

ANDHRA HIGH COURT

M. Padmanabha Iyengar

Vs

The Government of Andhra Pradesh

(Jeevan Reddy,CJ. S.S Quadri, J.)

16.03.1990

ORDER

Jeevan Reddy, J.

1. This batch of writ appeals is preferred against the judgment of a learned single Judge dismissing a batch of writ petitions. The petitioners (appellants) challenged the proceedings for acquisition of their lands, including buildings thereon, initiated by the Government for purposes of Trimula Tirupati Devasthanams (T.T.D.).

2. Tirumala is one of the important pilgrim-centres in the country. The shrine of Sree Venkateswara attracts thousands of pilgrims every day from all over the country. On particular days the influx is very high, in particular on the eve of "Brahmotsavam". The temple is located on Tirumala Hills. There are four Mada Streets constituting four sides of a Square, called 'South Mada Street', 'East Mada Street', 'North Mada Street', and 'West Mada Street'. The temple proper abuts South Mada Street. Immediately to the rear of the temple and on its western side is, what is called "Theertha Katta Street". The four Mada Streets and the buildings and structures abutting on both sides thereof constitute the centre piece of the Temple Town. On certain festival occasions the deity of Sree Venkateswara is taken in procession along the streets, when thousands and thousands of people congregate there to have a glimpse of the deity. The Mada Streets around the temple are narrow and get congested on such occasions, in 1974 there was an unfortunate accident in which three persons were crushed under the wheels of temple-chariot.

3. Till the year 1933 the Mahants of Hatiramji Mutt were administering the affairs and looking after the properties of Tirumala Tirupati Devasthanams. During their stewardship several people took properties on annual ground rent, and later claimed adverse title to them; good many structures sprang up in four Mada Streets, conforming to no particular plan or design. A number of shops, commercial establishments, Lodges, Boarding Houses, private residents, tenements and slums, besides certain Choultries and Mattams sprang up on both sides of the four Mada Streets.

4. On 4-11-1965 the Government of Andhra Pradesh recognized the title of T.T.Ds. to 10-1/3 square miles of Tirumala village in G.O.Ms. No. 1784. It provided that Tirumala might be declared as a separate village. The G.O. further provided that no land can be alienated to any private persons even if they are permanent residents of the village. It provided further that the

T.T.Ds. will be free to acquire the land owned by private persons if it becomes necessary in the interest of maintaining the sanctity of the temple and ensuring that the lands do not pass into the hands of undesirable persons.

5. In view of the ever increasing pilgrim traffic to Tirumala, and with a view to develop Tirumala Town on proper lines, a Master Plan was got prepared by T.T.Ds. for an integrated development of Tirumala. The then Director of Town Planning was entrusted the job. After studying the various aspects of the problem, the Master Plan made several recommendations. Chapter XIV of the Master Plan sets out the "Strategy for development of Tirumala". In so far as the four Mada Streets are concerned, paragraph 2(a) of the said Chapter made the following recommendations:-

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"2. Economic Activities :

(a) Shopping and Commercial Facilities :

Since the present location of the commercial activities along the streets around the main temple is affecting the sanctity of the temple and its pious environment besides causing congestion to the free flow of pilgrim traffic, it is suggested that the said activities are to be shifted to the area in which the present Bus-Stand is located. This area can be developed as a commercial complex eventually with all amenities that are essentially required. It is also suggested to extend this complex up to Sannidhi Street opposite to Thousand-piliars Mantapam and to the north of the Sannidhi Street from East Mada Street up to Papavinasanam Street.

To accommodate the petty vendors presently engaged mostly in the business of beads, pictures, toys, etc., by occupying the open land situated in front of T.T.D. dispensary up to Wood Lands Hotel, a proposal is suggested to construct a commercial centre in a platform type in the open space available in Seshadrinagar.

These two proposals are suggested not only from the point of maintaining sacred environment around the temple complex but also with a view to take care of both the present and future commercial needs of the residents and pilgrims population in a rational way".

Paragraph 2 deals with matters like improvement of facilities viz., Canteens and Restaurants, Milk Booths, Kalyana Kattas, and Banking facilities. Paragraph 3 deals with other incidental matters, like water supply, Drainage and Sewerage, and Electricity, while paragraph 4 deals with medical and health facilities, Communications, Fire Services, Security arrangements, Religious Institutions, and Reception Centres. Paragraph 5 deals with Traffic and Transportation. This paragraph deals, inter alia, with widening of the Mada Streets and providing several other facilities. Paragraph 6 deals with housing accommodation, while paragraph 7 deals with Landscaping and Conservation.

6. Since the preparation of the said Master Plan, T.T.D. has been taking several steps towards implementation of the same. Copies of proceedings placed before us on behalf of the respondents show that some properties abutting Mada Streets were acquired by private negotiations, but in case of many other properties, private negotiations could not succeed. The object of T.T.D. is clear from the counter-affidavit filed by it. In the counter-affidavit filed by the Executive Officer, T.T.D., Sri Ch. Venkatapathi Raju, in W.P. No.4524/87, it is clearly stated :

"The proposals for the instant acquisition of property were in accordance with background paper for development of Tirumala Area, prepared by Director of Town Planning in order to achieve the integrated, coordinated and harmonious development of Tirumala Hills area, keeping in view the overall need for the preservation of the sanctity of the temple, the sacred environment and the peaceful atmosphere of the entire-hills area. On receipt of the background paper prepared by Director of Town Planning, Andhra Pradesh, eminent Town Planning Architects and Engineers from all over the country conducted a Seminar on 12th and 13th of July 1975 and offered their valuable suggestions on the development plan prepared by the Director of Town Planning, Government of Andhra Pradesh. The said Seminar strongly recommended that the built up and unbuilt up properties of private owners should be taken over by the Tirumala Tirupati Devasthanam authorities by acquisition or otherwise with a view to draw up detailed re-development plans for those areas. After acquiring these properties, the area bounded by Mada Streets all around the temple complex should be cleared off of all structures and developed as a semi-open space for the use of the pilgrims. The dilapidated structures on the either side of the Mada Streets should be dismantled and structures of suitable architectural value be built for providing commercial establishments, halls for religious discourses and for other ancillary use connected with the temple. The instant acquisition was thereby for a public purpose which is the development of Tirumala Hills area, recommended by Director of Town Planning, Government of Andhra Pradesh".

The same idea is emphasized in the additional common counter-affidavit filed by the Executive Officer in the batch of writ petitions, where it is stated :

"The Seminar of 75 strongly recommended that the built up and unbuilt up properties of private owners should be taken over by the T.T.D. by acquisition or otherwise with a view to draw up detailed re-development plans for those areas. After acquiring these properties the area bounded by Mada Streets all around the temple complex should be cleared off of all structures and developed as a semi-open space for the use of the pilgrims. The dilapidated structures on either side of the Mada Streets should be dismantled and structures of suitable architectural value be built such as halls for religious discourses and for other ancillary use connected with the temple. As an immediate measure it was suggested that encroachments and unauthorised structures abutting temple properties should be removed. Priorities have to be worked out in implementing these programmes and preference should be given to the short range programme which require minimum financial outlays".

It is also stated that on account of the lie of the land of Tirumala Hills, the sewerage water and other polluted water is flowing towards the temple; that the water in the 'Pusharini' (Bathing Tank) has become highly contaminated and has been posing a danger to the health of persons taking a dip therein, and that from all points of view it is necessary to develop the town in an integrated, proper manner, to provide for convenience and comfort of pilgrim-traffic, and also for proper communications, drainage and water facilities, environment, as well as ecology of the Tirumala Hills as a whole.

7. With a view to implement the aforesaid Master Plan, more than 50 notifications were published simultaneously in the year 1986 proposing to acquire several private properties on both sides of the four Mada Streets. Enquiry under S. 5-A was proposed to be held, in which

connection objections were invited from persons interested. After conducting enquiries under S. 5-A separately in respect of each notification, declarations under S.6 were also published in or about April, 1987. It is at that stage that the present batch of writ petitions was filed challenging the acquisition proceedings on various grounds. Before the learned single Judge it was argued that there was no public purpose behind the acquisition; that the real purpose behind the acquisition is not stated in the notification under S.4(1), or the declaration under S. 6(1); that, the Master Plan in impelmentation of which the proposed acquisitions are being made, was not prepared in accordance with the Town Planning Act, and further that the said acquisition notifications are an instance of colourable exercise of power. Alternatively, it was argued that the petitioners ought to be provided with alternate sites. All these contentions were negatived by the learned Judge. In some of the writ petitions a further argument was raised that some of the properties are owned by certain religious denominations and that, their properties cannot be acquired by virtue of Art. 26 of the Constitution. This contention was also negatived. The learned Judge, however, noted the statement of the temple authorities to the effect that they will provide alternative accommodation to religious denominations whose properties are acquired, at "not a too distance place from the temple". So far as the traders are concerned, the learned Judge directed that wherever buildings are constructed for the purpose of providing shops, the same shall be allotted to them on lease basis as far as possible. A similar direction was made in respect of individual residents.

8. In this batch of writ appeals, the following contentions are urged on behalf of the counsel for the appellants :--

(i) One of the main purposes behind the acquisition, viz., implementation of the Master Plan, is not mentioned in the several notifications concerned herein. Moreover, "implementation of Master Plan" is a vague expression which does not enable the persons interested to submit their precise objections. It is only where the particular purpose for which a particular piece of land is being acquired, is specified in the notification that the person concerned can submit his objections properly and effectively. Indeed, in several cases where implementation of the Master Plan was stated to be one of the public purposes behind acquisition, the petitioners expressly asked the Land Acquisition Officer to supply them with a copy of the Master Plan so as to enable them to submit their objections properly; but, neither the copy of Master Plan as supplied to them, nor were they given an opportunity of submitting their objections thereto. In some notifications several purposes are lumped together. For example, in the notification concerned in W.A. No. 1363/89 (arising from W.P, No. 8759/88), three purposes are mentioned, viz., (i) construction of Kalyana Mantapam, (ii) Choultry, and (iii) implementation of Master Plan. In the small piece of land concerned in the said writ petition, all these constructions could not have been contemplated. Thus, it is clear that some or other purpose has been casually mentioned without identifying the particular structure or work that is proposed to be carried out in a particular piece of land sought to be acquired. All this shows total non-application of mind. The real purpose is to acquire all the private properties on Tirumala Hills, which is neither a public purpose, nor a permissible purpose in law.

(ii) The enquiry under S. 5-A has not been conducted in accordance with law. In several cases, the petitioners expressly asked for supplying them a copy of the Master Plan, referred to in the notification, so as to enable them to submit their objections in an effective manner. They were neither supplied with the same, nor were they told as to why it could not be supplied to them.

(iii) Some of the notifications say that the land is being acquired for constructing Fourth Choultry. In fact, Fourth Choultry has already been constructed, and was inaugurated in January 1987 itself. Thus, the purpose stated in those notifications is a nonexistent purpose.

(iv) The several objections raised by the petitioners have not all been referred to, or dealt with by the Land Acquisition Officer. The report made under S. 5-A is, therefore, not in accordance with law.

(v) The land concerned in W. A. No. 1781/1989 is the property of Ahobilam Mutt (Plot No. 26). There is a temple of 'Lakshmi-narasimha Swamy', an ancient temple. The Mutt is also serving the need of the pilgrim traffic. Acquiring the said temple and Mutt property serving a public purpose, for serving another public purpose, is not warranted in law; and

(vi) There are several religious, denominations owning properties which are sought to be acquired for the purpose of implementing the Master Plan. Such acquisition is bad in view of Art. 26. The religious denominations will be disabled from carrying on their religious activities at Tirumala, if the proposed acquisitions are allowed to be completed.

9. On the other hand, the learned counsel appearing for the respondents supported the validity of the impugned notifications/ declarations, and also the reasoning and conclusion of the learned single Judge. In particular, it is pointed out that where the acquisition relates to a large extent and involves individual properties of a large number of owners, it is not practicable to mention the public purpose with respect to each piece of land separately, or specifically. It is submitted that according to the title deeds recognised by the British India Government, the entire Tirumala Hills is the property of T.T.D. No piece of land was owned by private persons there. But, in course of management by H. R. Mutt, several private owners got into possession of various pieces of land, upon which they made some constructions and are now claiming title by adverse possession. With a view to obviate prolonged litigation the T.T.D. decided not to challenge their claim in a Civil Court, but to initiate proceedings for acquisition. Even by G.O.Ms. No. 1784, dated 4-11-1965, T.T.D. has been permitted to "acquire the lands owned by private persons for maintaining the sanctity of the temple, and for purposes incidental thereto. The ever increasing pilgrim-traffic to Tirumala calls for a planned and integrated development of the entire Tirumala area, and in particular the area surrounding the temple, i.e., the areas on both sides of four Mada Streets. The purpose is neither illegal, nor can it be termed as a colourable exercise of power. The larger public interest, viz., the safety, health, and convenience of pilgrim-traffic should override the private interest of the individuals concerned herein. The enquiry under S.5-A has been regularly held, and none of the objections put forward by the petitioners warrant interference by this Court.

10. Learned, counsel for T.T.D., Sri M. Adinarayana Raju, has placed before us a plan/sketch showing the properties in and around four Mada Streets, which are proposed to be acquired under the impugned notifications. The correctness of the said plan/sketch is not questioned before us. This plan shows that a major portion of the property on both sides of four Mada Streets is owned by the T.T.D. only. Only certain plots, or patches, as they may be called, are owned by private individuals, or institutions, as the case may be. It is probably for this reason that the Government thought it appropriate to issue separate notifications in respect of each piece of land to be published by them simultaneously. The idea is to gain control over the entire site abutting both sides of four Mada Streets and to develop the said area in an orderly, integrated, and planned manner. It is true, the Master Plan speaks generally of developing the entire Tirumala Hills area;

the Master Plan does not identify a particular piece of land for constructing a particular building, or structure. It does, however, expressly and repeatedly say that private properties on both sides of Mada Streets must be acquired with a view to widen the streets, to preserve the sanctity of the temple and its surroundings, and in the interest of a planned development of the area, in particular in the interest of pilgrim-traffic, their health, hygiene, and convenience. The petitioners' argument is that unless it is specifically established that a particular structure is proposed to be constructed in a particular area (wherein the privately owned plots are located), it cannot be said that there is an existing public purpose for which an acquisition can be made. To put it differently their argument is that the T.T. D. must first prepare a plan specifying the structures or other buildings, proposed to be constructed in the entire area concerned, and then alone it should issue notifications. According to them, unless this is done, the affected, owners of plots will not be in a position to submit their objections to the acquisition in a proper and effective manner. It is not enough, they say to mention a general purpose, viz., implementation of Master Plan, or construction of Kalyana Mantapam, or Choultries. Such a general description of the public purpose does not enable the affected owners -- say the petitioners -- to submit their objections properly. In such a case it must be said, they say, that no proper opportunity has been afforded to the individual owners to submit their objections which vitiates the entire acquisition. We are unable to agree. The purpose stated in the impugned notifications viz., implementation of Master Plan, or construction of Kalyana Mantapam, or Choultries, as the case may be, is undoubtedly a public purpose. It is not denied by the petitioners that a large volume of pilgrim-traffic visits Tirumala Town every day, and visits the temple. It is not also disputed that on certain days the traffic runs into tens of thousands. All this pilgrim-traffic has to be housed, fed, and provided reasonable opportunity of visiting the temple and perform-ing their ceremonies and rites. The counter-affidavit states specifically that the water in the 'Pushkarini' attached to the temple has become highly contaminated, and steps have to be taken to cleanse the same. It is also not disputed that Mada Streets are very narrow, as also the "Theertha Katta Street", and that they require to be widened in the interest of safety of pilgrims. Can it be said in such a situation that the object of widening the streets, or the planned development of the entire area as a whole, is not a public purpose?

11. The next question is, whether it is obligatory that a plan must first be prepared specifying the proposed constructions and other structures, before an acquisition is made? We think not. This question must be examined from the point of view of affording a reasonable opportunity to private owners to submit their objections to the proposed acquisition. There is no hard and fast rule in this behalf. One has to look to the circumstances of each case and decide whether the affected persons (persons interested) have been afforded a reasonable and adequate opportunity of submitting their objections. We have come across several cases where a large tract of land is acquired for the purpose of 'industrial development', either by the Government directly or by other Corporations, like A. P. Infrastructure Corporation, or A. P. Industrial Development Coporation. A large tract of land, running into thousands of acres, is first acquired, and only thereafter is the land parcelled but and allotted to industries, and other commercial units. All that one has to see is, whether the purpose mentioned in the notification is a true and real purpose, and whether it is a public purpose. Take this very case. Instead of issuing a separate notification in respect of each plot, suppose the Government had issued a single notification covering all the plots and mentioning the aforesaid purposes, it could certainly not have been faulted on the said ground. In such a case, the only purpose that could have been mentioned is the implementation of Master Plan by itself, or implementation of Master Plan together with other public purposes,

like construction of Kalyana Mantapam, and Choultries. Position cannot be different merely because separate notifications are issued with respect to each plot of land. Suffice it to refer in this connection to two decisions of the Supreme Court.

12. In *Aflatoon v. Lt. Governor, Delhi*, it is held by the Supreme Court that acquisition of land for planned development of Delhi even before the enactment of the Delhi Development Act, is not impermissible. The following observations bring out the principle :

"The planned development of Delhi had been decided upon by the Government before 1959, viz., even before the Delhi Development Act came into force. It is true that there could be no planned development of Delhi except in accordance with the provisions of Delhi Development Act after that Act came into force, but there was no inhibition in acquiring land for planned development of Delhi, under the Act before the Master Plan was ready (see the decision in *Patna Improvement Trust v. Smt. Lakshmi Devi*,). In other words, the fact that actual development is permissible in an area other than a development area with the approval or sanction of the local authority did not preclude the Central Government from acquiring the land for planned development under the Act. Section 12 is concerned only with the planned development. It has nothing to do with acquisition of property; acquisition generally precedes development; For planned development in an area other than a development area, it is only necessary to obtain the sanction or approval of the local authority as provided in Section 12(3). The Central Government could acquire any property under the Act and develop it after obtaining the approval of the local authority." To the same effect is the decision in *Lila Ram v. Union of India*, . In this case, the notification under Section 4 in respect of a land measuring about 3,000 Acres stated that the land was required "for the execution of the Interim General Plan for the Greater Delhi". It was held by the Supreme Court that the public purpose mentioned in the notification was specific in the circumstances and did not suffer from any vagueness. It pointed out that the land covered by the notification is not a small plot but a huge area covering thousands of acres, and that in such cases it is difficult to insist upon greater precision for specifying the public purpose because it is quite possible that various plots covered by the notification may have to be utilized for different purposes set out in the Interim General Plan. It was also held that, since the object of the Interim General Plan was to prevent haphazard and unplanned development of Delhi and thereby to ensure planned development of Delhi, the execution of the Interim General Plan must be held to be a 'public purpose' within the meaning of Section 4.

13. These two decisions make it clear that the acquisition for a purpose stated in general terms, such as "for the execution of the Interim General Plan for the Greater Delhi", or "for the planned development of Delhi", cannot be described as vague or imprecise, particularly where the notification pertains to a large extent of land. The same principle applies, whether one notification is issued, or several individual notifications are simultaneously issued.

14. It is true that in some of the impugned notifications, implementation of Master Plan is not one of the objects mentioned, though it is mentioned in some others. In some of the notifications purposes like construction of Fourth Choultry, or construction of 'Kalyana Maniapam' are mentioned as the purposes. To be more precise, following are the purposes mentioned in the various notifications. For the sake of convenience, we shall refer to, and deal with, them with reference to each Mada Street: --Plots of land on both sides of North Mada Street are sought to be acquired. There are as many as 22 notifications. It would be convenient to consider these

notifications in two separate categories. In the first category are 12 notifications, concerned in Writ Appeals Nos. 1355, 1847, 1373, 1364, 1374, 1349, 1369, 1356, 1351, 1614 and 1363 of 1989, as well as the plot concerned in W. P. No. 8551/88. In the second category are the plots concerned in Writ Appeals Nos. 1360, 1352, 1367, 1371, 1362 and 1357 of 1989, as well as the plots concerned in W.P. Nos. 10130, 10150, 16335 and 9622 of 1988. All the plots concerned in the second category are in the area, called. "Pullareddi Thota". Coming to the first category of notifications, in eight notifications (concerned in Writ Appeals Nos. 1847, 1373, 1364, 1374, 1349, 1356 and 1351 of 1989, and W.P. No. 8551/88), the purpose mentioned is "widening the road and construction of Kalyana Mantapam". In some of the notifications an additional purpose is mentioned, viz., "cottages for pilgrims". In the remaining four notifications, the purpose mentioned is "construction of Choultries and Kalyana Mantapam". and in two of the notifications another purpose is added, viz., "Amenities to pilgrims". Can it be said in the circumstances either that the purpose mentioned is not a public purpose, or that the purpose mentioned is not specific enough to enable the persons interested to submit their objections? So far as the widening of roads is concerned, there can be no controversy at all. Similarly, the proposal to construct a Kalyana Mantapam, and cottages for accommodating the pilgrims, are equally clear and specific public purposes. We do not think it necessary that there should be a plan in existence with respect to Kalyana Mantapams and cottages before the acquisition proceedings are started, nor is it necessary that such plan must be approved, and be ready for execution. The idea, it must be reiterated, is to acquire all the land abutting four Mada Streets and then to develop it in an orderly manner. That all the appellants knew of this overall purpose is evident from their objections filed in Section 5-A enquiry their averments in these writ petitions. Indeed, the burden of their song has been that T.T.D. wants to eliminate all the private owners which, according to them, was legally impermissible and evidence of mala fides. It cannot be denied that T.T.D. proposes to construct Kalyana Mantapams, Cottages, and Choultries, besides widening these roads. All these are components of proposed development plan -- which is generally referred to as Master Plan. Whether reference is to the Master Plan as such or to its various components, the purpose is clear and was fully known to all the persons interested. We are satisfied that there has been no failure of justice in these cases on account of not referring to Master Plan in some of the notifications -- nor any violation of law is established. In so far as the second category of notifications in North Mada Street are concerned, the purpose mentioned in the notifications is "Construction of Choultries and development of Tirumala". For the reasons mentioned hereinabove, this purpose must also be held to be a public purpose, and specific enough to enable the persons interested to submit their objections.

15. Now coming to East Mada Street, the acquisitions are only on one side of it, There are as many as 13 notifications, relating to 13 pieces of land. To the rear of the plots proposed to be acquired, there is "Ram Bagicha Garden". It is in this garden that a fairly large Choultry is proposed to be built. In all the notifications relating to the lands abutting East Mada Street the purpose mentioned is "Construction of Fourth Choultry", or "Construction of Choultry and to implement Master Plan", as the case may be. It is pointed out by the counsel for the appellants (petitioners) that some Guest-Houses have already been constructed in "Ram Bagicha Garden", and further that the Fourth Choultry also has already been constructed, and inaugurated in January 1987. So far as the construction of Guest-Houses is concerned, their construction does not preclude the T.T.D. from constructing a big Choultry to meet the ever increasing pilgrim-traffic. With respect to the averment that Fourth Choultry has already been constructed and inaugurated, no material was placed either before the Land Acquisition Officer in the enquiry

under Section 5-A, or in Writ Appeals Nos. 1384 and 1385 of 1989 (wherein this objection is raised) to show that Fourth Choultry was indeed constructed and inaugurated, as averred by the appellants (petitioners). In the absence of any material in support of the said averment, the report of the Land Acquisition Officer cannot be faulted on the ground that it fails to deal with the said objection. It is then pointed out by the counsel for the appellants in these Writ Appeals that though this contention was raised in the writ petitions, it was not specifically denied in the counter-affidavit. We are, however, of the opinion that this question cannot be decided on the basis of pleadings in the writ petitions. It was for the persons interested to have placed the relevant material in support of their averment before the Land Acquisition Officer. Not having done that, they cannot be allowed to treat the writ petitions as a continuation of that enquiry. It may also be noticed that the counters filed by the T.T.D. are common counters and, in such a situation, it may happen that one or the other individual averment in a particular writ petition may not have been specifically met, or controverted in the counter.

16. So far as the South Mada Street is concerned, the lands proposed to be acquired are on both sides of the said street. There are six notifications. In all these notifications the purpose mentioned is "Construction of Kalyana Mantapatn for the use of Srivari Temple". In one case, a further purpose is mentioned, viz., "for convenience of visiting pilgrims", and in another case, another public purpose mentioned is "widening the road". The reasons given by us with respect to the lands in North Mada Street apply equally in respect of acquisition in this behalf, and if so, it cannot be said either that the purpose mentioned in the notifications is not a public purpose, or that it is not specific or clear enough to enable the persons interested to submit their objections.

17. In West Mada Street, plots on both sides of the Street are sought to be acquired. There are seven notifications. In five of the notifications the public purpose mentioned is "Construction of Choultries and Kalyana Mantapam for providing better-amenities and facilities to pilgrims". In two of the notifications (particularly pertaining to the plots on the western side of West Mada Street) the purpose mentioned is "Extending Vasant Mantapam and widening the road in West Mada Street, and to implement Master Plan". For the reasons mentioned in the preceding paragraphs, we hold that the purposes mentioned in this behalf are equally public purposes, and are specific enough to enable the persons interested to submit their objections.

18. A few notifications, i.e., four in number, pertain to plots abutting "Theertha Katta Street". In all these notifications, the purpose mentioned is "widening the road", and in two of the notifications a further purpose, viz., "construction of Kalyana Mantapam", is added. The reasons assigned by us hereinabove for holding that the purpose is a public purpose and that it is specific enough to enable the persons interested to submit their objections, apply equally in respect of these notifications.

19. It is true that the effect of the impugned notifications is to eliminate all the private owners on both sides of four Mada Streets. All the plots of land, including buildings thereon owned by persons other than T.T.D., are being acquired for the purpose of T.T.D. But, can it be said that this purpose is impermissible in law, or that it indicates a mala fide or oblique design on the part of T.T.D.? The real purpose behind acquisition is not elimination of private owners. The true purpose behind acquisition is to obtain possession of all the lands on both sides of four Mada Streets, to enable T.T.D. to widen the roads and to carry out various works in connection with an integrated, planned, and proper development of the area. What is happening here is nothing

novel, or unprecedented. Wherever a large tract is acquired, either for development of major cities or for industrial development, all private owners in the area concerned have to go. Just because all private owners on both sides of four Mada Streets are being eliminated, it is not indicative of any mala fides, or oblique design on the part of T.T.D. It is clear that unless these plots of land are acquired, it is not possible for T.T.D. to develop the area concerned in the manner it proposes to do. Not only the roads have to be widened, Choultries and Kalyana Mantapams to be constructed, but water treatment plants have to be installed to cleanse the water in the 'Pushkarim'. It is also necessary to re-orient the sewerage/drainage, and water supply systems, Communications, Transport -- in short, a total development of Tirumala.

20. It is strenuously argued by the counsel for the appellants (petitioners) that though a Master Plan is referred to in some of the notifications, no such Master Plan exists as a matter of fact. What all was prepared in 1975 was only a blue-print for development of Tirumala. It is also submitted that the Master Plan is not one prepared under the Town Planning Act. On this basis it is submitted that one of the purposes mentioned, viz., "implementation of Master Plan" in some of the notifications is a non-existent purpose. We are, unable to agree on this score either. A Master Plan does not necessarily mean one prepared under the Town Planning Act. There is no particular form in which it should be prepared, nor any particular formula, adopting which it should be prepared. All that was meant by the Master Plan was the development plan envisaged in 1975, and which was being implemented in certain sectors, wherever possible, by private negotiations. A copy of the Master Plan is placed before us, the contents whereof we have already referred to, in so far as relevant, hereinbefore. It cannot be said that the purpose, viz., implementation of Master Plan, wherever mentioned, is a non-existent purpose.

21. It is then argued that in W.A. No. 1363/89 (arising from W.P. No.8759/ 88), the persons interested not only filed objections to the acquisition on 29-7-1987 (in the enquiry under Sec. 5-A), but also filed a petition on 26-8-1987 to summon certain documents, including the Master Plan, and stating specifically that oral evidence will be led by the objectors only after those documents are produced. It is also brought to our notice that on receiving such application the Land Acquisition Officer addressed the T.T.D. authorities for supplying him with a copy of the Master Plan, but that the authorities told him that the Master Plan is already available with him. It is also pointed out that the Land Acquisition Officer neither sent any communication to the objectors in the said matter, nor did he supply a copy of the Master Plan. It is submitted that this amounts to denial of opportunity to the objectors to establish their case. On account of non-supply of documents asked for by, them, including the Master Plan, the objectors could not adduce oral evidence which they wanted to adduce, it is contended. On a consideration of the relevant material, we are of the opinion that though there has been a certain defect in the procedure in conducting the enquiry under Section 5-A, it does not warrant interference by this Court. The reasons are the following in the notification concerned in this Writ Appeal, three purposes were mentioned, viz., (i) construction of Kalyan Mantapam, (ii) construction of Choultry, and (iii) implementation of Master Plan. Implementation of Master Plan was not the only purpose; it was one of the three purposes. So far as the first two purposes are concerned, they are clear and specific, and no grievance can be made on that account. The entire objection pertains to the third purpose mentioned in the notification. We agree that, when the objector in this Writ Appeal specifically asked for supplying him with a copy of the Master Plan, either he should have been supplied with such copy, or he ought to have been told why it cannot be supplied to him. To this extent the enquiry under S. 5A must be said to suffer from an

irregularity. But the question then arises whether that by itself warrants interference in the matter? The notification concerned in this Writ Appeal is one of the 52 notifications issued. All the objectors knew the real purpose of acquisition, viz., acquisition of private properties for a proper/planned development of Tirumala. This is not an individual case where the non-supply of a particular document has disabled the objector from putting forward his objections effectively. Since the test in all such cases is one of prejudice (see *K. L. Tripathi v. State Bank of India*,), no interference is called for in this case on this count. It must also be remembered that, the remedy under Art. 226 is a discretionary one. The Court is not bound to interfere merely on the establishment of an irregularity or illegality. The Court must further be satisfied that such interference is called for to meet, or to further, the ends of justice. If by interfering in the matter the interests of justice are going to suffer, this Court will withhold its arm; (see *Sangram Singh v. Election Tribunal, Kotah, and Venkateswara Rao v. Government of Andhra Pradesh*). Having regard to the totality of the circumstances, we do not think that this Court should interfere and quash the enquiry under S. 5A in W.A. No. 1363/89 on the above ground.

22. In W.A. No. 1384/89 a separate contention is urged to the effect: In the notification published under S.4(1), the purpose of acquisition is stated to be "for widening West Theertha Katta Street and for construction of Kalyana Mantapams for public purposes and for convenience of the visiting pilgrims"; but in the counter affidavit filed by the T.T.D. the purpose of acquisition is stated to be "open spaces, construction of commercial complex and to prevent pollution". Further, in the additional counter of T.T.D. yet another purpose, totally different, is mentioned. In view of this contention we have sent for and looked into the original record produced before us by the learned Government Pleader. The purpose mentioned in the notification under S. 4 is "for widening West Theertha Katta Street and for construction of Kalyana Mantapams for public purpose and for convenience of the visiting pilgrims". In the declaration published under S. 6(1) of the Act, the purposes mentioned are identical. Evidently, the statements in the counter-affidavits are the result of some confusion.

23. It is then contended by the learned counsel for the appellant in this Writ Appeal that though specific objections were raised, including the objection that Fourth Choultry was already constructed, they have not been specifically dealt with in the report made under S. 5A. The record shows that two persons, namely, A. Krishnaiah, and M. Gopalaiah, filed objections. Notice of enquiry was given to both the persons. M. Gopalaiah's son appeared and gave a statement merely stating that all their objections are stated in the objection-petition. The Land Acquisition Officer dealt with the several objections raised by these two persons in their objection-petition and rejected the same in his report dated 31-8-1986. It is true, he did not specifically deal with the objection relating to the Fourth Choultry being already constructed, but that is evidently because construction of Fourth Choultry is not one of the purposes mentioned in the notification concerned in this Writ Appeal. We cannot, therefore, find fault with the Land Acquisition Officer for not dealing with the said objection.

24. We may also mention in this behalf that the contention with respect to the alleged irregularities in the conduct of enquiry under S. 5A in the several acquisition matters, does not appear to have been seriously pressed before the learned single Judge. All that appears to have been argued baldly was that the enquiries were not held according to law. Evidently, because no material was brought to the notice of the learned single Judge by the petitioners in support of their contention, it was summarily rejected holding that all the enquiries have been regularly

held. Notwithstanding the same, we permitted the appellants (petitioners) to urge the said contention, and have dealt with the same for the sake of completeness and to ensure that there has been no failure of justice.

25. In W.A. No. 1493/89 it is contended by the appellant-petitioner that though he filed objections in the enquiry under S. 5 A, no enquiry whatsoever was held. We have perused the record. The record shows that, after receiving the objections, the enquiry was fixed to a particular date and intimation thereof was given to the objector. The objector appeared on that date and his statement was also recorded. This is established from the record produced by the learned Government Pleader.

26. It is then argued by the learned counsel that the land concerned in this case is owned by a Mutt; that, the Mutt is run by 'Madhava Denomination', recognized as a religious denomination by the Supreme Court, and that the acquisition of its entire property disables it from carrying on its activities altogether. Art. 26 of the Constitution is relied upon as prohibiting such acquisition. Art. 26 reads as follows :

"26. Freedom to manage religious affairs :

Subject to public order, morality and health, every religious denomination or any section thereof shall have the right-

- (a) to establish and maintain institutions for religious and charitable purposes;
- (b) to manage its own affairs in matters of religion;
- (c) to own and acquire movable and immovable property; and
- (d) to administer such property in accordance with law".

The object underlying Art. 26 has been explained in several decisions. It is enough to refer to the decision in *Narendra Prasadji v. State of Gujarat*, . The following observations in the said judgment are relevant :--

".....Article 26 guarantees, inter alia, the right to own and acquire movable and immovable property for managing religious affairs. This right, however, cannot take away the right of the State to compulsorily acquire property in accordance with the provisions of Art. 31(2). If, on the other hand, acquisition of property of a religious denomination by the State can be proved to be such as to destroy or completely negative its right to own and acquire movable and immovable property for even the survival of a religious institution the question may have to be examined in a different light..... When, however, property is acquired by the State in accordance with law and with the provisions of Art. 31(2) and the acquisition cannot be assailed on any valid ground open to the person concerned, be it a religious institution, the right to own that property vanishes as that right is transferred to the State. Thereafter there is no question of any right to own the particular property subject to public order, morality and health and Art. 26 will in the circumstances be of no relevance. This being the legal position there is no conflict between Art. 26 and Art. 31....."

27. It is thus evident that unless the acquisition of property of a religious denomination is such as to totally deprive that religious denomination of its right to own and acquire movable and immovable property, necessary for survival of the religious institution, the acquisition cannot be faulted. In this case, it is not stated that the headquarters of the appellant-denomination is located

in the land concerned herein. This is only one of the properties owned by the denomination. Acquisition of this property does not put the right of the denomination to acquire and hold the property in peril. If its title is proved, it will be given the appropriate compensation, and it can acquire property elsewhere to carry on its operations.

28. A contention based on Art. 26(c) is also raised in Writ Appeal Nos. 1781/89, 185/1990, 1613/89, 1847/89, 1409/89, and W.A. 1328/1989. In each of these Writ Appeals it is stated that the property concerned is owned by a particular religious denomination, and that the acquisition of the said property would disable the denomination from carrying on its activities at Tirumala. As already indicated, for the mere acquisition of the property of the denomination at Tirumala -- when its other properties are not acquired, nor its right to own property elsewhere in the country is defeated -- it cannot be said that Art. 26(c) is attracted, or that it invalidates the acquisition. Moreover, it is stated by the Devasthanams that all these religious institutions will be provided alternate sites, as far as possible, so as to permit them to carry on their activities.

29. We do not see any substance in the argument that since some of the properties proposed to be acquired are owned by Mutts or other religious institutions, and because some of them are also running Choultries, thus catering to the needs of pilgrim-traffic, they too are serving a public purpose and hence their properties cannot be acquired for serving another public purposes. No decision has been brought to our notice supporting the proposition that merely because a particular property is being used for serving a public purpose, it cannot be acquired compulsorily by the State for serving a public purpose. On the contrary, the Supreme Court has ruled in *Abdul Hussain v. State of Gujarat*, following its earlier decision in *Somawanti v. State of Punjab*, that land used for one purpose can be acquired for serving another public purpose.

30. Learned counsel for the respondents brought to our notice the decision of the Supreme Court in *Gulam Mustafa v. State of Maharashtra*, where it was held that once the acquisition is valid and then vests in the Municipality, the owner (whose property was acquired for the said purpose) can no longer object that the land acquired is in excess of the need, or that it is being used for a different public purpose. It was held that just because a larger area than the area that was actually required, was acquired, it is no proof of mala fides behind the acquisition, nor can it be quashed on that ground. Though no such allegation is made, this decision emphasizes the principle that once the acquisition is for a public purpose, this Court would not sit in judgment over the precise extent that ought to have been acquired, nor would it interfere even if there is a diversion of land for another public purpose. So long as the need of T.T.D. to acquire private lands on both sides of four Mada Streets for the purpose of a proper development of the area cannot be questioned, it is not necessary for this Court to enquire into the precise use to which the land acquired is put, after acquisition. It is not suggested that the T.T.D. is trying to trade in the said properties, or that the appellants' lands are being acquired for the purpose of re-sale to other private owners. The material on record makes it clear beyond any doubt that the purpose behind the acquisition in all the impugned notifications is a public purpose, and that the need of the T.T.D. is real and urgent. No interference is called for in such a situation by this Court. A minor error here or there, even if proved, would not warrant the quashing of the acquisition in such a situation.

31. It cannot also be said that the enquiry under S. 5 A in these cases has not been held in accordance with law, or that there has been such an error as to warrant interference by this Court. So far as the temples said to be situated in some of the lands sought to be acquired are concerned,

it is enough to observe that T.T.D. itself is a religious institution. We can take note of the fact that T.T.D. is financially helping several other Hindu religious institutions, not only in this State but all over the country. Such an institution would not destroy or demolish temples. If there are really temples in any of the lands being acquired, it is evident that T.T.D. will take steps either to shift them to appropriate places, or make other appropriate arrangements consistent with the importance of the temples concerned, keeping in mind the feelings and sensibilities of the devotees concerned.

32. For the above reasons, we see no reason to interfere with the order of the learned single Judge. Writ Appeals are, accordingly, dismissed. There shall be no order as to costs. Govt. pleader's fee Rs. 150/-in each.

33. Appeals dismissed.