***Compens-ation by L.A.O. (a)***	***Additional Compensation as per Judgment and Decree of First Appellate Court***	***Enhanced Compensation by this Court (b)***	***Compensation now payable (b) - (a)***
1.	Natarajan S/o Subramani	Rs.30,252/-	Rs.3,43,145/-	5,64,450	Rs.5,34,198/-
2.	Ranganathan S/o Subramani	Rs.28,595/-	Rs.3,24,893/-	5,33,543	Rs.5,04,948/-
3.	Venkataramanan S/o Subramani	Rs.31,081/-	Rs.3,53,154/-	5,79,945	Rs.5,48,864/-

CONCLUSION:

34. Resultantly, all the captioned Second Appeals are allowed in

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part. The Judgment and Decree of the First Appellate Court is modified as hereunder:

(i) The appellants in Second Appeal Nos.172, 185 and 198 of 2022 are liable to pay Solatium at 15% to the appellants in S.A.Nos.262, 264 and 288 of 2024, as per Section 7(2) of the 1978 Act. To that extent, the Second Appeals in S.A.Nos.172, 185 and 198 of 2022 are Partly Allowed.

(ii) The appellant in Second Appeal No.262 of 2024 namely Natarajan is entitled to an enhanced compensation of Rs.5,64,450/-. As Rs.30,252/- has already been paid, the compensation now payable is Rs.5,34,198/- along with 6 % interest thereon from the date of possession till deposit.

(iii) The appellants in Second Appeal No.288 of 2024 namely the legal representatives / legal heirs of late Ranganathan are jointly entitled to an enhanced compensation of Rs.5,33,543/-. As Rs.28,595/- has already been paid, the compensation now payable is Rs.5,04,948/- along with 6 % interest thereon from the date of possession till deposit.

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(iv) The appellant in Second Appeal No.264 of 2024 namely Kalyani, wife of Venkataramanan is entitled to an enhanced compensation of Rs.5,79,945/-. As Rs.30,252/- has already been paid, the compensation now payable is Rs.5,48,864/- along with 6 % interest thereon from the date of possession till deposit.

34.2. If any amount was deposited by the District Collector or the L.A.O., pursuant to the Interim Orders passed by this Court, the same to be duly adjusted in the compensation now payable to the appellant(s) in S.A.Nos.262, 264 and 288 of 2024.

34.3. In view of the facts and circumstances of this case, the appellant(s) in S.A.Nos.262, 264 & 288 of 2024 are entitled to proportionate costs throughout from the State. Both parties shall bear their own costs *qua* S.A.Nos.172, 185 & 198 of 2022.

34.4. Connected Civil Miscellaneous Petitions are closed.

[M.S.R., J.] **[R.S.V., J.]**
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Speaking Order : Yes
Neutral Citation : Yes
PAM/TK

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To

1.The Sub Court
Dharmapuri.

2.The District Collector
Collectorate post, Avvai Nagar,
Dharmapuri – 636 705.

3.The Special Tahsildar /
Land Acquisition Officer,
Adi Dravidar Welfare,
Dharmapuri Town and District.

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M.S.RAMESH, J.

AND

R. SAKTHIVEL, J.

PAM/TK

PRE-DELIVERY JUDGMENT MADE IN
S.A.NOS.172, 185 & 198 OF 2022
AND 262, 264 & 288 OF 2024

02 / 12 / 2025

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