

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

No.44 of 1975

O N A P P E A L

FROM THE FEDERAL COURT OF MALAYSIA HOLDEN AT KUALA LUMPUR

B E T W E E N :

SYED OMAR bin Abdul Rahman Taha
Alsagoff and CHEE KUTTY s/o Abu
Bakar

Appellants
(Applicants)

- and -

THE GOVERNMENT OF THE STATE OF
JOHORE

Respondent
(Respondent)

RECORD OF PROCEEDINGS

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Solicitors for the Appellants.

STEPHENSON HARWOOD ~~8-11 BARRIAM~~,
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Solicitors for the Respondent.

O N A P P E A L

FROM THE FEDERAL COURT OF MALAYSIA HOLDEN AT KUALA LUMPUR

B E T W E E N :

SYED OMAR BIN ABDUL RAHMAN TAHA (Applicants)
ALSAGOFF AND CHEE KUTTY s/o ABU BAKAR Applicants

- and -

THE GOVERNMENT OF THE STATE OF JOHORE (Respondent)
Respondent

RECORD OF PROCEEDINGS

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IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

O N A P P E A L

FROM THE FEDERAL COURT OF MALAYSIA HOLDEN
AT KUALA LUMPUR

B E T W E E N :

SYED OMAR bin Abdul Rahman Taha
Alsagoff and CHEE KUTTY s/o Abu
Bakar

Appellants
(Applicants)

- and -

THE GOVERNMENT OF THE STATE OF JOHORE

Respondent
(Respondent)

RECORD OF PROCEEDINGS

No. 1

NOTICE OF MOTION No.4 of 1972
dated 4th June 1972

In the High
Court in
Malaya at
Johore Bahru

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion No: 4 of 1972

In the Matter of Section 3 of the Land Acquisition
Act, 1960

No.1
Notice of
Motion
No. 4 of 1972
4th June 1972

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Applicants.

10

and

The Government of the State of Johore. Respondent.

NOTICE OF MOTION

TAKE NOTICE that the High Court in Malaya at
Johore Bahru will be moved on Wednesday the 27th day
of September, 1972 at 9.00 o'clock in the forenoon
on the hearing of a motion on behalf of the

In the High Court in Malaya at Johore Bahru

No.1

Notice of Motion No.4 of 1972 4th June 1972 (continued)

Applicants for a Declaration that the proceedings against the above applicants for the Acquisition of all their lands comprised in Lot 4064 C.T. (MG) 82; Lot 1336 E.M.R. 951; Lot 2639 G. 8550; Lot 2200 E.M.R. 1585; Lot 2211 Mk. G. 32; Lot 2210 Mk. G. 33; and Lot 2201 E.M.R. 1586 by the Government of the State of Johore are illegal and as such are null and void.

Dated this 4th day of June, 1972.

Sd: Jackson & Masacorale.

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Solicitors for the abovenamed Applicants.

To:-
State Secretary
The Government of the
State of Johore,
Johore Bahru.

No.2

Originating Motion Paper No.4 of 1972 Undated

No.2

ORIGINATING MOTION PAPER No. 4 of 1972 (Undated)

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion Paper No. 4 of 1972 (Undated)

20

In the Matter of Section 3 of the Land Acquisition Act, 1960

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Applicants

and

The Government of the State of Johore Respondent

MOTION PAPER

MR. UPALI MASACORALE of Counsel for the above named Applicants Syed Omar bin Abdul Rahman Taha Alsagoff and Chee Kutty s/o Abu Bakar moves for a Declaration that the proceedings for the Acquisition of all those lands comprised in Lot 4064 C.T. (MG) 82; Lot 1336 E.M.R. 951; Lot 2639 G. 8550; Lot 2200 E.M.R. 1585; Lot 2211 Mk. G. 32; Lot 2210 Mk. G. 33 and Lot 2201 E.M.R. 1586 and

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having areas of 4A 2R 04P; 9A 1R 31P; 16A OR 00P; 1A 1R 00P; 1A 1R 00P; 1A OR 17.8P; OA 1R 32.1P; and 2A OR 34P or thereabouts respectively, belonging to the said Applicants are illegal and as such are null and void and the Applicants' costs of and incidental to this Motion be taxed and paid by the Respondent.

In the High Court in Malaya at Johore Bahru

—
No.2

Originating Motion Paper No.4 of 1972 Undated (continued)

AND TAKE NOTICE that the Grounds of this Motion are :

10 1. Under Section 3 of the Land Acquisition Act, 1960 "the State Authority may acquire any land which is needed

(a) for any public purpose: or

(b) by any person or corporation undertaking a work which in the opinion of the State Authority is of public utility; or

(c) for the purpose of mining or for residential or industrial purposes."

20 2. The Government of the State of Johore has acquired or is in the process of acquiring lands along the Straits of Tebrau from approximately Sungei Masai in the West to Sungei Latoh in the East and inland to just South of the Masai road.

3. Most of this area is shown on the official plan No. J7/3872 for the development of the area as reserved for the intended new port and for industrial and residential purposes.

30 4. The said lands belonging to the Applicants are in the area marked "Kegunaan Khas" on the said plan and not for the published purposes.

40 5. In accordance with Section 8 of the Land Acquisition Act, 1960, Johore Government Gazeete Notification No. 55 in Form D was published on 21st day of January, 1971 stating that the Government intended to acquire the lands mentioned in the Schedule to the said Notification for the following purposes: namely "Pembinaan Pelabohan", Perumahan dan Perusahas." The said Plan was referred to as available for inspection at the office of the Lands and Mines Department.

6. The Enquiry under Section 12 of the Land Acquisition Act, 1960 concerning the lands of the first-named Applicant was held on 17th day of

In the High Court in Malaya at Johore Bahru

No.2

Originating Motion Paper No.4 of 1972 Undated (continued)

November, 1971 and that concerning the lands of the second-named Applicant on the 19th day of September, 1971. At no time before, during or since the Enquiry has the Government of the State of Johore declared that the said lands are required for any purpose other than that stated on the said Plan.

7. The purpose described as "Kegunaan Khas" does not fall within the purposes for which the Government can acquire land under Section 3 of the Land Acquisition Act, 1960, quoted in paragraph 1 of this Motion Paper.

10

8. It is therefore maintained that the Government of the State of Johore has introduced proceedings for the acquisition of the said lands which are illegal and therefore null and void.

Sd: Jackson & Masacorale.
Solicitors for the abovenamed Applicants.

To: State Secretary,
The Government of the State of Johore,
Johore Bahru.

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No.3

Affidavit of first Applicant Syed Omar bin Abdul Rahman Taha Alsagoff 4th June 1972

No.3

AFFIDAVIT OF FIRST APPLICANT SYED OMAR BIN ABDUL RAHMAN TAHA ALSAGOFF affirmed 4th June 1972

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion No: 4 of 1972

In the Matter of Section 3 of the Land Acquisition Act, 1960

Between

30

Syed Omar bin Abdul Rahman Taha Alsagoff and Chee Kutty s/o Abu Bakar Applicants

and

The Government of the State of Johore. Respondent

A F F I D A V I T

I, Syed Omar bin Abdul Rahman Taha Alsagoff of

No. 16, Jalan Mariamah, Johore Bahru, do solemnly affirm and say as follows:-

In the High Court in Malaya at Johore Bahru

1. I am the first-named Applicant in this matter and the registered proprietor of all those lands comprised in Lot 4064 C.T. (MG) 82; Lot 1336 E.M.R. 951; Lot 2639 G. 8550; and Lot 2200 E.M.R. 1585 in the Mukim of Plentong in the district of Johore Bahru.

No. 3

Affidavit of first applicant Syed Omar bin Abdul Rahman Taha Alsagoff 4th June 1972 (continued)

10 2. In 1967 I began the development of the first three of the said lands as a beach and holiday resort and as a tourist attraction. To date, a considerable complex has been completed including the building of brick chalets, a restaurant, toilet and shower facilities, bridges and culverts for roads, an electric generator and so forth. A first class hotel licence (Lisen Rumah Tumpangan) was granted in November, 1969.

20 3. After publication of Johore Government Gazette Notification No. 55 on the 21st day of January, 1971 stating the Johore Government's intention to acquire certain lands including the said lands mentioned in paragraph 1 herein, I instructed my lawyers Messrs. Jackson & Masacorale of Foh Chong Building, Johore Bahru, to write to the Collector of Land Revenue on my behalf asking that the first three of the said lands be excised from the intended acquisition proceedings. A copy of the said Notification is attached hereto and marked 'A'.

30 4. In the same letter I also applied for conversion of the said lands from agricultural to building use but in spite of the fact that I had received the proper licence described in paragraph 2 herein, I have never at any time received a reply to the said letter nor have the said three properties been converted. A copy of the said letter is attached hereto and marked 'B'.

40 5. On examination of the plan referred to in the said Johore Gazette Notification, I discovered that my said four properties were in the region marked "Kegunaan Khas." The words "Kegunaan Khas" are intended to indicate the purpose for which the lands were to be acquired. This purpose, I am informed, is not included in the list of purposes for which the Government can acquire land under the Land Acquisition Act, 1960.

6. The Grounds of my objection to the acquisition

In the High Court in Malaya at Johore Bahru

of my lands by the Government of Johore are set out in the Motion Paper and I humbly pray for a Declaration that the said acquisition proceedings are illegal, improper and not in accordance with the provisions of the Land Acquisition Act, 1960, in particular, with Section 3 thereof, and as such are null and void.

No.3

Affidavit of first Applicant Syed Omar bin Abdul Rahman Taha Alsagoff 4th June 1972 (continued)

AFFIRMED by the abovenamed Syed Omar bin Abdul Rahman Taha Alsagoff at Johore Bahru this 4th day of June, 1972.

Sd: Syed Omar bin Abdul Rahman Taha Alsagoff.

10

Before me:

Sd: Teo Cheng Tong Commissioner for Oaths.

No.4

No. 4

Affidavit of second Applicant Chee Kutty affirmed 4th June 1972

AFFIDAVIT OF SECOND APPLICANT CHEE KUTTY affirmed 4th June 1972

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion NO: 4 of 1972

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In the Matter of Section 3 of the Land Acquisition Act, 1960

Between

Syed Omar bin Abdul Rahman Taha Alsagoff and Chee Kutty s/o Abu Bakar Applicants

and

The Government of the State of Johore Respondent

A F F I D A V I T

I, CHEE KUTTY s/o ABU BAKAR care of Jackson & Masacorale, Rooms 3F and 3G, Foh Chong Building, Johore Bahru, do hereby solemnly affirm and say as follows:-

30

1. I am the second-applicant in this matter and I am the registered proprietor of all these lands comprised in Lot 2211 Mk. G. 32, Lot 2210 Mk. G. 33 and Lot 2201 E.M.R. 1586 in the Mukim of

Plentong in the District of Johore Bahru.

In the High Court in Malaya at Johore Bahru

2. The said lands were included in the Schedule to the Johore Government Gazette Notification No.55 published on January 21st 1971 which Schedule listed those lands which were being acquired by the Government. The purposes stated were "Pembinaan Pelabohan, Perumahan dan Perusahaan". The notification referred to an official plan which was available for inspection by the public. On the said plan my lands are within the area the purpose of which, is described as "Kegunaan Khas".

No.4

Affidavit of second Applicant Chee Kutty affirmed 4th June 1972 (continued)

3. I am informed and verily believe that the purpose 'Kegunaan Khas' is not one of the purposes for which the Government can acquire land under the Land Acquisition Act, 1960.

4. My said lands have been in my family for forty years and we derive our living from them. The compensation awarded under the said acquisition proceedings is minimal and pitiable and I accepted it only under protest.

5. I therefore humbly pray for a Declaration that the said acquisition proceedings are illegal, improper and not in accordance with the provisions of the Land Acquisition Act, 1960 and as such are null and void.

AFFIRMED by the abovenamed CHEE KUTTY s/o ABU BAKAR at Johore Bahru this 4th day of June, 1972.

Sd: Chee Kutty s/o Abu Bakar.

Before me:

Sd. Teo Cheng Tong Commissioner for Oaths.

No.5

AFFIDAVIT OF FIRST APPLICANT SYED OMAR BIN ABDUL RAHMAN TAHA ALSAGOFF IN SUPPORT OF SUMMONS FOR INTERIM INJUNCTION affirmed 4th June 1972

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion No: 4 of 1972

In the Matter of Section 3 of the Land

No. 5

Affidavit of first Applicant Syed Omar bin Abdul Rahman Taha Alsagoff in support of Summons for interim injunction affirmed 4th June 1972

In the High Court in Malaya at Johore Bahru

Acquisition Act, 1960.

Between

Syed Omar bin Abdul Rahman Taha Alsagoff and Chee Kutty s/o Abu Bakar Applicants

No.5

and

The Government of the State of Johore Respondent

Affidavit of first Applicant Syed Omar bin Abdul Rahman Taha Alsagoff in support of Summons for interim injunction affirmed 4th June 1972 (continued)

A F F I D A V I T

I, Syed Omar bin Abdul Rahman Taha Alsagoff of No. 16, Jalan Mariamah, do solemnly affirm and say as follows:-

10

- 1. I am the first-named Applicant in this matter.
- 2. The Government of the State of Johore is in the process of acquiring my lands comprised in Lot 4064 QT(MG) 82; Lot 1336 E.M.R. 951; Lot 2639 G. 8550 and Lot 2200 E.M.R. 1585 in the Mukim of Plentong in the District of Johore Bahru under Acquisition Proceedings No. PHT.JB. 7/2/70 (J.92).

3. I am making objection to the acquisition on the grounds appearing in the Originating Motion No. of 1972. Briefly these grounds state that the said Government is acting illegally in that it is acquiring my said lands for a purpose not within Section 3 of the Land Acquisition Act, 1960.

20

4. The Government of the State of Johore has already taken formal possession of the said lands by notice in Form K under the Land Acquisition Act, 1960 dated the 22nd day of April, 1972.

5. In a letter dated 3rd day of June, 1972 I am requested to hand over forthwith the keys of the buildings on the said lands. A copy of the said letter is attached and marked 'A'.

30

6. Unless restrained by the Court, it appears that the Respondent will take physical possession of the said lands and proceed with whatever actions thereon as it intends.

7. I therefore humbly pray for an interim injunction in the terms requested.

AFFIRMED by the above named)	Sd: Syed Omar	
Syed Omar bin Abdul Rahman Taha)	bin Abdul	40
Alsagoff at Johore Bahru this)	Rahman	
4th day of June, 1972.)	Taha Alsagoff.	

Before Me:

Sd: Teo Cheng Tong Commissioner for Oaths.

No.6

AFFIDAVIT OF SECOND APPLICANT CHEE
KUTTY IN SUPPORT OF SUMMONS FOR
INTERIM INJUNCTION affirmed 4th
June 1972

In the High
Court in
Malaya at
Johore Bahru

No.6

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion No: 4 of 1972

In the Matter of Section 3 of the Land Acquisition
Act, 1960

Affidavit of
second
Applicant
Chee Kutty
in support of
summons for
interim
injunction
affirmed
4th June 1972

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Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Applicants

and

The Government of the State of Johore Respondent

A F F I D A V I T

I, Chee Kutty s/o Abu Bakar, c/o Messrs.
Jackson & Masacorale of Rooms 3F & 3G, Foh Chong
Building, Johore Bahru, do solemnly affirm and say
as follows:-

20

1. I am the Second Applicant in this matter.

2. The Government of the State of Johore is in
the process of acquiring my lands comprised in
Lot 2211 Mk. Gr. 32; Lot 2210 Mk. Gr. 33 and Lot
2201 E.M.R. 1586 in the Mukim of Plentong in the
District of Johore Bahru under Acquisition
Proceedings Nos. PHT.JB. 7/2/70 (J-22) and PHT.JB.
7/2/70 (J.27).

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3. I am contesting that the said Acquisition
Proceedings are illegal, and therefore null and
void, by way of Originating Motion No. of 1972
in which the grounds of my objection are set out
in detail.

The Government of the State of Johore has
already taken formal possession of my said lands as
on 22nd day of April, 1972 by notice in Form K
under the Land Acquisition Act, 1960 and I am
expecting the Government to take physical possession
at any time.

In the High Court in Malaya at Johore Bahru

5. Unless restrained by the Court, it appears that the Respondent will take physical possession of these lands and proceed with whatever development or actions it has planned.

No.6

Affidavit of second Applicant Chee Kutty in support of summons for interim injunction affirmed 4th June 1972 (continued)

6. I therefore humbly pray for an interim injunction in the terms requested.

AFFIRMED by the abovenamed)
Chee Kutty s/o Abu Bakar }
at Johore Bahru this 4th } (Sgd) Chee Kutty
day of June, 1972. } s/o Abu Bakar

10

Before me:

Sd: Teo Cheng Tong
Commissioner for Oaths.

No.7

Summons for interim injunction dated 5th June 1972

No. 7

SUMMONS FOR INTERIM INJUNCTION
dated 5th June 1972

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion No: 4 of 1972

In the Matter of Section 3 of the Land Acquisition Act, 1960

20

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Applicants

and

The Government of the State of Johore Respondent

SUMMONS-IN-CHAMBERS

LET ALL PARTIES concerned attend before the Honourable Judge in Chambers at the High Court in Malaya at Johore Bahru on Thursday the 22nd day of June, 1972 at 9.00 o'clock in the forenoon on the hearing of an application by the Applicants for an order that the Respondent be restrained, whether by himself or by his servants or agents or otherwise from proceeding in the Acquisition Proceedings No. PHT.JB. 7/2/70 (J.29) and PHT.JB.

30

7/2/70 (J.22) and PHT,JB. 7/2/70 (J.27) in which the Respondent purports to acquire from the Applicants their estate and interest in all those lands comprised in Lot 4064 QT(MG) 82; Lot 1336 E.M.R. 951; Lot 2639 G. 8550; and Lot 2200 E.M.R. 1585; Lot 2211 Mk. Gr. 32; Lot 2210 Mk. Gr. 33 and Lot 2201 E.M.R. 1586 in the Mukim of Plentong in the District of Johore Bahru and in particular from entering into possession of the said lands until after the hearing of this action or until further order and that the costs of this application be costs in the action.

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Dated this 5th day of June, 1972.

Sd: Teo Cheng Tong
 Ag: ASSISTANT REGISTRAR,
 HIGH COURT, JOHORE BAHRU.

Entered No: 166/72.

This Summons was taken out by Messrs. Jackson & Masacorale, Advocates & Solicitors of Rooms 3F & 3G, Foh Chong Building, Jalan Ibrahim, Johore Bahru, Solicitors for the above-named Applicants.

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This Summons is supported by the Affidavits of the above named Applicants Syed Omar bin Abdul Rahman Taha Alsagoff and Chee Kutty s/o Abu Bakar sworn and filed herein on the 4th day of June, 1972.

To: State Secretary,
 The Government of the State of Johore,
 Johore Bahru.

No.8

AFFIDAVIT OF ZAKARIA BIN SULONG IN
 OPPOSITION TO MOTION BY FIRST AND
 SECOND APPLICANTS AFFIRMED 13th JULY 1972

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion No. 4 of 1972

In the Matter of Section 3 of the Land Acquisition Act, 1960

Between

Syed Omar bin Abdul Rahman Taha

In the High Court in Malaya at Johore Bahru

No.7

Summons for interim injunction dated 5th June 1972 (continued)

No.8

Affidavit of Zakaria bin Sulong in opposition to motion by first and second Applicants affirmed 13th July 1972

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In the High
Court in
Malaya at
Johore Bahru

Alsagoff and Chee Kutty s/o Abu Bakar Applicants
and

The Government of the State of Johore Respondent

No.8

AFFIDAVIT-IN-REPLY

Affidavit of
Zakaria bin
Sulong in
opposition to
motion by
first and
second
Applicants
affirmed
13th July 1972
(continued)

I, Zakaria bin Sulong, Pengarah Tanah dan
Galian, Johore, of Pejabat Pengarah Tanah dan
Galian, Johore Bahru, do solemnly affirm and say
as follows:-

1. I crave leave to refer to the Affidavit of
Syed Omar bin Abdul Rahman Taha Alsagoff the
First-named Applicant sworn and filed herein on
the 4th day of June, 1972 in support of the
Summons-in-Chambers Entered No. 166/72 in this
Motion. 10

2. The State Authority required lands for
building a port, and for industrial and
residential purposes.

3. Accordingly, the State Authority made a
declaration in Form D and published it in the
Gazette in accordance with Section 8 of the Land
Acquisition Act, 1960 together with a schedule of
the lands to be acquired. 20

4. The declaration was published in the
Government of Johore Gazette Notification No. 55
dated 21.1.71.

5. Amongst the lands intended to be acquired
were Lot 4064 QT(MG) 82; Lot 1336 E.M.R. 951;
Lot 2639 G.8550 and Lot 2200 E.M.R. 1585 in the
Mukim of Plentong in the District of Johore Bahru
belonging to Syed Omar bin Abdul Rahman Taha
Alsagoff the First Applicant. 30

6. Paragraph 2 of the said Gazette Notification
stated that a plan showing the specific area of
land to be acquired may be examined at the "Pejabat
Tanah dalam Daerah tempat tanah dan kawasan itu
terletak" at any time during normal office hours.
It is, therefore, clear that paragraph 2 of the
Gazette Notification only invites any person
interested, if he so desires, to go to the said
Land Office to examine for himself the plan showing
the area of lands to be acquired by the State. It
is not intended that whatever is written on the
plan would be taken to mean that that particular 40

portion would be required for any purpose other than for the purpose stated in paragraph One of the Gazette Notification. It is, therefore, wrong to say that because the First Applicant's lands as shown in the plan are in the area marked "Kegunaan Khas" this particular area is not required for the purpose as declared in the Gazette Notification.

In the High Court in Malaya at Johore Bahru

No.8

Affidavit of Zakaria bin Sulong in opposition to motion by first and second Applicants affirmed 13th July 1972 (continued)

10 7. Section 8(3) of the Land Acquisition Act, 1960 states that the declaration in Form D shall be conclusive evidence that all the scheduled land referred to therein is needed for the purpose specified in that declaration.

8. The purpose of acquisition is as stated in the Form D which was published in the Gazette and not for the purpose stated in any plan. The acquisition of the lands is in accordance with law.

9. The contents of this affidavit are within my knowledge and are true.

20 10. I, therefore, pray that the application be dismissed with costs.

AFFIRMED by the abovenamed Zakaria bin Sulong at Johore Bahru this 13th day of July 1972. Sd: Zakaria bin Sulong.

Before me,

(Sgd.) (Mustaffa bin Mohamed) Commissioner for Oaths, High Court, Johore Bahru. 13/7/1972.

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No.9

AFFIDAVIT OF ZAKARIA BIN SULONG, IN OPPOSITION TO MOTION BY FIRST AND SECOND APPLICANTS AFFIRMED 13th JULY 1972.

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion No. 4 of 1972

In the Matter of Section 3 of the Land Acquisition Act, 1960

No.9

Affidavit of Zakaria bin Sulong, in opposition to motion by first and second Applicants affirmed 13th July 1972

In the High
Court in
Malaya at
Johore Bahru

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Applicants

No.9

and

Affidavit of
Zakaria bin
Sulong, in
opposition to
motion by
first and
second
Applicants
affirmed
13th July 1972
(continued)

The Government of the State of Johore Respondent

AFFIDAVIT - IN - REPLY

I, Zakaria bin Sulong, Pengarah Tanah dan
Galian, Johore, of Pejabat Pengarah Tanah dan
Galian, Johore Bahru, do solemnly affirm and say as
follows:-

1. I crave leave to refer to the Affidavit of
Chee Kutty s/o Abu Bakar the Second-named Applicant
sworn and filed herein on the 4th day of June,
1972 in support of the Summons-in-Chambers Entered
No. 166/72 in this Motion.

2. The Authority required lands for building a
port, and for industrial and residential purposes.

3. Accordingly, the State Authority made a
declaration in Form D and published it in the
Gazette in accordance with Section 8 of the Land
Acquisition Act, 1960 together with a schedule of the
lands to be acquired.

4. The declaration was published in the Govern-
ment of Johore Gazette Notification No. 55 dated
21.1.71.

5. Amongst the lands, intended to be acquired
were Lot 2211 MK. Gr. 32; Lot 2210 MK Gr. 33 and
Lot 2201 E.M.R. 1586 in the Mukim of Plentong in
the District of Johore Bahru belonging to Chee
Kutty s/o Abu Bakar the Second Applicant.

6. Paragraph 2 of the said Gazette Notification
stated that a plan showing the specific area of
land to be acquired may be examined at the
"Pejabat Tanah dalam Daerah tempat tanah dan
kawasan itu terletak" at any time during normal
office hours. It is, therefore, clear that
paragraph 2 of the Gazette Notification only
invites any person interested if he so desires, to
go to the said Land Office to examine for himself
the plan showing the area of lands to be acquired
by the State. It is not intended that whatever is
written on the plan would be taken to mean that that

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particular portion would be required for any purpose other than for the purpose stated in paragraph One of the Gazette Notification. It is, therefore, wrong to say that because the Second Applicant's lands as shown in the plan are in the area marked "Kegunaan Khas" this particular area is not required for the purpose as declared in the Gazette Notification.

In the High Court in Malaya at Johore Bahru

No.9

Affidavit of Zakaria bin Sulong, in opposition to motion by first and second Applicants affirmed 13th July 1972 (continued)

10 7. Section 8(3) of the Land Acquisition Act, 1960 states that the declaration in Form D shall be conclusive evidence that all the scheduled land referred to therein is needed for the purpose specified in that declaration.

8. The purpose of acquisition is as stated in the Form D which was published in the Gazette and not for the purpose stated in any plan. The acquisition of the lands is in accordance with law.

9. The contents of this affidavit are within my knowledge and are true.

20 10. I, therefore, pray that the application be dismissed with costs.

AFFIRMED by the abovenamed Zakaria bin Sulong at Johore Bahru this 13th day of July, 1972.) (Sgd.) Zakaria bin Sulong.

Before me,

(Sgd.) (Mustaffa bin Mohamed)
Commissioner for Oaths.
High Court, Johore Bahru.

No.10

No.10

COURT NOTES OF EVIDENCE
22ND JUNE 1972 - 8th AUGUST 1972

Court Notes of Evidence 22nd June 1972

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion No. 4 of 1972

In the matter of Section 3 of the Land Acquisition Act 1960.

Between

Syed Omar bin Abdul Rahman Taha

In the High Court in Malaya at Johore Bahru

Alsagoff and Chee Kutty s/o Abu Bakar Applicants
 and
 The Government of the State of Johore Respondent

No. 10

Court Notes of Evidence 22nd June 1972 (continued)

NOTES OF EVIDENCE

Before me in Chambers,
 This 22nd day of June, 1972.

Sgd. S. Othman Ali.
 Judge, Malaya.

U. Masacorale for applicants.

Respondent - absent - served on State Secretary.

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Under Rules of Supreme Court to be effected on State Legal Adviser. Section 2C Government Proceedings Ordinance 1956. On State Secretary effected on 5th June, 1972.

Court Service in fact effected on clerk to State Secretary. Should be served on State Secretary himself. To another date.

8th August 1972

8th day of August, 1972

U. Masacorale for Applicants

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Faidz, Federal Counsel for Respondent.

Faidz produces L/A from S.L.A. under Section 24 Government Proceedings Ordinance 1956.

Masacorale I ask for injunction until the Motion is heard. The Government has not yet entered in physical possession of the land. Applicants still making use of the chalets on the land.

Faidz As far as I am aware the Government has not gone into the land.

Court As far as I can see this is not a matter in which I should grant application. Nothing to prevent Government from withdrawing acquisition. What has been done is shown to be in accordance with the law.

30

Till 4th September, 1972 for hearing of motion - 9.00 a.m.

Sgd. (G.S.PANSHI)
 Setia-usaha kepada Hakim Mahkamah Tinggi
 Johore Bahru 28/6/74.

FURTHER AFFIDAVIT OF ZAKARIA BIN SULONG
IN APPOSITION TO MOTION FOR DECLARATION
AFFIRMED 2nd SEPTEMBER 1972

In the High
Court in
Malaya at
Johore Bahru

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion No. 4 of 1972

In the matter of Section 3 of the Land Acquisition Act, 1960.

Between

10 Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Applicants
and
The Government of the State of Johore Respondent

No.11
Further
Affidavit of
Zakaria bin
Sulong in
opposition to
Motion for
declaration
affirmed 2nd
September 1972

AFFIDAVIT - IN - REPLY

I, Zakaria bin Sulong, Pengarah Tanah dan Galian, Johore, of Pejabat Pengarah Tanah dan Galian, Johore Bahru, do solemnly affirm and say as follows:-

- 20 1. I crave leave to refer to the Affidavit of Syed Omar bin Abdul Rahman Taha Alsagoff the First-named Applicant sworn and filed herein on the 4th day of June, 1972 in support of the Motion Paper in this Motion.
2. The State Authority required lands for building a port, and for industrial and residential purposes.
3. Accordingly, the State Authority made a declaration in Form D and published it in the Gazette in accordance with Section 8 of the Land Acquisition Act, 1960 together with a schedule of the lands to be acquired.
- 30 4. The declaration was published in the Government of Johore Gazette Notification No. 55 dated 21.1.71.
5. Amongst the lands intended to be acquired were Lot 4064 QT(MG) 82; Lot 1336 E.M.R. 951; Lot 2639 G8550 and Lot 2200 E.M.R. 1585 in the Mukim of Plentong in the District of Johore Bahru belonging to Syed Omar bin Abdul Rahman Taha Alsagoff the First Applicant.
- 40 6. Paragraph 2 of the said Gazette Notification stated that a plan showing the specific area of land to be acquired may be examined at the "Pejabat Tanah

In the High Court in Malaya at Johore Bahru

No.11

Further Affidavit of Zakaria bin Sulong in opposition to Motion for declaration affirmed 2nd September 1972 (continued)

dalam Daerah tempat tanah dan kawasan itu terletak" at any time during normal office hours. It is, therefore, clear that paragraph 2 of the Gazette Notification only invites any person interested, if he so desires, to go to the said Land Office to examine for himself the plan showing the area of lands to be acquired by the State. It is not intended that whatever is written on the plan would be taken to mean that that particular portion would be required for any purpose other than for the purpose stated in paragraph One of the Gazette Notification. It is, therefore, wrong to say that because the First Applicant's lands as shown in the plan are in the area marked "Kegunaan Khas" this particular area is not required for the purpose as declared in the Gazette Notification.

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7. Section 8(3) of the Land Acquisition Act, 1960 states that the declaration in Form D shall be conclusive evidence that all the scheduled land referred to therein is needed for the purpose specified in that declaration.

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8. The purpose of acquisition is as stated in the Form D which was published in the Gazette and not for the purpose stated in any plan. The acquisition of the lands is in accordance with law.

9. The contents of this affidavit are within my knowledge and are true.

10. I, therefore, pray that the Motion be dismissed with costs.

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AFFIRMED by the above-named Zakaria bin Sulong at Johore Bahru this 2nd day of September 1972. Sgd. (Zakaria bin Sulong).

Before me,

Sgd. Teo Cheng Tong

Commissioner for Oaths.

FURTHER AFFIDAVIT OF ZAKARIA BIN SULONG
IN OPPOSITION TO MOTION FOR DECLARATION
AFFIRMED 2ND SEPTEMBER 1972.

In the High
Court in
Malaya at
Johore Bahru

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion No. 4 of 1972

No.12

In the matter of Section 3 of the Land Acquisition
Act, 1960.

Further
Affidavit of
Zakaria bin
Sulong in
opposition
to motion for
declaration
affirmed 2nd
September 1972

Between

10 Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Applicants

and

The Government of the State of Johore Respondent

AFFIDAVIT - IN - REPLY

I, Zakaria bin Sulong, Pengarah Tanah dan
Galian, Johore, of Pejabat Pengarah Tanah dan
Galian, Johore Bahru, do solemnly affirm and say
as follows:-

- 20 1. I crave leave to refer to the Affidavit of
Chee Kutty s/o Abu Bakar the Second-named Applicant
sworn and filed herein on the 4th day of June, 1972
in support of the Motion Paper in this Motion.
2. The Authority required lands for building a
port, and for industrial and residential purposes.
3. Accordingly, the State Authority made a
declaration in Form D and published it in the Gazette
in accordance with Section 8 of the Land Acquisition
Act, 1960 together with a schedule of the lands to
be acquired.
- 30 4. The declaration was published in the Government
of Johore Gazette Notification No. 55 dated 21.1.71.
5. Amongst the lands, intended to be acquired
were Lot 2211 MK. Gr. 32; Lot 2210 MK Gr. 33 and
Lot 2201 E.M.R. 1586 in the Mukim of Plentong in the
District of Johore Bahru belonging to Chee Kutty
s/o Abu Bakar the Second Applicant.
6. Paragraph 2 of the said Gazette Notification
stated that a plan showing the specific area of
land to be acquired may be examined at the "Pejabat

In the High Court in Malaya at Johore Bahru

No.12

Further Affidavit of Zakaria bin Sulong in opposition to motion for declaration affirmed 2nd September 1972
(continued)

Tanah dalam Daerah tempat tanah dan kawasan itu terletak" at any time during normal office hours. It is, therefore, clear that paragraph 2 of the Gazette Notification only invites any person interested if he so desires, to go to the said Land Office to examine for himself the plan showing the area of lands to be acquired by the State. It is not intended that whatever is written on the plan would be taken to mean that that particular portion would be required for any purpose other than for the purpose stated in paragraph One of the Gazette Notification. It is, therefore, wrong to say that because the Second Applicant's lands as shown in the plan are in the area marked "Kegunaan Khas" this particular area is not required for the purpose as declared in the Gazette Notification.

7. Section 8(3) of the Land Acquisition Act, 1960 states that the declaration in Form D shall be conclusive evidence that all the scheduled land referred to therein is needed for the purpose specified in that declaration.

8. The purpose of acquisition is as stated in the Form D which was published in the Gazette and not for the purpose stated in any plan. The acquisition of the lands is in accordance with law.

9. The contents of this affidavit are within my knowledge and are true.

10. I, therefore, pray that the Motion be dismissed with costs.

AFFIRMED by the abovenamed Zakaria bin Sulong at Johore Bahru this 2nd day of September, 1972.) Sd: (Zakaria bin Sulong).

Before me,

Sd: Teo Cheng Tong
Commissioner for Oaths.

No.13

AFFIDAVIT OF SYED OMAR BIN ABDUL RAHMAN
TAHA ALSAGOFF IN ANSWER TO AFFIDAVIT BY
ZAKARIA BIN SULONG SWORN 8TH OCTOBER 1972

In the High
Court in
Malaya at
Johore Bahru

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

No.13

Originating Motion No: 4 of 1972

Affidavit of
Syed Omar bin
Abdul Rahman
Taha Alsagoff
in answer to
Affidavit by
Zakaria bin
Sulong sworn
8th October
1972

In the Matter of Section 3 of the Land Acquisition
Act, 1960

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Applicants

and

The Government of the State of Johore Respondent

SUPPLEMENTARY AFFIDAVIT

I, Syed Omar bin Abdul Rahman Taha Alsagoff of
No. 16, Jalan Mariamah, Johore Bahru do solemnly
affirm and say as follows:-

1. The Affidavit of Che Zakariah bin Sulong on
behalf of the Respondent has been explained to me
and I wish to point out certain omissions which may
affect my case adversely.

2. The Johore Government acquired my land which
is the subject matter of this Motion on 22nd day of
April, 1972 by notice in Form K a copy of which is
annexed hereto and marked "C".

3. Che Zakariah bin Sulong has not exhibited a
copy of the plan referred to in paragraph 6 of his
Affidavit and as Members of the Public are not
allowed to purchase copies of the said plan, I
exhibit herewith a plan of the area showing all the
relevant details as displayed in the plan produced
for public examination. This plan is attached
hereto and marked "D".

SWORN by the said SYED OMAR
BIN ABDUL RAHMAN TAHA)
ALSAGOFF at Johore Bahru)
this 8th day of October, 1972.)

Sd: Syed Omar bin
Abdul Rahman
Taha Alsagoff.

Before me:

Sd: Teo Cheng Tong.
Commissioner for Oaths
High Court, Johore Bahru.

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In the High
Court in
Malaya at
Johore Bahru

This Affidavit was filed by Messrs. Jackson
& Masacorale, Advocates & Solicitors for the above-
named Applicants whose address for service is
Nos. 3F and 3G. 3rd Floor, Foh Chong Building,
Jalan Ibrahim, Johore Bahru.

No.13

Affidavit of
Syed Omar bin
Abdul Rahman
Taha Alsagoff
in answer to
Affidavit by
Zakaria bin
Sulong sworn
8th October
1972
(continued)

No.14

Affidavit of
Chee Kutty in
answer to
Affidavit by
Zakaria bin
Sulong sworn
10th October
1972

No.14

AFFIDAVIT OF CHEE KUTTY IN ANSWER TO
AFFIDAVIT BY ZAKARIA BIN SULONG SWORN
10TH OCTOBER 1972.

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

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Originating Motion No. 4 of 1972

In the matter of Section 3 of the Land Acquisition
Act, 1960

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Applicants

and

The Government of the State of Johore Respondent

SUPPLEMENTARY AFFIDAVIT

I, CHEE KUTTY s/o ABU BAKAR care of Jackson
& Masacorale, Rooms 3F & 3G, Foh Chong Building,
Johore Bahru, do solemnly affirm and say as follows:-

20

1. The Affidavit of Che Zakariah bin Sulong on
behalf of the Respondent has been explained to me
and I wish to point out certain omissions which
may affect my case adversely.

2. The Johore Government acquired my land which

is the subject matter of This Motion, on 22nd day of April, 1972 by notice in Form K a copy of which is annexed hereto and marked "C".

In the High Court in Malaya at Johore Bahru

SWORN by the said CHEE KUTTY }
s/O ABU BAKAR at Johore Bahru } Sd: Chee Kutty
this 10th day of October, } s/o Abu Bakar
1972 }

No.14

Affidavit of Chee Kutty in answer to Affidavit by Zakaria bin Sulong sworn 10th October 1972 (continued)

Before me:

Sd: Mustapha b. Mohamed.
Commissioner for Oaths
High Court, Johore Bahru.

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This Affidavit was filed by Messrs. Jackson & Masacorale, Advocates & Solicitors for the above-named Applicants whose address for service is Nos. 3F & 3G, 3rd Floor, Foh Chong Building, Jalan Ibrahim, Johore Bahru.

No.15

No.15

FURTHER AFFIDAVIT OF ZAKARIA BIN SULONG
IN OPPOSITION TO MOTION FOR DECLARATION
AFFIRMED 26TH OCTOBER 1972

Further Affidavit of Zakaria bin Sulong in opposition to Motion for declaration affirmed 26th October 1972

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IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion No. 4 of 1972

In the Matter of Section 3 of the Land Acquisition Act, 1960

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Applicants

and

The Government of the State of Johore Respondent

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AFFIDAVIT - IN - REPLY

TO

SUPPLEMENTARY AFFIDAVIT

I, Zakaria bin Sulong, Pengarah Tanah dan Galian, Johore, of Pejabat Pengarah Tanah dan Galian, Johore

In the High Court in Malaya at Johore Bahru

No.15

Further Affidavit of Zakaria bin Sulong in opposition to Motion for declaration affirmed 26th October 1972 (continued)

Bahru, do solemnly affirm and say as follows:-

1. I crave leave to refer to the Supplementary Affidavit of Syed Omar bin Abdul Rahman Taha Alsagoff tendered to the Court on the 10th day of October, 1972.

2. The plan referred to in Form D in Notification No. 55 appearing in the Johore Government Gazette dated 21st of January, 1971 shall be produced by me to the Court on the date of hearing of this motion.

3. The said plan is the only copy I have in my office and is not for sale to the public.

10

4. The plan attached to the Supplementary Affidavit of Syed Omar bin Abdul Rahman Taha Alsagoff is not a true copy of the plan referred to in the said Form D.

AFFIRMED by the abovenamed Zakaria bin Sulong at Johore Bahru this 26th day of October, 1972. Sd: Zakaria bin Sulong.

Before Me,

20

Sd: Mustapha b. Mohamed COMMISSIONER FOR OATHS, HIGH COURT, JOHORE BAHRU.

No.16

Further Affidavit of First Applicant Syed Omar bin Abdul Rahman Taha Alsagoff in support of Motion for declaration affirmed 13th December 1972

No.16

FURTHER AFFIDAVIT OF SYED OMAR BIN ABDUL RAHMAN TAHA ALSAGOFF IN SUPPORT OF MOTION FOR DECLARATION AFFIRMED 13TH DECEMBER 1972

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion No. 4 of 1972

30

In the Matter of Section 3 of the Land Acquisition Act, 1960

Between

Syed Omar bin Abdul Rahman Taha Alsagoff and Chee Kutty s/o Abu Bakar applicants

and

The Government of the State of Johore Respondent

A F F I D A V I T

In the High
Court in
Malaya at
Johore Bahru

I, SYED OMAR BIN ABDUL RAHMAN TAHA ALSAGOFF
make oath and say as follows:-

No.16

1. This Affidavit is in addition to my affidavits filed in this High Court on 4th day of June, 1972 and 8th day of October, 1972 in support of the abovementioned Originating Motion.

Further
Affidavit of
First
Applicant
Syed Omar
bin Abdul
Rahman Taha
Alsagoff in
support of
Motion for
declaration
affirmed 13th
December 1972
(continued)

2. I am advised and verily believe:-

10 (a) That before my acquisition proceedings are commenced the Collector prepares a plan as provided by Section 7(a) of Land Acquisition Act, 1960 of the whole area as needed for any of the purposes defined in Section 3 of the Land Acquisition Act, 1960.

20 (b) The State Authority will then decide whether any of the areas are needed for the purposes mentioned in Section 3 of the said Act and only if the lands are needed will a Declaration in Form D be published as required by Section 8(i) of Land Acquisition Act, 1960.

(c) The Declaration in Form D is conclusive evidence of the fact that the lands mentioned therein are needed for the purposes specified therein.

3. As the Form D refers to the plan I maintain that the plan is part and parcel of the Form D.

30 4. As the Government was requiring land for three purposes namely for a harbour, for housing and for industry I was interested to find out for which particular purpose my land was being acquired.

5. On inspecting the plan No. J7/3872 at the Land Office, Johore Bahru I discovered that the lands intended for the harbour, housing and industry had been clearly demarcated and my land was not for any of the said purposes as reported in the Government Gazette No. 55 dated 21st day of January, 1971.

40 6. However my land was marked for a purpose "keguna'an Khas" which does not fall within the purposes provided for by Section 3 of the Land Acquisition Act, 1960.

In the High Court in Malaya at Johore Bahru

No.16

Further Affidavit of First Applicant Syed Omar bin Abdul Rahman Taha Alsagoff in support of Motion for declaration affirmed 13th December 1972 (continued)

7. I had already started an industry as indicated in paragraph 2 of my affidavit filed on 4th day of June, 1972 and had applied to convert the land to industrial use as explained in paragraph 4 of the said affidavit to which I have had no reply to-date.

8. I therefore contend that the State Authority is acting mala fide and ultra vires their powers in acquiring my land in the circumstances.

AFFIRMED by the abovenamed)
 SYED OMAR BIN ABDUL RAHMAN) Sd: Syed Omar 10
 TAHA ALSAGOFF at Johore) bin Abdul
 Bahru this 13th day of) Rahman Taha
 December, 1972.) Alsagoff.

Before Me:

Sd: Mustapha bin Mohamed
 Commissioner for Oaths
 High Court, Johore Bahru.

This Affidavit was filed by Messrs. Jackson & Masacorale, Advocates & Solicitors for the above-named Applicants whose address for service is 20
 Nos. 3F & 3G, 3rd Floor, Foh Chong Building, Jalan Ibrahim, Johore Bahru.

No.17

No.17

Further Affidavit of Chee Kutty in support of motion for Declaration affirmed 12th December 1972.

FURTHER AFFIDAVIT OF CHEE KUTTY
 IN SUPPORT OF MOTION FOR DECLARATION
 AFFIRMED 12th DECEMBER 1972.

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion No. 4 of 1972

In the Matter of Section 3 of the Land Acquisition Act, 1960 30

Between

Syed Omar bin Abdul Rahman Taha
 Alsagoff and Chee Kutty s/o Abu Bakar Applicants

and

The Government of the State of Johore Respondent

A F F I D A V I T

I, CHEE KUTTY s/o ABU BAKAR made oath and say

as follows:-

1. This affidavit is in addition to my affidavits filed in this High Court on 4th day of June, 1972 and 8th day of October, 1972 in support of the above mentioned Originating Motion.

In the High Court in Malaya at Johore Bahru

No.17

2. I am advised and verily believe:-

Further Affidavit of Chee Kutty in support of motion for Declaration affirmed 12th December 1972.
(continued)

10 (a) That before my acquisition proceedings are commenced the Collector prepares a plan as provided by Section 7(a) of Land Acquisition Act, 1960 of the whole area as needed for any of the purposes defined in Section 3 of the Land Acquisition Act, 1960.

(b) The State Authority will then decide whether any of the areas are needed for the purposes mentioned in Section 3 of the said Act and only if the lands are needed will a Declaration in Form D be published as required by Section 8(i) of Land Acquisition Act, 1960.

20 (c) The Declaration in Form D is conclusive evidence of the fact that the lands mentioned therein are needed for the purposes specified therein.

3. As the Form D refers to the plan I maintain that the plan is part and parcel of the Form D.

4. As the Government was requiring land for three purposes namely for a harbour, for housing and for industry I was interested to find out for which particular purpose my land was being acquired.

30 5. On inspecting the plan No. J7/3872 at the Land Office, Johore Bahru I discovered that the lands intended for the harbour, housing and industry had been clearly demarcated and my land was not for any of the said purposes as reported in the Government Gazette No. 55 dated 21st day of January, 1971.

6. However my land was marked for a purpose "keguna'an Khas" which does not fall within the purposes provided for by Section 3 of the Land Acquisition Act, 1960.

40 7. I therefore contend that the State Authority is acting ultra vires their powers in acquiring my land

In the High Court in Malaya at Johore Bahru

No.17

Further Affidavit of Chee Kutty in support of motion for Declaration affirmed 12th December 1972. (continued)

in the circumstances.

AFFIRMED by the abovenamed)
CHEE KUTTY s/o ABU BAKAR)
at Johore Bahru this 12th)
day of December, 1972.)

Sd: Chee Kutty
s/o Abu Bakar.

Before Me:

Sd: Anthonysamy s/o Selvanaikam
Pesurohjaya Sumpah
(Commissioner for Oaths).

This Affidavit was filed by Messrs. Jackson & Masacorale, Advocates & Solicitors for the above-named Applicants whose address for service is Nos. 3F & 3G, 3rd Floor, Foh Chong Building, Jalan Ibrahim, Johore Bahru.

10

No.18

Affidavit of Eddie Chi Swee Guan in opposition to motion for declaration affirmed 12th September 1973

No.18

AFFIDAVIT OF EDDIE CHI SWEE GUAN
IN OPPOSITION TO MOTION FOR
DECLARATION AFFIRMED 12TH SEPTEMBER 1973

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion No. 4 of 1972

20

In the Matter of Section 3 of the Land Acquisition Act, 1960.

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Applicants

and

The Government of the State of Johore Respondent

AFFIDAVIT - IN - REPLY

I, EDDIE CHI SWEE GUAN, Make oath and say as follows:-

30

1. I am the Pegawai Perancang Negeri Johor stationed at Johore Bahru. I am authorised to make this Affidavit in reply to the Affidavits sworn by Syed Omar bin Abdul Rahman Taha Alsagoff on the 13th day of December, 1972 and the

Supplementary Affidavit sworn by Chee Kutty s/o Abu Bakar on the 12th day of December, 1972.

In the High Court in Malaya at Johore Bahru

No.18

Affidavit of Eddie Chi Swee Guan in opposition to motion for declaration affirmed 12th September 1973
(continued)

10 2. When the Government of the State of Johore was in the process of acquiring lands at Pasir Gudang for the purpose of Port, Residential and Industry, I prepared a draft layout plan for the proposed port and town in the area to be acquired by the Government. This I did at the request of the Pegawai Kemajuan Negeri cum Setia Usaha Pengangkutan dan Perindustrian Negeri, Johor. A copy of his letter dated 2nd April, 1970 requesting me to prepare the plan is submitted and attached herewith marked as exhibit "A".

3. As requested in paragraph 2 of Exhibit "A", I prepared the draft layout of the area showing the proposed zoning of the area to be acquired by the Government. Paragraph 2 of Exhibit "A" reads as follows:-

20 "Harap tuan teliti pelan ini dan sediakan layout sechara kasar dahulu bagaimana kawasan ini patut di-majukan. Keperluan² yang mesti diawasi ia-lah:-

(i) Satu kawasan Pelabohan sebanyak 300 ekar;

(ii) Satu kawasan Heavy Industry seluas 400 ekar;

(iii) Satu kawasan Medium Industry seluas 800 ekar;

30 (iv) Satu kawasan Light Industry seluas 300 ekar, dan

(v) Satu kawasan perumahan dan pekan kecil seluas 200 ekar. Kawasan ini ia-lah untuk menampung penduduk² seramai di-antara 10,000 - 12,000 orang."

40 4. Having completed the draft layout plan, I submitted it to the Pegawai Kemajuan Negeri Johor vide my letter dated 6th June, 1970. A copy of my letter dated 6.6.70 is exhibited herewith and marked "B". A copy of the draft layout plan I had prepared and submitted to the Pegawai Kemajuan Negeri Johor is attached herewith and marked "C".

5. When forwarding Exhibits "B" and "C" to the

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September 1973
(continued)

Pegawai Kemajuan Negeri Johor, I also sent copies of Exhibits "B" and "C" to the State Engineer Johore, the Commissioner of Lands and Mines Johore, the Collector of Land Revenue, Johore Bahru, and the Harbour Master Johore.

6. When forwarding the plan Exhibit "C" to the Pegawai Kemajuan Negeri Johor, I had also forwarded a report and explanation in Malay and English in connection with the plan as stated in paragraph 2 of my letter Exhibit "B". A copy of this report is attached herewith and marked as Exhibit "D".

10

7. The proposed zoning of this area as shown in the draft layout plan Exhibit "C" was not necessarily to be accepted by the State Government, and the State Government had the right either to agree, to reject, or to amend the zoning proposals of this area at its discretion. The proposed zoning remains my own proposal and does not indicate the final decision of the State Government of the zoning of this area.

20

8. My proposed zoning of this area is not intended to show the purpose of the acquisition of the area by the State Government. The purpose of the acquisition of this area remains as declared in Form D by the State Government under the Land Acquisition Act which declaration was published in the State of Johore Gazette dated 21.1.1971.

9. The expression "SPECIAL AREA" (translated into Malay on the plan Exhibit "C" as "KEGUNAAN KHAS") is explained in my report Exhibit "D" under the heading "SPECIAL AREA". Under that heading of "SPECIAL AREA" I stated: "An area of approximately 385 acres has been zoned for special purposes which includes recreation such as beaches for swimming, boating, picnic areas, camping sites, hotels, chalets and shops."

30

10. The plan Exhibit "C" containing my proposal of the zoning of the area had not been accepted by the State Government. Another layout plan and zoning of the area has now been submitted to the Pegawai Kemajuan Negeri Johor for his comments and advice after which it will be forwarded to the State Government for consideration. A copy of this new plan is attached herewith as Exhibit "E".

40

11. Therefore, the plan I have prepared and marked as Exhibit "C" which was referred to in the Form D which was gazetted on 21.1.1971 was not final and

was subject to alteration by the State Government.

AFFIRMED by the abovenamed
EDDIE CHI SWEE GUAN at
Johore Bahru this 12th day
of September, 1973.

Sd: EDDIE CHI
SWEE GUAN

In the High
Court in
Malaya at
Johore Bahru

No.18

Affidavit of
Eddie Chi
Swee Guan in
opposition to
motion for
declaration
affirmed 12th
September 1973
(continued)

Before Me,

Sdg. Illegible.
COMMISSIONER FOR OATHS
HIGH COURT JOHORE BAHRU.
12 SEP. 1973.

10

This Affidavit-in-Reply was filed by Tuan
Haji Mohd. Eusoff bin Chin, State Legal Adviser,
Johore for the above-named Respondent, whose
address for service is State Legal Adviser's
Chambers, Supreme Court Building, Johore Bahru,
Johore.

No.19

AFFIDAVIT OF ABDULLAH BIN MOHAMED
IN OPPOSITION TO MOTION FOR DECLARATION
AFFIRMED 13TH SEPTEMBER 1973

20

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion No. 4 of 1972

In the Matter of Section 3 of the Land Acquisition
Act, 1960.

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Applicants

And

The Government of the State of Johore Respondent

30

AFFIDAVIT - IN - REPLY

I, ABDULLAH BIN MOHAMED, Pemangku Pengarah
Tanah dan Galian, Johor, of Pejabat Tanah dan
Galian, Johore Bahru, do solemnly affirm and say as
follows:-

1. I crave leave to refer to the affidavit of Eddie

No.19

Affidavit of
Abdullah bin
Mohamed in
opposition to
motion for
declaration
affirmed 13th
September 1973

In the High
Court in
Malaya at
Johore Bahru

Chi Swee Guan, Pegawai Perancang Negeri Johor
filed in this Originating Motion on the 12th day
of September, 1973.

No.19

Affidavit of
Abdullah bin
Mohamed in
opposition to
motion for
declaration
affirmed 13th
September 1973
(continued)

2. I confirm that a copy of the plan referred to
in the affidavit of Eddie Chi Swee Guan as Exhibit
"C" was received by me. A copy of it is not
attached herewith as it is already attached to
the affidavit of Eddie Chi Swee Guan. Due to the
urgency of the acquisition and lack of large
scale plans of the area to be acquired by the
Government, I had used the said Exhibit "C" as the
plan showing the particular lands and the areas to
be acquired by the Government. Those whose lands
were affected by the acquisition proceedings
referred to in Form D published under Gazette
Notification No. 55 in Johore Government Gazette
dated 21.1.1971, were invited to inspect a copy
of the plan showing the area and the particular
land affected.

10

3. Although the plan contained the layout and
zoning of the area to be acquired, it is not
intended and it should never be interpreted that
the purpose of the acquisition is as what is shown
in the plan. The layout and zoning of the area
remains the proposal of the Pegawai Perancang
Negeri Johor, and the purpose of the acquisition
of those lands is as what is stated in the
declaration contained in the Form D, that is, for
"Pembinaan Pelabohan, Perumahan dan Perusahaan".

20

4. I therefore pray that this Originating Motion
be dismissed with costs.

30

AFFIRMED by the abovenamed)
ABDULLAH BIN MOHAMED at) Sd: Abdullah
Johore Bahru this 13th day) bin
of September, 1973.) Mohamed.

Before me,

Sd: Illegible
COMMISSIONER FOR OATHS
HIGH COURT, JOHORE BAHRU.

This Affidavit-in-Reply was filed by Tuan
Haji Mohd. Eusoff bin Chin, State Legal Adviser,
Johore for the abovenamed Respondent, whose address
for service is Estate Legal Adviser's Chambers,
Supreme Court Building, Johore Bahru, Johore.

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No.20

FURTHER AFFIDAVIT OF SYED OMAR BIN
ABDUL RAHMAN TAHA ALSAGOFF IN SUPPORT
OF MOTION FOR DECLARATION AFFIRMED
17th SEPTEMBER 1973

In the High
Court in
Malaya at
Johore Bahru

No.20

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion No: 4 of 1972

In the Matter of Section 3 of the Land Acquisition
Act, 1960.

Further
Affidavit of
Syed Omar
bin Abdul
Rahman Taha
Alsagoff in
support of
Motion for
declaration
affirmed 17th
September 1973

10

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Applicants

and

The Government of the State of Johore Respondent

A F F I D A V I T

I, SYED OMAR BIN ABDUL RAHMAN TAHA ALSAGOFF
make oath/affirm and say as follows:-

20

1. The Affidavit of Eddie Chi Swee Guan filed
herein on 12th September, 1973 has been read and
explained to me.

30

2. As for the contention that the layout plan
marked "C" was only a draft then it must follow
that the Gazette Notification of the Form D was
erroneous because it read thus "Pelan tanah dan
kawansan yang di-tentukan itu....." i.e. a plan of
the land and area ascertained. Moreover I am
advised and verily believe that plans are submitted
to the State Authority pursuant to Section 7 (a)
of the Land Acquisition Act, 1960 and only when it
decides that any of the lands referred to in
Section 7(a) of the Act are needed for any of the
purposes referred to in Section 3 of the Act does
it published a declaration in Form D in the Gazette.
Surely the State Authority does not decide upon
a draft plan. Moreover there was an interval of
about eight months between the alleged draft plan
being submitted to the State Authority (6/6/70) and
the Gazette Notification 55 (21/1/71).

40

3. Exhibit "A" of the said Affidavit explicitly
indicates the purpose of the intended acquisition

In the High Court in Malaya at Johore Bahru

and the acreage to be acquired as amounting to 2,000 acres. This is followed in the plan exhibit "C" and also in exhibit "D" the outline report.

No.20

Further Affidavit of Syed Omar bin Abdul Rahman Taha Alsagoff in support of Motion for declaration affirmed 17th September 1973 (continued)

4. However exhibit "D" and "C" show areas to be acquired for purposes other than those mentioned in exhibit "A" and am advised, in contravention of Section 3 of the Land Acquisition Act, 1960. Even the acreage of 5,713 acres to be acquired as shown in exhibit "C" and "D" is far in excess of the Government's needs (2,000 acres) as indicated in exhibit "A" for the gazetted purposes. This is about 200% increase. 10

5. I am advised and verily believe that the zoning of the area contrary to what is stated in paragraph (8) of the said affidavit is intended to show the purpose of the acquisition as this has a great bearing on the compensation to be awarded for injurious affection i.e. a landowner's adjoining land or part of the land contiguous to the land acquired may enhance in value or depreciate in value according to the zoning of the acquired land. 20

6. There is no evidence that the State Authority rejected the plan exhibit "C" as stated in paragraph 10 of the said affidavit. On the contrary it was the plan referred to and exhibited with the Declaration in Form D in the gazette which indicates that the State Authority accepted it.

7. I am informed and verily believe that if what is stated in paragraph 11 of the affidavit is correct then the Declaration in Form D should not have been gazetted or alternatively is of no effect. 30

8. As my land was already being used for the very same purposes as those stated in exhibit "D" viz. chalets, boasting, hotels, picnic areas etc., the intended acquisition of my said land for the same purposes by the Government would appear to show mala fide on their part. In fact I even applied for my land to be excised from the acquisition (exhibit "B" of my affidavit dated 4th June, 1972) to which I have had no reply. 40

AFFIRMED by the abovenamed)
 SYED OMAR BIN ABDUL RAHMAN)
 TAHA ALSAGOFF at Johor Bahru)
 this 17th day of September 1973)

Sd. Syed Omar
 Bin Abdul
 Rahman Taha
 Alsagoff.

Before me,

Sd.: MUSTAPHA BIN MOHAMED
 COMMISSIONER FOR OATHS,
 HIGH COURT, JOHORE BAHRU,
 17th SEPT., 1973.

This Affidavit was filed by Messrs. Jackson & Masacorale, Advocates & Solicitors for the above-named Applicants whose address for service is Nos. 3F & 3G, 3rd Floor, Foh Chong Building, Jalan Ibrahim, Johor Bahru.

In the High Court in Malaya at Johore Bahru

No. 20

Further Affidavit of Syed Omar bin Abdul Rahman Taha Alsagoff in support of Motion for declaration affirmed 17th September 1973 (continued)

No.21

FURTHER AFFIDAVIT OF SECOND APPLICANT
CHEE KUTTY IN SUPPORT OF MOTION FOR
DECLARATION AFFIRMED 17TH SEPTEMBER 1973

No.21

Further Affidavit of Chee Kutty in support of Motion for declaration affirmed 17th September 1973

10

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion No: 4 of 1972

In the Matter of Section 3 of the Land Acquisition Act, 1960

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar. Applicants.

and

The Government of the State of Johore Respondent

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A F F I D A V I T

I, CHEE KUTTY s/o ABU BAKAR make oath/affirm and say as follows:-

1. The affidavit of Eddie Chi Swee Guan filed herein on 12th September, 1973 has been read and explained to me.

2. As for the contention that the layout plan marked "C" was only a draft then it must follow that

In the High
Court in
Malaya at
Johore Bahru

No.21

Further
Affidavit of
Chee Kutty
in support of
Motion for
declaration
affirmed
17th September
1973
(continued)

the Gazette Notification of the Form D was erroneous because it read thus "Pelan tanah dan kawansan yang di-tentukan itu" i.e. a plan of the land and area ascertained. Moreover I am advised and verily believe that plans are submitted to the State Authority pursuant to Section 7(a) of the Land Acquisition Act, 1960 and only when it decides that any of the lands referred to in Section 7(a) of the Act are needed for any of the purposes referred to in Section 3 of the Act does it publish a declaration in Form D in the Gazette. Surely the State Authority does not decide upon a draft plan. Moreover there was an interval of about eight months between the alleged draft plan being submitted to the State Authority (6/6/70) and the Gazette Notification 55 (21/1/71).

3. Exhibit "A" of the said affidavit explicitly indicates the purpose of the intended acquisition and the acreage to be acquired as amounting to 2,000 acres. This is followed in the plan exhibit "C" and also in exhibit "D" the outline report.

4. However exhibit "D" and "C" show areas to be acquired for purposes other than those mentioned in exhibit "A" and am advised, in contravention of Section 3 of the Land Acquisition Act, 1960. Even the acreage of 5,713 acres to be acquired as shown in exhibit "C" and "D" is far in excess of the Government's needs (2,000 acres) as indicated in exhibit "A" for the gazetted purposes. This is about 200% increased.

5. I am advised and verily believe that zoning of the area contrary to what is stated in paragraph (8) of the said affidavit is intended to show the purpose of the acquisition as this has a great bearing on the compensation to be awarded for injurious affection i.e. a landowner's adjoining land or part of the land contiguous to the land acquired may enhance in value or depreciate in value according to the zoning of the acquired land.

6. There is no evidence that the State Authority rejected the plan exhibit "C" as stated in paragraph 10 of the said affidavit. On the contrary it was the plan referred to and exhibited with the Declaration in Form D in the gazette which indicates that the State Authority accepted it.

7. I am informed and verily believe that if what is stated in paragraph 11 of the affidavit is

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correct then the Declaration in Form D should not have been gazetted or alternatively is of no effect.

AFFIRMED by the abovenamed)
CHEE KUTTY s/o ABU BAKAR)
at Johore Bahru this 17th)
day of September, 1973,)
at 2.40 p.m.)

Sd: CHEE KUTTY
s/o ABU BAKAR.
(In Tamil).

In the High Court in Malaya at Johore Bahru

No.21

Further Affidavit of Chee Kutty in support of Motion for declaration affirmed 17th September 1973 (continued)

Before Me:

Sd: TEO CHENG TONG
COMMISSIONER FOR OATHS,
HIGH COURT, JOHORE BAHRU.
17th SEPT., 1973.

10

This Affidavit was filed by Messrs. Jackson & Masacorale, Advocates & Solicitors for the above-named Applicants whose address for service is Nos. 3F & 3G, 3rd Floor, Foh Chong Building, Jalan Ibrahim, Johor Bahru.

No.22

COURT NOTES OF EVIDENCE (WRITTEN
SUBMISSION ON BEHALF OF THE APPLICANTS)
20TH SEPTEMBER 1973

20

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion No. 4 of 1972

In the Matter of Section 3 of the Land Acquisition Act, 1960

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Applicants

and

30 The Government of the State of Johore Respondent

S U B M I S S I O N

The following is the submission on the facts and law by Counsel for the Applicants.

Submission on the Facts

The intended acquisition of the Applicants'

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Court notes of Evidence (Written submission on behalf of the Applicants) 20th September 1973)

In the High
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Johore Bahru

No.22

Court notes
of Evidence
(Written
submission on
behalf of the
Applicants)
20th September
1973)
(continued)

land declared in Form D pursuant to the Land Acquisition Act, 1960 was published on 21st January, 1971 in Johore Government Gazette Notification No. 55 shown as exhibit "A" in Syed Omar's Affidavit dated 4th June, 1972. The purpose of the intended acquisition was stated to be for Harbour, Housing and Industry. The same Gazette Notification referred to a plan (No. J7/3872) of the land and the ascertained area (Kawasan di-tentukan) being exhibited in the Land Office, Johore Bahru for examination. The Applicants examined the said plan exhibited as exhibit "C" in the affidavit of Eddie Chi dated 12th September, 1973.

10

The said plan of the land was demarcated and coloured to show which area was intended for Harbour, which for housing and which for Industry as clearly explained in the key to the plan. Although there were three purposes for the intended acquisition the Form D was vague and did not show which land was required for what purpose and the only evidence of the particular purpose of the intended acquisition of each plot of land was in the said plan exhibited in the Land Office. The Applicants examined their said plan and found that their land was demarcated for a purpose entitled "Special Use" (Kegunaan Khas).

20

It is evident from the Affidavit of Eddie Chi filed herein on 12th September, 1973 that the State Government had not made up its mind which land to acquire and for what purpose (paragraph 11). There is also evidence in the same affidavit that the State Government only required 2,000 acres for the declared purposes as indicated in exhibit "A" of the said Affidavit and in the 1st paragraph of exhibit "D". The Applicants' land is in the area of 385 acres shown in exhibit "C" as required for a Special purpose, and indicated in exhibit "D" as required for "recreation such as swimming boating, picnic areas, camping sites, hotels, chalets and shops". In fact the Applicant herein, Syed Omar, was using his land for the same purposes as indicated in exhibit "B" of his Affidavit dated 4th June, 1972. However the said purposes are not within the ambit of the declared purposes for acquisition. In the circumstances I submit -

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40

(sic)

- (a) that the declaration in Form D published in the Gazette was vague in that it did now show the particular purpose of the intended acquisition of the several pieces of land

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mentioned therein as there were three intended purposes. Moreover the plan referred to in the declaration showed more than the gazetted purposes, adding confusion to the whole situation.

In the High Court in Malaya at Johore Bahru

No.22

Court notes of Evidence (Written submission on behalf of the Applicants) 20th September 1973)
(continued)

- (b) the intended acquisition of the Applicants' land was for "Special Use" as evidenced in exhibit "C" and "D" of the Affidavit of Eddie Chi dated 12th September, 1973.
- 10 (c) the purpose "Special Use" is not one of the gazetted purposes of the intended acquisition nor is it a purpose covered by Section 3 of the Land Acquisition Act, 1960.
- (d) as the plan No. J7/3872 was specially referred to in the declaration of Form D in the gazette it is part and parcel of the declaration in Form D and is an exhibit, though for practical reasons was not attached to Form D but exhibited in the Land Office, Johore Bahru.
- 20 (e) the Respondent was uncertain and undecided as to how such of land was required and for what purpose as indicated by paragraphs (10) and (11) of the Affidavit of Eddie Chi filed herein on 12th September, 1973.
- (f) the Respondent acquired land far in excess of its needs for a harbour, housing and industry as evidenced by exhibit "A" and "D" in the Affidavit of Eddie Chi dated 12th September, 1973. The Government needed 2,000 acres for the intended purposes but acquired 5,713 acres (an excess of almost 200%) for other purposes as well.
- 30 (g) G.N. 55/71 Form D not properly signed - whole notification is bad.

Submission in Law

- 40 (a) Our Land Acquisition Act, 1960 is based on The Land Acquisition Act, 1894 of India. The Indian Act introduced a new Section 5A in 1923 for objections to compulsory acquisition while our Land Acquisition Act has no such provision incorporated in it.

However Article 13(1) of the Federal Constitution reads "No person shall be deprived of property save in accordance with law."

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Court in
Malaya at
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Court notes
of Evidence
(Written
submission on
behalf of the
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20th September
1973)
(continued)

It is also an honoured maxim in Equity that
"Equity will not suffer a wrong to be without a
remedy".

(b) Land acquired for a particular purpose cannot
be used for any other purpose

Gurut Das Kundu Chowdhry & Others

v.

The Secretary of State for India
in Council 1913 18 CLJ. p. 244.

"A Public body which has acquired land in
this country for one specific purpose may not
subsequently abandon that purpose and use the
land acquired for some other purpose for which
they have not acquired it". - p. 249 3rd paragraph.

10

Sanjiva Row's Law of Land Acquisition
and Compensation 6th Ed. 1966 p. 177 -
paragraph (f)

"Diversion of purposes - Diversion of purpose
from that which is expressly declared in the
declaration is prima facie objectionable".

20

15 Years Digest 1951-65 Vol:10 by
D.V. Chitale & S. Appurao page 146 -
2nd paragraph

"Acquisition cannot be justified on an
undeclared purpose".

(c) Vagueness in the declaration as to the area
or the purpose nullifies the proceedings -

M/s. Tinsukia Development Corpn. Ltd.

v.

State of Assam & Another AIR 1961 Assam
133.

30

Page 144 paragraph (23) implies that vagueness
in the declaration nullifies the proceedings.

Sanjiva Row's Law of Land Acquisition
and Compensation. 6th Ed. 1966 p.148
paragraph (k)

"Declaration vague - Effect -

If the declaration under this section is vague in regard to the essential matters required to be stated in it, it is bad in law, and the land acquisition proceedings based on such a declaration are invalid."

In the High Court in Malaya at Johore Bahru

No.22

(d) Insufficient particulars in the declaration is not in accordance with the law -

Court notes of Evidence (Written submission on behalf of the Applicants) 20th September 1973) (continued)

10

Ram Sewak v. State of UP and Others.
AIR 1963 Allahabad 24. Page 21 paragraph (b).

Compulsory Acquisition of Land in India by Om Prakash Aggravala 4th Ed. 1971 Vol: 1 page 146 4th paragraph.

"Sub-section (2) - what should every declaration contain - The essential particulars in a declaration are (a) a sufficient description of the land to be acquired (b) the purpose for which it is needed (c) its approximate area and (d) the place where the plan may be inspected".

20

(e) Conclusiveness of the declaration under Section 8(3) is based on the assumption that the declaration has been made within jurisdiction after complying with provisions of Section 7 a & b and Section (1) of the Land Acquisition Act, 1960.

Ram Charam Lal v. The State of UP
AIR 1952 p. 752 Page 753 paragraph (8).

Compulsory Acquisition of Land in India 4th Ed. 1971 Vol: 1 by Aggraval Page 158 3rd paragraph.

30

"It has however been held that though a declaration by Government is conclusive evidence of the scheme having been duly sanctioned and framed, it does not affect the suit by a claimant to declare that the purpose of the acquisition was ultra vires".

Sanjiva Row's Law of Land Acquisition and Compensation - 6th Ed. 1966 Page 169 - last paragraph.

(f) The preparation of a plan is obligatory under Section 7 of the Land Acquisition Act, 1960.

40

"Whenever any lands are needed for any of the purposes referred to in Section 3 the Collector shall prepare and submit to the State Authority

In the High
Court in
Malaya at
Johore Bahru

(a) a plan of the whole area of such lands, showing the particular lands, or parts thereof which it will be necessary to acquire; and ..."

This is in contrast with the India Act as expounded in

No. 22

Court notes
of Evidence
(Written
submission on
behalf of the
Applicants)
20th September
1973)
(continued)

Abdul Jabbar & Ors.

v.

State of West Bengal and Ors.

71 C.W.N. 129

Page 134 paragraph 6 (b) (ii) and 2nd
paragraph.

10

(g) Plan which is obligatory is part of the declaration or notification unlike the Indian Act.

The Fifty Years Digest (1901-1950)
Vol: 9 by Chitale & Ramaratnam
Page 2615 paragraph 6.

"Held that Section 6 requires land proposed to be acquired to be specified but it did not require a plan to be prepared at that stage and made a part of the notification."

20

(h) Proceedings are invalid and without jurisdiction if there is a difference between the declaration and the plan.

Gajendra Sahu & Ors.

v.

The Secretary of State for India in
Council 8 C.L.J. 1908 page 39.

Compulsory Acquisition of Land in India -

4th Ed. 1971 Vol. 1 by Aggravala Page
156 2nd paragraph.

30

(i) Purpose of acquisition relevant in
acquisition proceedings

Midnapur Zamindan Co. Ltd.

v.

Bengal Nagpur Pty Co. Ltd.

AIR 1941 Calcutta 465.

(j) Acquisition of land in excess of requirement is ultra vires.

In the High Court in Malaya at Johore Bahru

Trustees for the Improvement of Calcutta

No.22

v.

Chandra Kant Gosh

AIR 1920 PC 51 Page 51 - last paragraph.

Court notes of Evidence (Written submission on behalf of the Applicants) 20th September 1973)
(continued)

10 "Where an Act authorises land to be taken for the actual works only, a local authority, or other public body will be restrained from taking more than is actually necessary for such works."

Compulsory Acquisition of Land in India 4th Ed. 1971 Vol. 1 by Aggaravala Page 155 - last paragraph.

Sanjiva Row's Law of Land Acquisition and Compensation - 6th Ed. 1966 Page 177 paragraph (e).

20 "Where a Collector acquires the whole land of a claimant while the declaration relates only to a partial acquisition thereof the acquisition is illegal without a fresh publication".

(k) Errors in procedure should be read in favour of the party likely to be prejudiced by the error.

The Fifty Years' Digest (1901 - 1950)

Vol: 9 by Chitaliey & Ramaratnam Page 2606 - 2nd paragraph, entitled Land Acquisition.

30 "Where an officer whose duty it is to apply the provisions of an Act, such as the Land Acquisition Act commits an error of procedure every presumption should be made in favour of the party likely to have been prejudiced by the error".

- AIR (Vol.17) 1930 Masd. 836 (DB)

This is generally speaking only error of procedure.

(1) The declaration in Form D is only published "when the State Authority decides that any of the

In the High Court in Malaya at Johore Bahru

No.22

Court notes of Evidence (Written submission on behalf of the Applicants) 20th September 1973) (continued)

lands referred to in Section 7 are needed for any of the purposes referred to in Section -- Section 8 of Land Acquisition Act, 1960. It therefore follows that the State Authority must be certain and positive of the Lands they require and for what purpose, before a decision could be made.

(m) It is finally submitted that Section 6 of the Land Acquisition Act, 1894 of India corresponds to Section 8 of our Land Acquisition Act, 1960 except for the fact that under the Indian Act a plan is not obligatory.

10

I therefore pray for an Order in term of the Motion Papers.

Dated this 20th day of September, 1973.

Sd. Jackson & Masacorale

Solicitors for the Applicants
JACKSON & MASACORALE,
Advocates & Solicitors,
Nos. 3F & 3G, 3rd Floor,
Foh Chong Building,
Jalan Ibrahim,
Johore Bahru.

20

No.23

Court notes of Evidence (Written submission on behalf of the Respondent) (undated)

No.23

COURT NOTES OF EVIDENCE (WRITTEN SUBMISSION ON BEHALF OF THE RESPONDENT) UNDATED

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion No: 4 of 1972

In the Matter of Section 3 of the Land Acquisition Act, 1960

30

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Applicants

and

The Government of the State of Johore Respondent

WRITTEN SUBMISSION

May it please Your Lordship:

The two applicants in this Originating Motion are asking this Court to declare that the acquisition of their lands namely :-

Lot 4064, QT(MG) 82,

Lot 1336, EMR. 951,

Lot 2639, G. 8550

and Lot 2200, EMR. 1585, all in the Mukim of Plentong belonging to applicant Syed Omar bin Abdul Rahman Taha Alsagoff, and

10 Lot No. 2211, Mk.G.32,

Lot 2210, Mk.G.33

Lot 2201, EMR 1586, all in the Mukim of Plentong belonging to applicant Chee Kutty s/o Abu Bakar,

by the Government of the State of Johore is null and void on the grounds set out in their Motion Paper and their Affidavits attached thereto and filed in this Honourable Court on 4.6.1972.

20 2. The Applicants' ground as set out in their Motion Paper is that their said lands were not required by the Government for the purposes stated in Form "D" of the Land Acquisition Act, 1960, which was gazetted in the Johore Government Gazette No. 55 dated 21.1.1971. In that gazetted Form "D" it is stated that the lands are required for "Pembinaan Pelabohan, Perumahan dan Perusahaan" i.e. "Construction of port, Residential and Industrial". It is contended by the Applicants that the purpose of the acquisition of their lands is as stated in the plan referred to in paragraph 30 2 of the said Form "D". In that plan, the applicants contended, their lands are coloured under "Kegunaan Khas". Because of this colouring of the plan, the applicants contend that the purpose of the acquisition of their land is not as what was stated in the Declaration in gazetted Form "D", but as what is found on the plan. Please refer to their affidavits dated 13.12.1972 (in the case of Syed Omar).

40 3. By Chee Kutty's affidavit dated 8.10.1972, and Syed Omar's affidavit dated 10.10.1972 they informed the Court that the Government had taken possession of their lands on 22.4.1972 vide Form K

In the High Court in Malaya at Johore Bahru

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Court notes of Evidence (Written submission on behalf of the Respondent) (undated) (continued)

In the High
Court in
Malaya at
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No.23

Court Notes
of Evidence
(Written
submission
on behalf of
the
Respondent)
(undated)
(continued)

attached to their affidavit marked "C".

4. On 10.10.1972, when this case came before this Court, Your Lordship had rightly pointed out that lots 2211 and 2210 Mukim of Plentong as published in the schedule to Form D (page 77 of the Gazette Notification) did not appear to be in the name of Chee Kutty s/o Abu Bakar, but instead it was published under the name of Abu Bakar bin Mohideen. This however does not invalidate the schedule or the declaration in view of section 2(3) of the Land Acquisition Act 1960 which states:

10

"Any notification, declaration or other instrument made or issued under this Act shall be valid and effectual for all purposes notwithstanding that pieces or parcels of any lands referred to therein are held under different titles or by different persons."

5. A copy of the plan referred to under paragraph 2 of the gazetted Form "D" has been filed into this Court as Exhibit "C" attached to the affidavit of Eddie Chi Swee Guan dated 12.9.1973.

20

6. I submit that the Applicants are wrong when they contend that the purpose of the acquisition of their lands should be as what is stated in the plan.

7. The only purpose of the acquisition is as what is declared in the gazetted Form "D". Form "D" clearly says:-

" PENGISTIHARAN HENDAK MENGAMBIL

TANAH

30

(Sekshen 8)

Dengan ini diistiharkan bahawa tanah dan kawasan yang ditentukan dalam Jadual dibawah ini di kehendaki bagi maksud:

Pembinaan Pelabohan, Perumahan dan Perusahaan.

2. Pelan Tanah dan kawasan yang ditentukan itu boleh dipereksa di Pejabat Tanah dalam Daerah tempat tanah dan kawasan itu terletak, pada masa bekerja biasa".

(The English version is in Form D of the Act).

40

8. It is clear from paragraph one of this declaration that the lands mentioned in the Schedule including lands belonging to the applicants are needed for the purpose of the "Construction of port, Residential and Industrial".

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(sic) 9. Paragraph 2 of that Form "D" is purely an invitation to people whether their lands are effected by the acquisition or not if they so desire to inspect, during normal hours of business in the Land Office of the District in which such lands areas are situated, a plan of the particulars lands and areas "so specified" in the Schedule attached to that Form "D".

Court Notes of Evidence (Written submission on behalf of the Respondent) (undated) (continued)

10. "Schedule land" has been defined under section 2 of the Land Acquisition Act, 1960, to mean "any land or lands included in a schedule prepared under section 8 and appended to any declaration or notification in Form D, E, J and K".

11. Further, Section 2(2) of the Act states:

20 "Where in any notification, declaration or other instrument issued under this Act any locality referred to therein cannot, in the opinion of the authority promulgating such notification, declaration or other instrument otherwise be conveniently described, it shall be sufficient if the lands in such locality are described by their survey lot number or by the lot numbers of adjacent or surrounding lands."

30 13. The schedule of lands referred to in para one of Form "D" contains lot numbers of applicants' lands. In fact the gazetted declaration in Form "D" would be valid even without paragraph two, and without any plan of the area being made available for inspection by the public.

13. As regards para 2 of the gazetted Form "D", the other intention of the plan is to make known to the public the areas and boundaries of the areas of land affected by the acquisition.

40 14. The purpose of acquisition of the applicants lands as declared in Form "D" being a purpose approved by Section 3 of the Land Acquisition Act 1960, is therefore legal and valid.

15. May I refer to the affidavit of Eddie Chi Swee Guan dated 12th September, 1973 and filed in this Court.

In the High Court in Malaya at Johore Bahru

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Court Notes of Evidence (Written submission on behalf of the Respondent) (undated) (continued)

16. The plan referred to in para two of the Form "D" is the plan prepared by Eddie Chi Swee Guan, the State Planning Officer. He had prepared this plan from another plan submitted to him by the Pegawai Kemajuan Negeri Johor.

17. Paragraph one of Exhibit A attached to his affidavit says at line 3:

"Sila lihat pelan terkembar dimana telah ditanda garisan merah kawasan yang dimaksudkan",

and para 2 of that same Exhibit which say: 10

"Harap tuan teliti pelan ini dan sediakan layout sechara kasar".

18. What was required of the State Planning Officer was for him to prepare a draft layout of the Areas bounded by the "garisan merah". The plan of the layout he had drawn therefore is bounded by the red line which indicates the area to be acquired by the Government.

19. The affidavits of the applicants dated 17.9.1973 appear to be misleading. Paragraph 2 of this affidavit states that the plan was a draft plan and the state authority should not decide on a draft plan. I think the applicants intend to mislead this Honourable Court because if one reads the affidavit of the State Planning Officer, one would understand that the "draft" refers to the layout of the area, not to the boundaries of the area to be acquired. As I have stated earlier, para 2 of Exhibit A to the affidavit of the State Planning Officer says: 20

"Harap tuan teliti pelan ini dan sediakan layout sechara kasar bagaimana kawasan ini (this area) patut dimajukan". 30

20. I refer to paragraph (3) and (4) of the affidavits of the applicants dated 17.9.1973. There again it appears that the applicants do not understand paragraph 2 of Exhibit A attached to affidavit of the State Planning Officer.

21. Paragraph 2 of this Exhibit A, second sentence reads:- 40

"Keperluan-keperluan yang mesti diawasi ialah", which means:

"the requirements which must be given attention are.....".

In the High Court in Malaya at Johore Bahru

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Court Notes of Evidence (Written submission on behalf of the Respondent) (undated) (continued)

10 This does not mean that the State Planning Officer had only to prepare a layout as enumerated in para 2 of that Exhibit "A" of his affidavit. He was required, when preparing the layout of this particular area, to give particular attention to those requirements in addition to any other zoning (e.g. open space, roads, etc.) that he proposed to include in that area to be acquired by the Government.

22. I agree under Ex. A total 2,000 acres and the whole to be acquired 5713. This in reference to matters enumerated in paragraph. But it did not take into account the other requirements - shipping roads open space etc.

20 23. Para 5 of the Applicant's affidavit dated 17.9.1973 is again misleading because the compensation to be paid to land owners whose lands are to be acquired by the Government is not based on the use to which the acquired lands are to be put - (please see para 3(e) of the First Schedule to the Land Acquisition Act, 1960, which reads :-

"3. In determining the amount of compensation to be awarded for any scheduled land acquired under this Act the following matters shall not be taken into consideration :

(a)

(b)

30 (c)

(d)

(e) any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired."

40 24. I would refer to para 9 of, and to Exhibit "C" and Exhibit "D" to the affidavit of the State Planning Officer. It has been contended by the Applicants that the expression "Kegunaan Khas" is not a public purpose or any purpose enumerated in Section 3 of the Land Acquisition Act. Paragraph 9 of the affidavit of the State Planning Officer clearly explains that the word "Kegunaan Khas" is in fact a misinterpretation of the English words

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(continued)

"Special area". The correct interpretation should have been "Kawasan Khas", and "Kawasan Khas" or "Special Area" has been explained in Exhibit "D" to the affidavit of the State Planning Officer, at page 3 of that Exhibit, under the heading "Special Area" to mean: "An area of approximately 385 acres has been zoned for special purpose which includes recreation such as beaches for swimming, boating, picnic areas, camping sites, hotels, chalets and shops". The purpose to which "Kegunaan Khas" would be put would therefore comply with the provisions of Section 3 of the Land Acquisition Act, 1960.

10

25. I refer to the affidavit of Abdullah bin Mohamed, Acting Commissioner of Lands and Mines dated 13.9.1973. He has set out clearly in para 3 of his affidavit as to the reason why this plan, referred to as Exhibit "C" in the affidavit of the State Planning Officer, had been used as the plan which the public were invited to inspect to find out for themselves the particular lands and areas of land specified in Form "D". The reason given by him is that at that time due to the urgency of the acquisition and unavailability of large scale plans of the area to be acquired, the Land Office had no choice but to use this plan, the said Exhibit "C" to show "the particular lands and areas to be acquired."

20

26. I also repeat what is stated in paragraph 3 of the affidavit of Abdullah bin Mohamed dated 13.9.1973. 30

27. I refer to paragraph 6 and 7 of the affidavit (dated 13.7.72) of the Commissioner of Lands and Mines, Johore. Paragraph 6 clearly explains the purpose of the plan mentioned in the Form "D". Paragraph 7 of this affidavit mentions section 8 (3) of the Land Acquisition Act, 1960, which reads:

A declaration in Form D shall be conclusive evidence that all the scheduled land referred to therein is needed for the purpose specified therein"

40

It is therefore clear and unambiguous that the purpose of acquisition of the scheduled land must be as what is declared in the gazetted notification (Form D). The section says that the purpose of acquisition as stated in Form D is "conclusive evidence" that the land is needed for purpose specified "therein". I have underlined "therein" in this section as this word "therein" means "in

the said Form D".

28. The word "conclusive" as defined in Webster's New International Dictionary means "putting an end to debate or question; decisive; final".

10 In the case of *Re Hadleigh Castle Gold Mines, Ltd.*, 1900 2 Ch. 419 page 421, Cozens-Hardy, J. says "The first point raises a serious question under s. 51 of the Companies Act 1862 whether after the declaration of the chairman it is competent for the Court to receive evidence to impeach that declaration. Treating the matter apart from authority, it seems to me that this question must be answered in the negative. Section 51 enacts that 'unless a poll is demanded by at least five (now three; see 1948 Act, supra) members a declaration of the chairman that the resolution has been carried shall be deemed conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the same'. 'Conclusive' seems to me to be a clear word..... I cannot regard 'Conclusive' as equivalent to 'sufficient', I think the Legislature intended . . . that the chairman's declaration should be conclusive unless challenged by means of a poll demanded by five (three) members."

20

30 Again, in *Kerr v. Mottram (John) Ltd.*, 1940 Ch. 657, Page 660, "the articles of a company provided that the minutes of meetings of the company and of directors if purporting to be signed by the chairman of the next succeeding meeting should be "conclusive evidence" without any further proof of the facts therein stated. A shareholder in an action against the company proposed to call evidence challenging the accuracy of minutes so signed. Simonds, J. in this case states: "I have no doubt the words "conclusive evidence" means what they say; that they are to be a bar to any evidence being tendered to show that the statements in the minutes are not correct."

40 Therefore, the purpose of the acquisition of the applicants' lands as declared in Form D, i.e., for Construction of Port, Residential and Industrial, shall be "conclusive evidence" that these lands are needed for that purpose, and this Honourable Court should reject any evidence adduced, or any attempt by, the applicants to show that what is declared in the gazetted Form D is not what the purpose of the acquisition is.

In the High Court in Malaya at Johore Bahru

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Court Notes of Evidence (Written submission on behalf of the Respondent) (undated) (continued)

In the High
Court in
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Johore Bahru

See P.C. Wijeyesekera v. Festing (1919) AC. 646
at 648 paragraph 4. Decision of Government - Final.

Aggrawal 3rd Ed. page 74-5 (sub-section 3)
Declaration conclusive see Ed. Ord. s.4(3).

No.23

Court Notes
of Evidence
(Written
submission
on behalf of
the
Respondent)²
(undated)
(continued)

Use of other plan - affidavit of Commissioner,
Encik Abdullah bin Mohamed, re Plans see Aggrawala
page 82 paragraph 4. Measurement and preparation
of plans.

In the circumstances I submit that this
application should be dismissed with costs.

10

Sgd.

(HAJI MOHD. EUSOFF BIN CHIN)
STATE LEGAL ADVISER, JOHORE.

for and on behalf of the Respondent.

No.24

Court Notes
of Evidence
26th June
1973 - 4th
June 1974
and Judgment

No.24

COURT NOTES OF EVIDENCE DATED
26TH JUNE 1973 - 4TH JUNE 1974
AND JUDGMENT

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion No: 4 of 1972

20

In the Matter of Section 3 of the Land Acquisition
Act, 1960.

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Applicants

and

The Government of the State of Johore Respondent

Notes of Evidence

Before me in Open Court

This 26th day of June, 1973. 30

Sgd. S. Othman Ali

Judge, Malaya.

O.M. 4/72

S. Omar Alsagoff v. Govt. of Johore

U. Masacorale for Applicant

Eusoff Chin for Respondent.

In the High
Court in
Malaya at
Johore Bahru

No.24

Court. If I am not mistaken I did ask last time that the facts of the case be settled by affidavit. Has this been done.

Court Notes
of Evidence
26th June
1973 - 4th
June 1974
and Judgment
(continued)

Eusoff I shall be calling 2 witnesses: Town Planner and Collector.

10 Court. Why can't they put up affidavit so that the other party would have an opportunity of studying them and if need be to reply. Has the plan which was seen by applicants been agreed to.

The Court

Recess to enable counsel to get together.

Parties agree that respondent will put up further affidavit and to settle on facts before submission.

Till 20th September, 1973.

20

20th September, 197320th September
1973.

Parties as before.

U. Masacorale I submit written submissions and would ask Court to consider them.

Applicants'
Counsel

Eusoff Chin I have just been supplied with a copy of the submissions. I would like to answer a few points. I submit my written submission.

Respondent's
Counsel

U. Masacorale - reads submission - 10.00 a.m.

Applicants'
Counsel

30

Eusoff Chin Form D no requirement to be signed Section 5 & 6. I am not informed about this at all. Counsel gave no indication that he wanted to raise this point.

Respondent's
Counsel

Court. On this point I may have to give another date for continuation. The question is can a party seeking a declaration on a ground which has been specified raise new grounds without

The Court

In the High
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Johore Bahru

leave of the Court and without giving notice
to the other party.

Haji Eusoff I have had no time to look this up.

No.24

10.00 a.m.

Court Notes
of Evidence
26th June
1973 - 4th
June 1974
and Judgment
(continued)

Court: I would give recess for $\frac{1}{2}$ hour to enable
counsel to argue on whether I should consider
the new points which have been raised.

Court sits at 10.30. Parties as before.

Respondent's
Counsel

Haji Eusoff Order 52 Rule 3. Order 19 Rule 15.
page 253 Mallals page 254. Case commenced
last year, June. Form D was in fact attached
to Motion Paper. Point should have been
raised earlier in the Motion paper itself.
I have been taken by surprise. I ask the Court
to reject any new point raised and to consider
only the points which were raised in the motion
paper.

10

Defect if at all is pretext and not
latest.

The question is whether an injustice has
been done to the other side. The compensation
assessed by the Collector has been accepted
by the applicants under protest. S. Omar
\$133,520/- Chee Kutty \$18,140. I submit that
the question of regazetting does not arise.

20

Applicants'
Counsel

U. Masacorale I am not disputing that. I say
that this is new evidence which should have
been deposed in affidavit. Order 52 Rule 3
does not apply - relates to ex-parte and
interpreters. Order 19 Rule 15 refers to
pleadings. This is a matter of law.

30

Respondent's
Counsel

Haji Eusoff The ground, I submit, should have
been specifically raised - in the motion paper.
I have not got the C.L.M. paper.

The Court

Court: Please continue with the arguments.

Respondent's
Counsel

Haji Eusoff: reads written submission.

Applicants'
Counsel

U. Masacorale replies p.1 "Kegunaan Khas" -
colouring and key. p.3 paragraph 12 re section
2(2). This relates to notification under
section 4.

40

Notification of intention Form A.

In the High Court in Malaya at Johore Bahru

Page 4 paragraph 17. Other plan not exhibited.

Page 5 paragraph 22 "purposes" - do not come under the declared purposes - could come under "public purpose" but not under purposes which have been declared.

No.24

Court Notes of Evidence 26th June 1973 - 4th June 1974 and Judgment (continued)

Zoning at page 6. Compensation affected.

10 "Conclusive evidence". If declaration is in accordance with law it is conclusive. If not, it is not conclusive.

2000 acres - satellite town - 200% more.

C.A.V.

4th day of June, 1974.

4th June 1974

U. Masacorale for Applicants

Zainuddin for respondent.

Judgment delivered. Application dismissed with costs.

No.25

No.25

20 FOUNDATIONS OF JUDGMENT OF SYED OTHMAN J.
DATED 3RD JUNE 1974

Grounds of Judgment of Syed Othman J. 3rd June 1974

IN THE HIGH COURT IN MALAYA AT JOHORE BAHRU

Originating Motion No. 4/72

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff

and

Chee Kutty s/o Abu Bakar

Applicants

and

The Government of the State of Johore

Respondent

30 JUDGMENT OF SYED OTHMAN. J

Syed Othman J.

The questions to be determined in this application are:

In the High
Court in
Malaya at
Johore Bahru

No.25

Grounds of
Judgment of
Syed Othman J.
3rd June 1974
(continued)

(1) Whether the acquisition of some lands under Johore Gazette Notification (G.N.) 55 of 1971 is invalid by reason of the fact that they were shown to be within a "special area" in the plan referred to in the G.N. for inspection and not for purposes mentioned in the declaration;

(2) Whether all lands under the G.N. are acquired in bad faith by reason, it is said, that the Government is acquiring land more than its actual needs;

10

(3) Whether the acquisition proceedings are bad because the declaration in the G.N. does not bear the name of the person who held the office of the Commissioner of Lands and Mines.

The applicants at first seek a declaration that the acquisition proceedings by the Johore Government of their lands in the Mukim of Plentong, District of Johore Bahru are illegal on the ground that they are not for the declared purpose of a port, housing and industry, as on inspecting a plan referred to as available for inspection they found that these lands were within an area marked "keguna-an Khas" (special use).

20

The declaration of acquisition reads:-

30

"No.55

UNDANG2 PENGAMBILAN TANAH, 1960

BORANG D.

Perishtiharan Hendak Mengambil Tanah

(Sekshen 8)

Dengan ini di-ishtiharkan bahawa tanah dan kawasan yang di-tentukan dalam Jadual di-bawah ini di-kehendaki maksud:

40

Pembinaan Pelabohan, Perumahan dan Perusahaan.

2. Felan tanah dan kawasan yang di-tentukan boleh di-pereksa di-Pejabat Tanah dalam Daerah tempat tanah dan kawasan itu terletak, pada masa bekerja biasa.

In the High Court in Malaya at Johore Bahru

Bertarikh pada 18hb Januari, 1971 (PTG.J(R) Bil.1; PHTJB.7/2/70)".

No.25

PESUROMJAYA".

Grounds of Judgment of Syed Othman J. 3rd June 1974 (continued)

10 The first applicant in his affidavit complains that he has developed 3 pieces of his land as a beach and a holiday resort by building chalets, a restaurant and other amenities to attract tourists, he has obtained a first class hotel licence in 1969, but his application for converting this land from agricultural to building use has met with no response.

20 The second applicant complains that his lands have been in the family for forty years, his family derived their livelihood from them, and the compensation awarded was minimal and which he has accepted under protest.

The Pengarah, Tanah & Galian (Director of Lands and Mines) in his affidavit of 13th July 1972 says in effect that the plan was merely to show the boundaries of the lands to be acquired and should not be taken to show that the particular portions of lands are required for purposes other than those stated in the gazette notification.

30 The State Planning Officer in his affidavit says that when the State Government was in the process of acquiring lands for the purposes mentioned, he prepared a draft layout plan for the proposed port and town in the area; he did this at the request of the State Development Officer by a letter of 2nd April, 1970; in preparing the draft layout of the area he proposed the zones for port, heavy industry, medium industry, light industry, and housing; as regards the "special area", he zoned approximately 385 acres for special purposes which include recreation such as beaches for
40 swimming, boating, picnic areas, camping sites, hotels, chalets and shops"; his proposal for this "special area" was not intended to show the purpose of the acquisition of the area; in any case, his proposal was not accepted by the Government; he has submitted another proposal which shows that the "special use" is now for shipyard and heavy industry, (as per plan attached to the affidavit),

In the High
Court in
Malaya at
Johore Bahru

No.25

Grounds of
Judgment of
Syed Othman J.
3rd June 1974
(continued)

and this has been approved by the Govern-
ment.

The applicants in their affidavits in reply contend that the State Government cannot acquire land merely on a draft plan, that the plan referred to in the acquisition declaration form could only be the plan submitted to the State Authority under section 7(a) of the Land Acquisition Act, 1960, and it therefore follows that the notification in Form D was erroneous, since the notification reads "Pelan tanah dan kawasan yang ditentukan itu" (a plan of the land and area ascertained).

10

The other parts of the affidavits in reply question the bona fide of the Government in the whole acquisition proceedings as from the affidavit of the State Planning Officer the State Development Officer instructed him by letter of 2nd April, 1970 to prepare a layout plan covering an area of 2,000 acres only. It is therefore alleged that the Government is acquiring land far in excess of its requirements - 5,713 acres as against 2,000 acres proposed by the State Development Officer.

20

I think it is necessary to go through the relevant provisions of the Land Acquisition Act, 1960. Section 7 provides that when any lands are needed for any of the purposes in section 3, the Collector shall prepare and submit to the State Authority a plan of the whole area of such lands showing the particular lands or parts thereof; he shall also prepare a list of the lands. By section 8 when the State Authority decides to acquire any of the lands, a declaration in form D must be published. It is a matter for the State Authority to decide which lands in the Collector's list are needed. The State Authority may amend the list. But the list amended or not must be included in a schedule to that declaration in Form D. By section 8(3) the declaration is conclusive evidence that the lands in the schedule are needed for the purposes specified therein. The form followed by the Commissioner was the Bahasa version of Form D in the Schedule to the Act.

30

40

50

Question I

(sic)

10

20

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40

50

Paragraph 1 of G.N. 55 of 1971, in my view, if the crucial part. It contains the substance in that it declares that all the lands are required for the construction of a port and for residential and industrial purposes. Paragraph 2, I should say, is elucidatory to paragraph 1. It is unfortunate that the Commissioner should have used a draft layout plan which was not approved by the Government and showing the zoning of areas which did not correctly reflect the intention of the Government. The Commissioner says that the plan should not be taken to show that the lands are required for other than the declared purposes. But that is all the more reason that the plan should not have been used at all for inspection. I fail to understand why a plan showing the boundaries of the areas affected could not have been used. The plan which should have been used was the plan which the Collector submitted under section 7, as amended if need be, in accordance with section 8, in reference to the list of lands to be acquired. No reason has been given as to why this plan was not used. The State Planning Officer says another plan approved by the Government shows that the applicants' lands are within the area for a ship-yard and heavy industry. No reason has been given as to why this plan was not used for inspection. I have no doubt the plan for inspection was put up by mistake and which should not have occurred at all. But I cannot see anything in law which prevents a mistake from being corrected. In land acquisition proceedings, a mistake may occur in the description of the land or the portion of land to be acquired or in the name of the owner. Such a mistake is always curable. Similarly the use of a wrong plan for inspection as referred to in a gazette notification can always be corrected by putting up the correct plan. Even if this was not done, in my view, the material or substantive part of the declaration is in paragraph 1 of the gazette notification; it clearly indicates that the applicants' lands are in the list of lands needed for public purposes mentioned in the notification. I am also of the view that paragraph 2 which relates to the plan is merely procedural and on the principle of falsa demonstratio non nocet, the plan referred to in paragraph 4 cannot be taken as restricting or nullifying the effect of the declaration in paragraph 1 of the G.N. (see Midnapur Zamindari Co., Ltd. v. Bengal Nagpur Railway Co. Ltd., A.I.R.

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Grounds of
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Syed Othman J.
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Court in
Malaya at
Johore Bahru

No.25

Grounds of
Judgment of
Syed Othman J.
3rd June 1974
(continued)

1941 Cal. 465; page 156 Compulsory Acquisition of Land in India by Om Prakash Aggarawala) 4th Ed. In the case here it should have been obvious to the applicants that there must have been a mistake, and I cannot see any reason why they could not have made enquiries from the Commissioner when they first saw the plan. I therefore find that the mistake in the plan put up for inspection does not invalidate the acquisition of applicants' land.

10

Question 2

It is contended that the Government is acquiring the lands in bad faith, as it is acquiring lands far in excess of the need for the public purposes mentioned in the G.N. which is said to be 2,000 acres. The total area the Government has acquired under the G.N. is 5,715 acres. The explanation of the Government's side is that 2,000 acres reflect only the exact need which does not include incidentals e.g. roads, drains, open space, gardens and vehicle parks. I think it should be common knowledge that more lands are used than their exact needs. If a person wants to build for himself a dwelling house of say 30 feet by 70 feet he requires more than what it is exactly intended for the house, so as to allow himself a patch of garden or to be some distance away from his neighbours. For this I think, he would require a piece of land at least 6,000 square feet which is about three times more than the exact area required for the house. Similarly in acquiring land, say, for a school, the building itself usually occupies an acre, but the Government does not acquire exactly that one acre. The Government will have to acquire at least 5 acres so that there may be a canteen, playground etc. for the children. And in acquiring land for a road, I do not think it would be good sense to acquire just the bare width of the road to be built, without taking into account the side-table, the drain to be built, cables and water pipes to be laid alongside the road, and also the future widening of the road itself with the increase in traffic. The law allows for these incidentals. The relevant portion of section 30 of the Interpretation and General Clauses Ordinance, 1948 reads :-

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"Where a written law confers power on any person to do.... any act or thing, all such powers shall be understood to be also conferred as are reasonably necessary to enable the person to do.... the act or thing."

In the High Court in Malaya at Johore Bahru

No.25

Grounds of Judgment of Syed Othman J. 3rd June 1974 (continued)

10 In the case here, the Government is building a new industrial town with a port. It cannot be denied that all this is for the public good and not for the benefit of a few individuals. The Government has said that all the lands are required for the purposes declared in the notification. I do not think it is desirable to take the Government to task by requiring it to account for every inch of the lands it is acquiring. The applicants should show more than what they have shown in order to establish bad faith. The onus is on them and it is a heavy one. On the evidence shown in the present case, they have not shown any bad faith on the part of the Government.

20 Apart from that, the applicants here are relying on what transpired in the planning stage in 1970. From the affidavits by the Government side the proposal for the 2,000 acres was by the State Development Officer in April, 1970. It is clear from what transpired afterwards that the State Authority itself was of the mind that more lands were needed. And hence the declaration of 5,713 acres which was made in June, 1971. The plan relied upon the applicants themselves clearly shows that except for the 385 acres other areas are within the declared public purposes. On this ground by itself, they are not entitled to question acquisition of other areas.

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Question 3

40 In the course of argument counsel for the applicants also points out that as the declaration in the gazette notification does not bear the name of the officer who held the office of Commissioner of Lands and Mines, the whole of the acquisition proceedings are, therefore, it is said, invalid. To this I need only say it is undesirable for counsel to raise at the stage of arguments in a motion, issues which are not deposed in the affidavit, or referred to in the motion. Notice is required so as to give the other side an opportunity to reply to the issues. If indeed the Commissioner did not sign the declaration then it is a matter for the applicants to secure an affidavit from him to that effect. The onus is on them. This they have not

In the High
Court in
Malaya at
Johore Bahru

No.25

Grounds of
Judgment of
Syed Othman J.
3rd June 1974
(continued)

done. Ordinarily I would stop here and refuse to deal with the matter. But the Government side has indicated that original was in fact signed and copies in the relevant file bear the initials of the Commissioner. If it had not been signed, the Government Printer, would not have published the notification; and the practice of the printer is that if the signature is illegible he will only print the title of the office omitting the name of the Officer; the printer is unable to produce the original as most of his unwanted papers were destroyed when the printing office moved to another premises. I accept the explanation, but I feel that the Commissioner should have shown his name in print under his signature as required by some government direction. As a matter of law, there is no provision in the Act which appears to require that the declaration, which in law in the act of the State Authority, must be signed by the Commissioner. In contrast, under section 6(1) of the Indian Land Acquisition Act, 1894 (the equivalent of our section 8), there is a specific requirement that a declaration of acquisition shall be made under the signature of a Secretary to the appropriate Government or some officer duly authorised to certify its orders. Whatever may be said of the omission to insert the Commissioner's name in the G.N. there is nothing to show that the State Authority does not in fact need the lands for the purposes declared in the notification or that the applicants were misled by the omission. The applicants themselves all along admit to the fact of acquisition. In the circumstances of this case, I do not consider the omission affects the validity of the acquisition.

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As to the complaints of the applicants which I have set out above, I need only say that their private interests in or sentimental attachments to their lands cannot override public needs. There are other areas where they can develop their private interests and give new attachments with the compensation which they have received from the Government for the acquisition. If they are dissatisfied with the amount given they should seek redress in the appropriate manner.

40

The application is dismissed with costs to the respondent.

Johore Bahru,
3rd June, 1974.

Sgd:
(Syed Othman bin ali)
Judge, High Court, Malaya.

50

Solicitors:

Encik Upali Masacorale (M/s. Jackson & Masacorale)
for the applicants.

Tuan Haji Eusoff bin Chin, State Legal Adviser,
for the respondents.

No.26

COURT ORDER DATED 3RD JUNE 1974IN THE HIGH COURT IN MALAYA AT JOHORE BAHRUOriginating Motion No. 4 of 1972

In the Matter of Section 3 of the Land Acquisition Act, 1960.

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Applicants

10 and

The Government of the State of Johore Respondent

BEFORE THE HONOURABLEIN OPEN COURTMR. JUSTICE SYED OTHMAN.THIS 3RD DAY OF JUNE,
1974.O R D E R

THIS MOTION coming on for hearing on the 10th day of October, 1972, the 26th day of June, 1973 and the 20th day of September, 1973 in the presence of Mr. Upali Masacorale of Counsel for the Applicants and Tuan Haji Mohd. Eusoff bin Chin, State Legal Adviser, of Counsel for the Respondent AND UPON READING the Motion Paper filed herein on the 4th day of June, 1972 and the Affidavit of Syed Omar bin Abdul Rahman Taha Alsagoff filed herein on the 4th day of June, 1972 and the Affidavit of Chee Kutty s/o Abu Bakar filed herein on the 4th day of June, 1972 and the Affidavit of Zakaria bin Sulong filed herein on the 2nd day of September, 1972 and the Affidavit of Zakaria bin Sulong filed herein on the 2nd day of September, 1972 and the Supplementary Affidavit of Syed Omar bin Abdul Rahman Taha Alsagoff filed herein on the 10th day of October, 1972 and the Supplementary Affidavit of Chee Kutty s/o Abu Bakar filed herein on the 10th day of October, 1972 and the Affidavit of Zakaria bin Sulong filed herein on the 29th day of October, 1972 and the Affidavit of Syed Omar bin Abdul Rahman Taha Alsagoff filed herein on the 13th day of December, 1972 and the Affidavit of Chee Kutty s/o Abu Bakar filed herein on the 12th day of December, 1972 and the Affidavit of Eddie Chi Swee

In the High
Court in
Malaya at
Johore BahruNo.26Court Order
3rd June 1974

In the High
Court in
Malaya at
Johore Bahru

No.26

Court Order
3rd June 1974
(continued)

Guan filed herein on the 13th day of September, 1973 and the Affidavit of Abdullah bin Mohamed filed herein on the 13th day of September, 1973 and the Affidavit of Syed Omar bin Abdul Rahman Taha Alsagoff filed herein on the 18th day of September, 1973 and the Affidavit of Chee Kutty s/o Abu Bakar filed herein on the 18th day of September, 1973 AND UPON HEARING the evidence adduced and what was alleged by Counsel for the Applicants and for the Respondent as aforesaid THIS COURT DID ORDER that this Motion should stand adjourned for judgment AND UPON this Motion standing for judgment this day in the presence of Counsel for the Applicants and for the Respondent as aforesaid THIS COURT DOTH ORDER that the application be and is hereby dismissed AND THIS COURT DOTH FURTHER ORDER that the costs of this Motion be taxed and paid by the Applicants to the Respondents.

10

Given under my hand and the seal of the Court,
this 3rd day of June, 1974.

20

Sd: K.N. SEGARA,

L.S. SENIOR ASSISTANT REGISTRAR,
HIGH COURT, JOHORE BAHRU.

In the
Federal
Court of
Malaysia
(Appellate
Jurisdiction)

No.27

NOTICE OF APPEAL DATED 24TH JUNE
1974

IN THE FEDERAL COURT OF MALAYSIA

(APPELLATE JURISDICTION)

CIVIL APPEAL NO: 88 of 1974

30

Notice of
Appeal
24th June
1974

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Appellants

and

The Government of the State of Johore Defendant.

(In the Matter of Originating Motion No. 4 of 1972
in the High Court in Malaya at Johore Bahru

In the Matter of Section 3 of the Land Acquisition

Act, 1960.

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Applicants

and

The Government of the State of Johore Respondent)

In the
Federal
Court of
Malaysia
(Appellate
Jurisdiction)

No.27

Notice of
Appeal
24th June
1974
(continued)

NOTICE OF APPEAL

10

TAKE NOTICE that Syed Omar bin Abdul Rahman Taha Alsagoff and Chee Kutty s/o Abu Bakar the abovenamed appellants being dissatisfied with the decision of the Honourable Mr. Justice Dato Syed Othman given at Johore Bahru on the 4th day of June, appeals to the Court of Appeal against the whole of the said decision.

Dated this 24th day of June, 1974.

Sd: Jackson & Masacorale.
Solicitors for the Appellants

To. The Government of the State of Johore.

No.28

No.28

20

MEMORANDUM OF APPEAL DATED 4TH
AUGUST 1974

Memorandum
of Appeal
4th August
1974

IN THE FEDERAL COURT OF MALAYSIA

(APPELLATE JURISDICTION)

CIVIL APPEAL NO. 88 of 1974

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Appellants

and

The Government of the State of Johore Respondent

30

(In the Matter of Originating Motion No. 4 of 1972
in the High Court in Malaya at Johore Bahru)

In the Matter of Section 3 of the Land Acquisition
Act, 1960.

In the
Federal
Court of
Malaysia
(Appellate
Jurisdiction)

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Applicants

and

The Government of the State of Johore Respondent

No.28

Memorandum
of Appeal
4th August
1974
(continued)

MEMORANDUM OF APPEAL

Syed Omar bin Abdul Rahman Taha Alsagoff and Chee Kutty the Appellants abovenamed appeal to the Federal Court against the whole of the decision of the Honourable Datuk Syed Othman, Judge given at Johore Bahru on the 4th day of June 1974 on the following grounds -

10

1. The Learned Trial Judge erred in law and in fact when he held that the purported acquisition of the lands vide Johore Gazette Notification No. 55 of 1971 was valid in that -

(a) the layout plan used by the Commissioner of lands defined the lands as being for special use (Reguna-an-Khas) and not for a port housing and industry as in the Gazette Notification;

20

(b) A mistake occurring in land acquisition proceedings can be cured (which is denied) by substituting a correct plan in the absence of evidence that there was such a Substitution;

(c) The plan was merely a matter of procedure rather than of substance;

(d) An onus is cast on the applicants to inquire on and rectify the mistake in the Commissioner's plan.

30

2. The Learned Trial Judge erred in law and in fact and failed to direct his mind on the substantial excess in the area of the lands which Government acquired in that -

(a) he sought to explain away the excess acquisition by assuming that there were incidentals e.g. roads drains open space gardens and vehicle parks which had not been included in the original area.

40

- (b) he imported common knowledge and illustrations without any legal or other basis for such an assumption.
- (c) Section 30 of the Interpretation and General Clauses Ordinance cannot be construed to enable an excess of power as distinct from an incidental to a power.

In the
Federal
Court of
Malaysia
(Appellate
Jurisdiction)

No.28

10 3. The Learned Trial Judge erred in law and in fact by giving great emphasis to Governments proposals so as to justify the excess in the area acquired by Government whereas by the canons of interpretation, a statute which expropriates property being a Penal statute has to be construed and implemented very strictly as against Government and beneficially as against the individual.

Memorandum
of Appeal
4th August
1974
(continued)

20 4. The Learned Trial Judge did not direct or sufficiently direct his mind to the fact that the acquisition conceived for one purpose was subsequently intended for a different purpose, in circumstances amounting to the acquisition being ultra vires.

5. The Learned Trial Judge did not direct or sufficiently direct his mind to the bona fide of the Respondent in acquiring the Appellants' land in that -

- (a) The Respondent acquired land for in excess of their needs. (sic)
- 30 (b) the purpose of the intended acquisition in the first instance was for the very same purpose the Appellants were utilizing the said land at the time.
- (c) the Respondent did not answer the letters of the Appellants for conversion of the said land.
- (d) the Respondent deliberately omitted to mention the purpose for the acquisition of the Appellants' land.
- (e) the land was ultimately acquired for a Shipyard.

40 Dated this 4th day of August, 1974.

Sd. Jackson & Masacorale.
Solicitors for the Appellants.

In the
Federal
Court of
Malaysia
(Appellate
Jurisdiction)

To:

The Chief Registrar,
Federal Court of Malaysia,
KUALA LUMPUR.

The Senior Assistant Registrar,
High Court,
JOHORE BAHRU.

No.28

Memorandum
of Appeal
4th August
1974
(continued)

The Government of the State of JOHORE.

The address for service of the Appellants
are care of Messrs. Jackson & Masacorale, Advocates
and Solicitors of Nos. 3F & 3G, 3rd Floor, Foh
Chong Building, Jalan Ibrahim, Johore Bahru.

10

No.29

No.29

Written
submission
of Counsel
for the
Appellants
(undated)

WRITTEN SUBMISSION FOR THE
APPELLANTS (UNDATED)

IN THE FEDERAL COURT OF MALAYSIA

(APPELLATE JURISDICTION)

Civil Appeal No. 88 of 1974

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Appellants

20

and

The Government of the State of Johore Respondent

(In the Matter of Originating Motion No.4 of 1972
in the High Court in Malaya at Johore Bahru)

In the Matter of Section 3 of the Land Acquisition
Act, 1960.

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Applicants

30

and

The Government of the State of Johore Respondent)

Sd: JACKSON & MASACORALE,
 ADVOCATES & SOLICITORS,
 NOS. 3F & 3G. 3rd FLOOR,
 FOH CHONG BUILDING,
 JALAN IBRAHIM, JOHORE BAHRU.

In the
 Federal
 Court of
 Malaysia
 (Appellate
 Jurisdiction)

 No.29

Written
 Submission
 of Counsel
 for the
 Appellants
 (undated)
 (continued)

10 My Lords, in arguing this appeal it is my
 intention to consider each of the grounds of appeal
 in turn, and to comment on them in point form so
 that I may be as clear and brief as possible. But
 first I would like to give a short Re'sume' of the
 facts which instigated the Appellants to initiate
 legal proceedings.

Re'sume'

20 The Respondent, the Government of the State of
 Johore, published in the Johore Gazette, a Notice
 of intended Acquisition of a large number of pieces
 of land including the Appellants' properties, for
 the purpose of "Harbour, housing and industry".
 In the said notice it was also stated that the plan
 and the ascertained area could be inspected at the
 relevant land office during office hours.

30 The Appellants inspected the plan and found
 that their properties were within the area demarcated
 for a purpose described as "kegunaan khas" i.e. a
 "special use", while the areas for the harbour
 residential and industrial purposes had also been
 demarcated clearly. They therefor believed that
 their lands were not in fact needed for the
 published purposes and instituted legal proceedings
 by way of Johore Bahru High Court Originating
 Motion, 4/72.

Unfortunately the High Court in Johore Bahru
 dismissed their claim and they have now appealed
 against the said decision to your Lordships.

I will now proceed to the grounds of appeal
 and begin with Ground I on page 66 Lines 19, 20 & 21.

Ground 1

40 I must first draw your attention to an error
 in paragraph 1 (a) on p.66 (already corrected).
 The words "public purpose viz" at lines 19, 20, 21
 should be omitted so that the second part of this
 paragraph should read" and not for a port,
 housing and industry as in the Gazette notification."

In the
Federal
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(Appellate
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No.29

Written
Submission
of Counsel
for the
Appellants
(undated)
(continued)

Ground I

Please refer to the gazette

Point 1.

notification - Exh. P.1 on pp.96 - 113
of the Record and to the plan referred to
there - Exh. D8 (in pocket in cover) of the
Record.

The Respondents have admitted that
the vague description "kegunaan khas" in
fact refers to the development of a
recreational centre, viz "beaches for
swimming, boating, picnic areas, camping
sites, hotels, chalets and shops."
(Record Exh. D9 p.139). A recreation
centre does not fall within the
definition of industry under the
National Land Code 1965 (see S.117) but
in fact, falls within the scope of the
term "public purpose" which is not
mentioned in the gazette notification.

10

Gajendra Sahu & Ors. v.
Sec. for State of India in
Council - 8 CLJ. 1908 p.39

20

- Compulsory Acquisition of Land
in India 4th Ed. 1971 vol. 1 by
Aggravala p. 156 paragraph 2.

- M/s. Tinsukia Development
Corpn. Ltd. v. State of Assam
& anor.
AIR 1961 Assam 133 - page 144
Paragraph (23)

- Sanjiva Raw's Law of Land Acq.
& Compensation 1966 p.148
paragraph K.

30

Point 2.

We disagree with the learned trial
Judge's view that this erroneous
description does not form a material or
substantive part of the declaration and
therefor does not invalidate the acquisi-
tion proceedings because the plan is not
part of the Gazette Notification.

(P.59 line 38)

The plan is mandatory and therefore an
essential part of the notification.

40

The Land Acquisition Act 1960 s.7 states

"the Collector shall prepare and submit to the State Authority

a) a plan..... to acquire".

This is in contrast to the Indian Act as expounded in the case

Abdul Jabbar & anor v. State of W. Bengal & Ors.

71 CWN p. 134 paragraph 6 (b) (ii) & 2nd paragraph.

50 yrs. Digest p. 2615 paragraph 6.

We submit that a mistake of this nature cannot be rectified without proper process.

Interpretation Act 1967 S. 61.....

A Statement in a gazette therefore, is prima facie evidence and therefor it is implied that any change must be re-gazetted.

Point 4

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We maintain that the plan is not merely a matter of procedure, not only as already argued, because it is mandatory, but also because information given on the plan may affect the value of the land. Unless the owner knows for what particular purpose his property is acquired he will not be able to claim for injurious affection - I am afraid the learned legal adviser totally misunderstood me on this point, as evidenced by his submission. (p.49 to p. 51).

30

An example of injurious affection may clarify its meaning in this context -

Suppose the government acquired part of my land zoned for residential purposes for a sewer or even for a school, the value of the remaining residential land will be injuriously affected, i.e. the market value would decrease as a first class residential area. Hence the purpose of the acquisition is of vital information to a land owner, and an error in this regard reaches to the substance of

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In the Federal Court of Malaysia (Appellate Jurisdiction)

No.29

Written Submission of Counsel for the Appellants (undated) (continued)

In the
Federal
Court of
Malaysia
(Appellate
Jurisdiction)

the law in fact the Constitution (Article
13 (2))

Midnapur Zamindan Co. Ltd. v.
Bengal Nagpur Pty. Co. Ltd.
AIR 1941 Calcutta p. 465.

No.29
Written
Submission
of Counsel
for the
Appellants
(undated)
(continued)

Point 5 Here we argue that it is surely only equitable and just that the party claiming the benefit of a mistake must bear the burden of proving it (p. A.)

Point 6 Further, to maintain that the onus be placed upon the appellants to enquire on and rectify the mistakes of the State Government is to take no note of the practical logic of the situation. Mistakes may not be brought to light until, in fact, the acquired land is developed. Moreover, the public does not have access to the necessary information to determine whether or not a mistake has been made. In this particular case, if the Appellants had enquired they would have been informed that the land was needed for recreational purposes. (its current use). At what point could they have discovered that a shipyard was to be developed on this site? 10
20

Ground 2 As shown by the letter from the State Devel. Officer to the State Town Planner dated 2.4.70 (Exh. D7 p.138) the area required was 2000 acres. However almost 6000 acres was acquired - an increase of nearly 200%. If this was purely for incidentals (i.e. drains, open space, gardens and vehicle parks - p. Line) as the learned trial judge maintained in agreement with the Respondents' contention, then undoubtedly the State Government had envisaged a most scenic garden port in which 2/3 of the area is devoted to gardens, open spaces, car parks and drains and only 1/3 to the port and its surrounding industrial and residential areas. We submit that the acquisition of so much excess land is ultra vires the powers of the State Government. 30
40

Trustees for Improvement of

Calcutta v. Chandra Kent Gosh
AIR 1920 P.C. 51 p. 51 last
paragraph

Compulsory Acq. of land in India -
Aggravala: p. 156 last paragraph

Sanjiva Row's Law of land Acq. and
Compensation 6th Ed. 1966 page 177
paragraph (e)

In the
Federal
Court of
Malaysia
(Appellate
Jurisdiction)

No.29

Written
Submission
of Counsel
for the
Appellants
(undated)
(continued)

10 Point 8 With great diffidence to the
practical knowledge of the learned trial
judge on such matters, the examples given
by his Lordship to explain the excess
acquisition is not the normal practice
adopted. A man does not employ an
architect or decide how much land his
house is going to require before he buys
a piece of land (It is rather a case of
cutting your coat to suit the cloth).

20 Point 9 As for S.30 of the Interpretation
and General Clauses Ordinance 1948 my
humble submission is that the said section
cannot be interpreted to enable an excess
of power (as in this case) as opposed to
an incidental to a power.

30 Ground 3
Point 10 An individual's property or private
ownership has long been established as a
"natural right" by political philosophers
especially by John Locke who emphasized
this right. Any statute which expro-
priates property, being tantamount to a
penal statute, has to be constructed and
implemented very strictly as against the
government and beneficially as against the
owner. To the contrary, the learned
trial judge went to great lengths to
justify the Government's proposals to
acquire the excess area to the detriment
of the owners.

40 Fifty years)
Digest Vol. 9) p. 2606
Chitale &) paragraph 2
Ramaratnam) entitled Land
Acquisition.

Ground 4
Point 11 We maintain that the acquisition of
land conceived as necessary for one
purpose and subsequently intended and used
for a different purpose renders the

In the
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(Appellate
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—————
No.29

Written
Submission
of Counsel
for the
Appellants
(undated)
(continued)

Point 12

acquisition ultra vires. The purpose is given as "special use". We have been informed that the real intention was a recreation centre, i.e. "public purpose". Both the published purpose and the intended purpose are outside the legal gazetted purposes and therefore, in either case, the State Government acted ultra vires.

15 yrs. Digest - 1951-1965 vol:
10 by D.V. Chitaley & S. Appurao
p.146 paragraph 2.

10

(N.B. word "Shipyard" not chopped
on plans given for copies of Record)

However, the government has since then changed its mind and appears to have acquired the Respondents' land for a shipyard. Here I wish to refer your Lordships to exhibit D8 (in pocket in cover of record). I submit in this respect that the technical requirement of the law alone is insufficient to justify compulsory acquisition of land but the substance of the law has to be fulfilled as well. The argument by the Government that the gazette notification is conclusive does not give the Government a free hand to acquire any land for whatever purpose so long as it gazettes the intended acquisition for an authorised purpose. For example, the Gazette Notification for a public purpose and a commercial Shipyard is developed. Neither Exhibit D.9 p.139, nor Exhibit D8 indicate a shipyard. However Exhibit D8 (in pocket in cover of record) indicates the Appellants' property being required for a shipyard - in this case, the shipyard of Malaysian Shipping and Engineering Sdn. Bhd. which is a private enterprise and our Land Acquisition Act 1960 had no provision for such acquisition. This clandestine change on the plan came about months after the gazette notification, presumably after the land was sold or leased to the Shipyard Company.

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40

Sanjiva Row's Law of Land
Acquisition & Compensation 6th Ed.
1966 p. 169 - last paragraph

Ram Charam Lal v. State of UP
AIR 1952 p. 753 paragraph (8)

Gurut Das Kundhu Chowdhry & Ors.

Sec. of State for India in Council
1913 18 CLJ p. 244

Sanjiva Row's Law of Land Acq. &
Compensation
166 p. 177 - paragraph (f)

In the
Federal
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Malaysia
(Appellate
Jurisdiction)

No.29

Written
Submission
of Counsel
for the
Appellants
(undated)
(continued)

10 Ground 5 If the Government in acquiring land
by compulsion acts male fide, then the
acquisition is void.

- Compulsory Acq. of land in India
the Ed. Aggaravala p. 156 last
paragraph.

Point 14 We submit that there are a variety
of factors which both jointly and severally
indicate mala fide on the part of the
state government in this matter.

20 a) the first appellant wrote to the
Collector to excise his land from
the acquisition as it had already
been developed for recreational
purposes. (Exh. P2 p. 114)

No reply was ever received in
spite of the fact that as we
have shown previously the land
was apparently intended for
exactly that purpose.

30 b) the use of the term "kegunaan
khas" is deliberately vague so
that the real intention of the
government would be camouflaged
(the term "public purpose"
could have been used).

40 c) it is noteworthy that another
existing industry as shown in
Exh. D8 (in pocket in cover of
record) was not included in the
acquisition, namely the woodship
factory belonging to Setia Jaya
Sdn. Bhd. - a private company -
Presumably because this was in
accordance with the development
plans for this area.

In the
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Court of
Malaysia
(Appellate
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No.29

Written
Submission
of Counsel
for the
Appellants
(undated)
(continued)

- d) the Appellants' property has been ultimately used not for recreational purposes or originally intended but for a shipyard.
- e) At the time of the publication of Gazette Notification it is clear that the State Government acquired more land than they really required.

To sum up the essence of the Appellants' Argument: if a mistake in the Gazette Notification, including the plan referred to, is regarded purely as a trivial technical error capable of rectification at any moment in the process of acquisition without adhering to the procedure laid down by law, this is tantamount to extending to the state government the power to dispossess a person of his constitutional and natural right to property in circumstances in which a corrupt or fraudulent intention can pass undetected, and thus in practice to give the government a free hand to acquire lands in accordance with their whims and fancies.

10

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No.30

Written
Submission
of Counsel
for the
Respondent
16th
November
1974

No.30

WRITTEN SUBMISSION ON BEHALF OF
THE RESPONDENT DATED 16TH NOVEMBER 1974

FEDERAL COURT CIVIL APPEAL NO.88 of 1974

My Lords,

In the High Court I have tendered a written submission which is enclosed in the Appeal Record at pages 44 to 52. This written submission which I now tender is in amplification of what I have submitted to the High Court.

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The State Authority needed suitable land for the purpose of turning it into a port to serve the southern region of West Malaysia. The State Authority also needed land for residential and industrial purposes in the same area. Accordingly the State Authority made a declaration in Form D and published it in the Gazette in accordance with section 8 of the Land Acquisition Act, 1960. A list of the lands to be acquired was appended in a Schedule in the said Form D. The declaration

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was published in Johore Gazette Notification No.55 dated 21st January, 1971.

Paragraph 1 of this Form D, (page 96 of Appeal Record): (English version (translation) quoted below is copied from the Form 'D' in Land Acquisition Act, 1960) says:

"It is hereby declared that the particular lands and areas specified in the Schedule hereto are needed for the following purpose:

10 Pembinaan Pelabohan, Perumahan dan Perusahaan."

In the Schedule of lands, are found

Lot 4064, QT (MG) 82,

Lot 1336, EMR 951

Lot 2639, G. 8550

and Lot 2200, EMR 1585, all in Mukim of Plentong belonging to 1st Appellant Syed Omar, and

Lot 2211, MK. G. 32,

20 Lot 2210, MK. G. 33

Lot 2201 EMR 1586, Mukim of Plentong belonging to 2nd Appellant, Chee Kutty.

From this Schedule, it is found that there is no partial acquisition of any of the lots belonging to the Appellants.

Section 8 of the Land Acquisition Act, 1960 requires that the declaration has to be published in Form D, and that a list of the lands to be acquired will form the Schedule to Form D.

30 Section 8 of the said Act does not state that a plan of the area showing the particular lands to be acquired must be exhibited for inspection by those interested in the acquisition. In fact section 2 (2) of the same Act states that in describing the locality of the area to be acquired, it is sufficient that the lands in that locality be described by their survey lot numbers only. Section 8 of the Act states:

"8.(1) When the State Authority decides that

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any of the lands referred to in section 7 are needed for any of the purposes referred to in section 3, a declaration in Form D shall be published in the Gazette.

(2) A copy of the list of lands referred to in paragraph (b) of section 7, amended, if necessary, in accordance with the decision of the State Authority, shall be included as a schedule to the declaration in Form D".

Section 2(2) of the said Act states:

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"2 (2). Where in any notification, declaration or other instrument issued under this Act any locality referred to therein cannot, in the opinion of the authority promulgating such notification, declaration or other instrument otherwise be conveniently described, it shall be sufficient if the lands in such locality are described by their survey lot numbers, or by the lot numbers of adjacent or surrounding lands."

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Therefore, when gazetting Form D, the State Authority could do away with paragraph 2 of the Form D.

Section 8(3) of the Act states:

"8 (3) A declaration in Form D shall be conclusive evidence that all the scheduled land referred to therein is needed for the purpose specified therein."

and Section 2(3) of the Act states:

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"2 (3) Any notification, declaration or other instrument made or issued under this Act shall be valid and effectual for all purposes notwithstanding that pieces or parcels of any lands referred to therein are held under different titles or by different persons".

Since the gazetted Form D declared in paragraph 1 that the lands were needed for "Port, residential and industrial" it is not open to any one to assert that the lands are not needed for the purposes stated in the declaration. I quote a passage from Compulsory Acquisition of Land in India and Pakistan by Aggarawala, 3rd Ed. at Pg. 74 under sub-heading - declaration is conclusive -

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"Sub-section (3) states that the said declaration shall be conclusive evidence that the land is needed for a public purpose or a company as the case may be. This means that when the publication of the declaration has been proved, it shall be regarded as proved that the land is needed for a public purpose and the Court shall not allow evidence for the purpose of disproving it, vide section 4 of the Indian Evidence Act" (section 4(3) Malayan Evidence Ordinance), and at pg. 75 of the same book, first paragraph: "When the Government declares that a certain purpose is a "public purpose", it must be presumed that the Government is in possession of facts which induce it to declare in that matter and the Court is debarred from enquiring whether the purpose for which the land is acquired is a public purpose or not" - Veeraraghavachariar v. Secretary of State - IILR 49, Mad. 837 and Wijaiya Sekhara v. Festing, 1919 A.C. 646.

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I therefore submit that the learned Judge in the High Court came to the correct conclusion when he stated at pg. 59 of the Appeal Record, lines 1 to 5, that "paragraph 1 of the G.N. 55 of 1971 (Form D) in my view is the crucial part. It contains the substance in that it declares that all the lands are required for the construction of a port, and for residential and industrial purposes. Paragraph 2, I should say, is elucidary to paragraph 1."

Paragraph 2 of the Form D (page 96 of Appeal Record) (English version (translation) quoted below is copied from Form D in the Land Acquisition Act 1960) says:

"2. A plan of the particular lands and areas so specified may be inspected during the normal hours of business of the Land Office of the District in which such lands and areas are situated".

Clearly, the intention of this paragraph (2) of the Form D is only an invitation to those interested to come to the Land Office to view the plan showing the lands and areas affected by the acquisition. The plan is only to show the locality, the areas and the extent of the lands/lots to be acquired. As I have stated earlier, by virtue of section 2(2) of the Land Acquisition Act, 1960, the non compliance of paragraph (2) of Form D, or the non exhibition of this plan, does not invalidate the declaration because the

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description of the area and lands would be sufficient if their survey lot numbers are quoted. The plan is only important and necessary when the State Authority is acquiring a portion or part only of a lot; e.g. when only 1/3 of a big lot is required for building school, in which case the plan will clearly mark out and show which 1/3 portion of the lot is needed, whether 1/3 to the south, the west, east or north. Therefore, I would submit that since section 8 of the Act does not specify a plan must be exhibited and section 2(2) of the Act says a description of the lands to be acquired can be made without a plan the plan is not important and can be left out in the declaration.

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With due respect, I do not agree with the learned Judge when he stated at pg.59 of the Appeal Record lines 18 to 20 that "the plan which should have been used was the plan which the Collector submitted under sec. 7" to the State Authority because sec. 8(2) of the Act refers to paragraph (b) of sec. 7, i.e. the list of lands to be acquired; it does not refer to sec. 7(a) which deals with the plan. Therefore the Commissioner could make use of any plan which clearly shows the boundaries of the lands to be acquired.

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The Commissioner in his affidavit gave reasons why he had to use the plan prepared by the Pegawai Perancang Negeri Johor. He says in his affidavit at page 32, line 8 of the Appeal Record that "due to the urgency of the acquisition and lack of large scale plans of the area to be acquired by the Government, I had to use the said Exhibit 'C' as the plan showing the particular lands and the areas to be acquired by the Government."

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I quote a passage at page 74, Compulsory Acquisition of Lands in India and Pakistan by Aggarawala, 3rd ed., (pg. 156, 4th ed.) paragraph 1 under sub-heading "conflict between declaration and plan".

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"Section 6 of the Land Acquisition Act requires the land proposed to be acquired to be specified but it does not require a plan to be prepared at this stage, and made part of the notification." This sec. 6 of the Indian Land Acquisition Act is similar to our Section 8 of the Land Acquisition Act 1960 which does not require or specify a plan of the lands to be

acquired to be made part of the declaration. The passage goes on to say, "Where the text of the declaration made under section 6 of the Act is that the whole of a certain cadastral plot was proposed for acquisition, but the plan to which reference was made in the declaration does not comprise the whole of that plot, such plan cannot, on the principle of *falsa demonstratio non nocet*, restrict the operation of the acquisition to only such portion of the plot as would be covered by the said plan. In these circumstances, the plan can only be referred to for elucidation where elucidation is necessary, but cannot subordinate the text of the declaration" - *Midnapur Zamindari Co. Ltd. v. Bengal Nagpur Railway Co. Ltd.*, AIR 1941 Cal. 465.

Similarly, in this particular case, the declaration in Form D already says that the Appellant's lands were required for construction of port, residential and industrial purposes, and on the principle of *falsa demonstratio non nocet*, cannot override the purpose declared in the gazetted Form D. This is more so when considering the affidavit of the Pegawai Perancang Negeri Johor. (Pages 28 to 31 of the Appeal Record).

The Pegawai Perancang Negeri Johor stated in his affidavit that when the State Authority had decided that land at Pasir Gudang was needed for the construction of a port, residential and industrial purposes, he was requested (through a letter at pg. 29 of the Appeal Record) to prepare a draft plan showing the layout and zoning of the area to be acquired. He accordingly carried out the wishes of the State Authority and prepared a draft layout and zoning of the said area. He then submitted this draft plan to the State Authority, and sent a copy of the plan to the Commissioner of Lands Johore (This is the plan used by the Commissioner for inspection by those interested).

At paragraph 7 of his affidavit (pg. 30 of Appeal Record) the Pegawai Perancang stated:

"7. The proposed zoning of this area as shown in the draft layout plan Exhibit "C" was not necessarily to be accepted by the State Government, and the State Government had the right either to agree, to reject, or to amend the zoning proposals of this area at its discretion. The proposed zoning remains my own proposal and does not

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indicate the final decision of the State Government of the zoning of this area", and at page 30 of the Appeal Record paragraph 10 and 11 he stated: "The plan exhibit "C" containing my proposal of the zoning of the area had not been accepted by the State Government. Another layout plan and zoning of the area has now been submitted to the Pegawai Kemajuan Negeri Johor for his comments and advice after which it will be forwarded to the State Government for consideration. A copy of this new plan is attached herewith as Exhibit "E".

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11. Therefore, the plan I have prepared and marked as Exhibit "C" which was referred to in the Form D which was gazetted on 21.1.1971 was not final and was subject to alteration by the State Government."

What the Pegawai Perancang Negeri Johor meant at paragraph (11) was that the layout and zoning of the area which he prepared was subject to alteration by the State Authority. He did not say the purpose of acquisition was to be altered. The purpose of acquisition remained the same, i.e. for construction of port, residential and industrial purposes. What was subject to alteration was the placing or siting of the port, residential places, and factories in the area in that locality to be acquired. The first draft layout plan that the Pegawai Perancang prepared is (in pocket in cover of record), and the new plan he subsequently submitted after the first zoning plan was rejected, is to be found (in pocket in cover of record).

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Although the first draft plan (in pocket in cover of record), zoned the Appellant's lands for "kegunaan khas", the amended plan now shows that the appellant's lands are zoned for "industrial purpose", which is admitted by the appellants in their Memorandum of Appeal at para. (e) on Pg. 67 of the Appeal Record, i.e. to be used for a shipyard. The words "kegunaan khas" did not contradict the purpose of the acquisition. "Kegunaan khas" on the draft plan means "special area" within the purpose of the acquisition of the lands (please see pg. (of plan exhibit D8) Appeal Record - under heading "Special Area").

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I submit that under the circumstances the Appellant's application to the High Court for a declaration that the acquisition proceedings are illegal, null and void was therefore premature. They should have waited a bit longer to make sure;

because if they had done so, they would now be able to see that their lands are being used for the purpose of the acquisition, i.e. for industrial purpose as declared in the gazetted Form D.

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10 As to the contention that the Government is acquiring the appellant's land in bad faith because the whole area acquired, 5,713 acres, was not utilized for the construction of a port, residential houses, or factories, mills etc., the appellants ought to realise that when a harbour, godown, house or factory is erected or constructed, there certainly must be areas of land left vacant for roads, power transformers, children's playing grounds, open spaces between buildings, parking areas etc. It does not require that every inch of the land acquired must be covered by a harbour, house, or factory. There is therefore no question of bad faith on the part of the Government.

20 As to whether the gazette notification is void because it does not bear the signature of the Commissioner, I must wholly support the grounds given by the learned Judge in his grounds of Judgment at pages 61 to 62 of the Appeal Record. He has pointed out that our Land Acquisition Act, 1960 is different from the Indian Land Acquisition Act 1894 where section 6 requires the Secretary to such Government to sign the declaration. Our Land Acquisition Act 1960 does not require such signature to be put on the declaration in Form D. But there is a direction under the Government General Orders Cap. M, that when a Government officer writes to another officer he has to sign his name on the letter or else the officer receiving that letter will not take any action on it.

40 Since this issue was raised by Appellant's Counsel in his final submission before the High Court I have checked the Land Office file, and am satisfied to see the carbon copy of the letter by the Commissioner to the Government Printer, forwarding the Form D to be gazetted, bore the initial of the Commissioner, and in fact the copy of Form D itself also had the initial of the Commissioner. In 1971, the Government Printer was housed in a small office, and he had no space to keep all the used documents. He had written to me officially to confirm that his practice was to destroy these documents he received for gazetting six months after the documents were published in the gazette.

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May I also draw your Lordships' attention to Section 61 of the Interpretation Act No. 23/1967 which says :-

"61. All printed copies of the Gazette or a State Gazette purporting to be published by authority and printed by the Government Printer shall be admitted in evidence in legal proceedings, without proof being given that the copies were so published and printed, as prima facie evidence of -

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(a) the terms of any written law published therein; and

(b) any appointment notified or other matter or thing stated therein."

and Section 47 of the Interpretation and General Clauses Ordinance 1948 (which is applicable to the interpretation of the Land Acquisition Act 1960 by virtue of Section 2 of the Interpretation Act 1967 as amended by Act 40 of 1968) says :-

"47. All printed copies of the Gazette, purporting to be published by authority and to be printed by the Government Printer, shall be admitted in evidence by all courts and in all legal proceedings whatsoever without any proof being given that such copies were so published and printed, and shall be taken and accepted as prima facie evidence of the proclamations, regulations, orders, appointments, notifications and other publications therein printed, and of the matters and things contained in such proclamations, regulations, orders, appointments, notifications and publications respectively."

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Upon the grounds given above, I submit that this Appeal be dismissed with costs.

SD:

(DATO' HAJI MOHD. EUSOFF BIN CHIN),
STATE LEGAL ADVISER, JOHORE.

for and on behalf of the Respondent.

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Dated 16th day of November, 1974.

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JUDGMENT OF THE COURT OF APPEAL 16TH
JANUARY 1975

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT JOHORE
BAHRU

(Appellate Jurisdiction)

FEDERAL COURT CIVIL APPEAL NO. 88 of 1974

Between

10 Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Appellants

and

The Government of the State of Johore Respondent

(In the matter of Originating Motion No. 4 of 1972
in the High Court in Malaya at Johore Bahru)

In the matter of Section 3 of the Land Acquisition
Act, 1960.

Between

20 Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Applicants

and

The Government of the State of Johore Respondent

Coram: Suffian L.P.;
Ali Hassan, F.J.;
Wan Suleiman, F.J.

JUDGMENT OF THE COURT
(read by Suffian, L.P.)

30 On 21st January, 1971, the Johore State
Government published in the Gazette under section 8
of the Land Acquisition Act No. 34 of 1960 a
declaration in Form D, the English translation of
which reads as follows:

"Land Acquisition Act, 1960

Form D

DECLARATION OF INTENDED ACQUISITION

(Section 8)

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It is hereby declared that the particular lands and areas specified in the Schedule hereto are needed for the following purposes:

Construction of harbour, housing and industry.

2. A plan of the particular lands and areas so specified may be inspected during the normal hours of business in the Land Office of the District in which such lands and areas are situated.

Dated this 18th day of January, 1971.

Commissioner."

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The Schedule to the above declaration enumerates the lots to be acquired, including four lots belonging to the first applicant and three lots to the second applicant.

The applicants applied on 4th June, 1972, by notice of motion for a declaration that the acquisition proceedings in respect of their lands were illegal and therefore null and void. They cited the State Government of Johore as respondent.

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On 3rd June, 1974, the learned judge ruled against the applicants.

The applicants have appealed to us.

The question for our determination is the same as that before the learned judge, namely, whether or not these acquisition proceedings were illegal, as contended by the applicants.

The argument that the acquisition proceedings were null and void is as follows;

It is contended by the applicants that Government may compulsorily acquire lands belonging to the subject if, but only if, Government comply strictly with the Act. This is not denied by Government.

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Section 3 specifies the purpose for which the State Authority may compulsorily acquire lands. It says -

"The State Authority may acquire any land which

is needed -

- (a) for any public purpose; or
- (b) by any person or corporation undertaking a work which in the opinion of the State Authority is of public utility; or
- (c) for the purpose of mining or for residential, agricultural, commercial or industrial purposes".

(The words underlined were added by section 2 of Act No. A216 of 1973, but nothing turns on them).

Section 7 of the Act provides as follows:

"7. Whenever any lands are needed for any of the purposes referred to in section 3 the Collector shall prepare and submit to the State Authority -

- (a) a plan of the whole area of such lands, showing the particular lands, or parts thereof, which it will be necessary to acquire; and
- (b) a list of such lands, in Form C."

Section 8 provides as follows:

- "8 (1) When the State Authority decides that any of the lands referred to in section 7 are needed for any of the purposes referred to in section 3, a declaration in Form D shall be published in the Gazette.
- (2) A copy of the list of lands referred to in paragraph (b) of section 7, amended, if necessary, in accordance with the decision of the State Authority, shall be included as a schedule to the declaration in Form D.
- (3) A declaration in Form D shall be conclusive evidence that all the scheduled land referred to therein is needed for the purposes specified therein."

It is said that the declaration under section 8 does not say that the lands were needed for a public purpose. This is true and it is said that therefore purpose (a) specified by section 3 (which would have been all-embracing) does not arise.

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This is not denied by Government.

It is said that under section 7, unlike the Indian Government acting under the corresponding Act in India, the Johore Government is obliged to prepare a plan of the lands to be acquired.

It is said that paragraph 2 of the declaration gazetted under section 8 is a vital part of the declaration. But, it is further said, when the applicants went to inspect the plan they knew that the lands were needed for three purposes, namely, for a harbour, for housing and for industry; they (the applicants) wanted to find out for which particular purpose their own lands were being acquired; they found that lands intended for the harbour, for housing and for industry were clearly demarcated but their lands were not demarcated for any of these three purposes, but instead they were marked for "kegunaan khas" (special purpose) which was not a purpose enumerated in section 3; and as their lands were not needed for any of the purposes authorised by section 3, the intended acquisition was null and void. For good measure the applicants alleged that therefore the State Government was acting mala fide.

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With all due respect we do not think there is any merit in the contention that these acquisition proceedings were null and void.

It is true that section 7 requires the Collector to prepare and submit a plan to the State Authority, but this is for the purpose of showing the particular lands or parts thereof which it will be necessary to acquire, and so the plan is for the convenience of the State Government. After study of this plan, Government may decide that all the lands shown on it are needed, or only some of them, or only some of them and part or parts of others.

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Only after the State Authority has decided which of the lands referred to in the plan and to what extent, are needed for any of the purpose set out in section 3, is it necessary for a declaration in Form D to be gazetted under section 8. With respect, we agree with the learned judge that the meat of this declaration is contained in its first paragraph, for while it is true that its second paragraph refers to a plan, that is only to enable owners and other interested persons to check whether or not their

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lands are to be acquired and if so to what extent. Section 8 does not require that the purposes for which the lands or parts are to be acquired, should be stated on the plan, and it would appear that it was quite unnecessary for - and in the event foolish of - the State Authority to invite the applicants and other owners to inspect the rather elaborate plans prepared in the instant case. All that section 8 requires (by its subsection (2)) is that a list of the lands or parts thereof that are needed by the State Authority be included in a schedule to Form D. That was done here, and so in our view the declaration in that Form in the words of sub-section (3) of section 8 is "conclusive evidence that all the schedule lands referred to therein are needed for the purpose specified therein".

In view of our construction of section 8, we do not think that the fact that the applicants' lands were marked "kegunaan khas" affects the issue, for the matter is governed by the first paragraph of Form D which clearly states the purposes for which all the lands shown on the plan were to be acquired. In any event, the plans here (there are two) are headed in large letters "Rancangan Pelabohan" (Proposed Harbour), and this heading is all-embracing and describes clearly the purpose for which the lands on it were to be acquired and the words "kegunaan khas" attached to the applicants' lands merely detail the particular use to which they will be put within the proposed harbour area.

It is also argued that a letter exhibit D7 dated 2nd April, 1970, from the State Development Officer to the State Planning Officer shows that the total area required was only 2,000 acres whereas almost 6,000 acres were acquired, and that this shows mala fides on the part of the State Government. One case was cited in support of this argument: Donaldson v. South Shields Corporation (1) which was cited with approval by the Privy Council in Calcutta Improvement Trustees v. Ghosh (2).

With respect we do not think there is any merit in this argument.

Under our Land Acquisition Act, the decision as to the lands and how many acres are needed

(1) (1899) 68 L.J. Ch. 162.

(2) A.I.R. 1920 P.C. 51.

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has to be made by the Ruler, not by the State Development Officer, but it is quite natural that before the Ruler finally makes his decision he should first consult the State Development Officer and other Civil servants. The views of these latter officers while valuable do not invalidate the final decision of the Ruler as to the lands and the total acreage needed.

With respect we do not think that Donaldson's case helps the applicants in any way. There the South Shields Corporation were authorised by a private Act of Parliament to make certain "street works" within the limits of lateral deviation shown on their deposited plans; and to take "for the purpose of the street works the lands shown on the deposited plans in connection therewith and which they may require for the purposes thereof respectively". The corporation claim that under the Act they were authorised to take the whole of a property belonging to the plaintiff, of which only a portion was shown as within the line of lateral deviation on the deposited plans, and they wrote to her solicitors that "such portion of the property as may not be actually required to be added to the street the corporation require to take in order that they may possess the frontage to the street, and sell the same so as to recoup themselves in part for the cost of the improvement." It was held by the English Court of Appeal that the Act did not confer a power to take land not wanted for street works but wanted simply for the purpose of diminishing the expense of the work by reselling it at a profit.

That case is distinguishable from the present in two ways. First, there is no question here of the Johore Government reselling any of the lands stated to be needed. Second, in that case there is no provision similar to our subsection (3) of section 8.

The Privy Council case mentioned, while not exactly in point, is also in our opinion against the applicants' contention here. There the Calcutta Improvement Trustees (referred to as the Board) acquired lands under the Calcutta Improvement Act, 1911. Section 42 thereof states that a road widening scheme initiated by the Board may provide for the acquisition by the Board of any land in the area comprised in the scheme which will in their opinion be affected by the

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10 execution of the scheme. The Board purported to acquire the land of Mr. Ghosh not because it was actually required for the scheme, but simply because in the opinion of the Board the land would be enhanced in value by its execution. Their Lordships cited with approval Donaldson's case but held, reversing the decision of two lower courts, that the Board had power under section 42 to so acquire Mr. Ghosh's land, even though it was not actually required for the scheme that the Board had in mind, because it would be enhanced or diminished in value by the scheme and therefore it would be land which would be affected by the execution of the scheme.

20 Though the Johore State Government had written "kegunaan khas" against the applicants' lands, finally they were acquired for a shipyard and it is argued that this change of intention on the part of Government also invalidates the acquisition proceedings. With respect we do not think that there is any merit in this argument either, for use as a shipyard is still use for an industrial purpose, which is specified in the first paragraph of Form D.

30 People are sentimentally attached to their lands and we are of course sorry for the applicants, but we regret that the law is clearly on the side of Government and we would therefore dismiss their appeal with costs. Their deposit to go to the respondent Government against their taxed costs.

Delivered in Kuala Lumpur
on 16th January, 1975.

(Tan Sri Mohamed Suffian)
LORD PRESIDENT, MALAYSIA.

Notes

1. Counsel:

For appellants - Mr. Upali Masacorale and Miss Walsh.

40 For respondent - Datuk Haji Mohd. Eusoff bin Chin,
State Legal Adviser, Johore.

2. Arguments in Johore Bahru on Sunday, 17th November, 1974.

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3. Cases cited other than those mentioned in
Judgment:
- (1) Gajendra Sahu & Ors. v. Secretary of
State for India in Council 8 CLJ. 1908
p.39
 - (2) M/s Tinsukia Development Corporation Ltd.
v. State of Assam & Anor.
A.I.R. 1961 Assam 133, p. 144 Para. (23);
 - (3) Abdul Jabbar & Anor. v. State of W.
Bengal & Ors. 71 CWN p. 134, para. 6 (b) 10
(ii) & 2nd para.;
 - (4) Midnapur Zamindan Co. Ltd. v. Bengal
Nagpur Pty. Co. Ltd.
A.I.R. 1941 Calcutta p. 465;
 - (5) Ram Charam Lal v. State of UP
A.I.R. 1952 p. 753, para. (8);
 - (6) Secretary of State for India in Council
1913 18 CLJ. p. 244;
 - (7) Veeraraghavachariar v. Secretary of 20
State ILR 49, Mad. 837;
 - (8) Wijaiya Sekhara v. Fosting 1919 A.C. 646.

No.32

Order of
the Court
of Appeal
16th January
1975.

No.32

ORDER OF THE COURT OF APPEAL

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT JOHORE
BAHRU

(Appellate Jurisdiction)

Federal Court Civil Appeal No. 88 of 1974

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Appellants. 30

and

The Government of the State of Johore Respondent.

(In the Matter of Originating Motion No. 4 of 1972)

in the High Court in Malaya at Johore Bahru

In the Matter of Section 3 of the Land Acquisition Act, 1960

Between

Syed Omar bin Abdul Rahman Taha Alsagoff
and Chee Kutty s/o Abu Bakar Applicants

and

The Government of the State of Johore Respondent)

BEFORE: SUFFIAN, LORD PRESIDENT, FEDERAL COURT
MALAYSIA

ALI, JUDGE, FEDERAL COURT, MALAYSIA;

WAN SULEIMAN, JUDGE, FEDERAL COURT,
MALAYSIA.

IN OPEN COURT.

THIS 16TH DAY OF JANUARY, 1975

O R D E R

THIS APPEAL coming on for hearing on the 17th day of November, 1974, in the presence of Mr. Upali Masacorale (with him Miss B.A. Walsh) of Counsel for the Appellants and Dato Eusoff bin Chin, State Legal Adviser, Johore for the Respondent AND UPON READING the Record of Appeal filed herein AND UPON HEARING Counsel for the Appellants and the State Legal Adviser, Johore as aforesaid IT WAS ORDERED that this Appeal do stand adjourned for Judgment AND the same coming on for Judgment this day at Kuala Lumpur in the presence of Mr. Upali Masacorale for the Appellants and Encik Suleiman bin Hashim, State Legal Adviser, Johore for the Respondent IT IS ORDERED that this appeal be and is hereby dismissed AND IT IS FURTHER ORDERED that the costs of this Appeal be taxed by the proper officer of the Court and be paid by the Appellants to the Respondent AND IT IS LASTLY ORDERED that the sum of \$500.00 (Ringgit Five hundred only) paid into Court by the Appellants as security for costs of this Appeal be paid to the Respondent towards taxed costs.

GIVEN under my hand and the Seal of the Court this 16th day of January, 1975.

L.S.

Sd:
CHIEF REGISTRAR.

In the
Federal
Court of
Malaysia
Holden at
Johore Bahru
(Appellate
Jurisdiction)

No.32

Order of
the Court
of Appeal
16th January
1975.

(continued)

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In the
Federal
Court of
Malaysia
Holden at
Kuala Lumpur
(Appellate
Jurisdiction)

ORDER GRANTING FINAL LEAVE TO
APPEAL TO HIS MAJESTY THE YANG
DIPERTUAN AGONG 18th AUGUST 1975

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT KUALA
LUMPUR

(APPELLATE JURISDICTION)

No.33

FEDERAL COURT CIVIL APPEAL NO: 88 of 1974

Order
granting final
leave to
Appeal to His
Majesty the
Yang Di-
pertuan Agong
18th August
1975

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff and Chee Kutty s/o Abu Bakar Appellants 10

and

The Government of the State of Johore Respondent
(In the Matter of Originating Motion No. 4 of 1972
in the High Court in Malaya & Johore Bahru

In the matter of Section 3 of the Land Acquisition
Act, 1960

Between

Syed Omar bin Abdul Rahman Taha
Alsagoff, and Chee Kutty s/o Abu Bakar Applicants 20

and

The Government of the State of Johore Respondent)

CORAM: GILL, CHIEF JUSTICE, HIGH COURT IN MALAYA:

ALI, JUDGE, FEDERAL COURT, MALAYSIA:

RAJA AZLAN SHAH, JUDGE, FEDERAL COURT,
MALAYSIA.

IN OPEN COURT

THIS 18TH DAY OF AUGUST, 1975

O R D E R

UPON MOTION made unto Court this day by Miss
Lai Wai Meng on behalf of Jackson & Masacorale,
Counsel for the Appellants abovenamed in the
presence of Encik Suleiman bin Hashim, State Legal
Adviser, the Government of the State of Johore for

10 the Respondent abovenamed AND UPON READING the Notice of Motion dated the 24th day of July, 1975 and the Affidavit of Upali Masacorale sworn to on the 2nd day of July, 1975 filed herein in support of the Motion AND UPON HEARING Counsel as aforesaid IT IS ORDERED that final leave be and is hereby granted to the Appellants herein to appeal to His Majesty the Yang Di-Pertuan Agong from the Order of the Federal Court of Malaysia dated the 16th day of January, 1975 AND IT IS LASTLY ORDERED that the costs of and incidental to the application be costs in the cause.

GIVEN under my hand and the seal of the Court this 18th day of August, 1975.

L.S. ABDUL HAMID
DEPUTY REGISTRAR,
FEDERAL COURT,
MALAYSIA.

In the
Federal
Court of
Malaysia
Holden at
Kuala Lumpur
(Appellate
Jurisdiction)

No.33

Order
granting final
leave to
Appeal to His
Majesty the
Yang Di-
pertuan Agong
18th August
1975.
(continued)

Applicants'
Exhibits

APPLICANTS' EXHIBITS

EXHIBIT "P.1"

Exhibit "P.1"
Translation
of Johore
Government
Gazette
Notification
No. 55 (same
as Exhibit "A"
to first
Applicants'
Affidavit at
page of
Record
21st January
1971

TRANSLATION OF JOHORE GOVERNMENT GAZETTE
NOTIFICATION NO. 55 DATED 21ST JANUARY
1971 (SAME AS EXHIBIT "A" TO FIRST
APPLICANTS' AFFIDAVIT 4th JUNE 1972 AT
PAGE 4 OF RECORD

NEGERI JOHOR

STATE OF JOHORE

DI-TERBITKAN DENGAN KUASA

GOVERNMENT OF JOHORE GAZETTE

PUBLISHED BY AUTHORITY

10

Vol. 15
No. 2

21st January 1971

Supplement
No. 1

No.55

LAND ACQUISITION ACT, 1960

Form D

DECLARATION OF INTENDED ACQUISITION

(SECTION 8)

It is hereby declared that particular lands and areas specified in the Schedule hereto are needed for the following purpose:

20

Construction of Port, Residential and Industrial.

2. A plan of the particular lands and areas so specified may be inspected during the normal hours of business in the Land Office of the District in which such lands and areas are situated.

Dated this 18th day of January, 1971.
(PTG.J(R)Bil.1; PHTJB. 7/2/70)

COMMISSIONER.

SCHEDULE

Applicants'
Exhibits

District - Johore Bahru. Mukim - Plentong

(1)	(2)	(3)	(4)	(5)	Exhibit "P.1"
Survey lot No.	Title or authority to occupy	Registered Proprietor or recorded occupant	Area of Lot.	Approx. area to be acquired.	Translation of Johore Government Gazette Notification No. 55 (same as Exhibit "A" to first Applicants' Affidavit at page 4 of Record 21st January 1971 (continued))
	E.M.R.		A.R.P.		
10	11	Hussin bin Mohamed Shah	0 3 25	Whole	
	15	Tan Ah Tee	0 3 20	"	
	16	Tik bin Suboh	0.3 35	"	
	17	Low bin Suboh	1 0 15	"	
	18	Ahmad bin Mohamed Ali	2 2 00	"	
	20	Abdul Gani bin Sulong	0 2 10	"	
20	21	Tan Ah Tee	0 3 05	"	
	22	Yahya bin Awang	0 3 10	"	
	28	Wan Mohamed Don bin Mohamed as representative	1 2 35	"	
	39	Bian Aik Limited	5 3 15	"	
30	415	Amok bin Omar	0 2 25	"	
	416	Ahmad bin Ali	0 0 20	"	
	417	Rabiah binte Bujang and Fatimah binte Bujang	0 0 21	"	

Applicants' Exhibits	(1)	(2)	(3)	(4)	(5)
Exhibit "P.1"		E.M.R.		A.R.P.	
Translation of Johore Government Gazette Notification No. 55 (same as Exhibit "A" to first Applicants' Affidavit at page 4 of Record 21st January 1971 (continued))	418	276	Akob bin Kalam	0 1 27	Whole
	420	278	Mahmood bin Puru	1 0 15	"
	421	279	Madar binte Mohamed	0 1 39	"
	422	280	Hussin bin Hassan	0 2 06	"
	423	281	Puteh binte Tambi Kechil and Jaima binte Tambi Kechil	0 2 31	"
	424	282	Sadik bin Mahmood	0 2 06	" 10
	425	273	Hitam bin Kilah	0 3 28	"
	1271	400	Bian Aik Limited	6 0 06	"
	1419	1623	Goh Kee Song	0 2 31	"
	1296	1614	Raid bin Ahmad	2 3 06	"
	1302	1615	"	0 3 03	"
	1299	1613	"	0 2 04	"
		C.T.			
	4976	13407	Lim Hee Ngeok alias Lim Mooi (f) as guardian of Chong Khin Chew	10 0 04	" 20
	4977	13408	Lim Hee Ngeok alias Lim Mooi (f) as guardian of Chong Khin Yam	10 0 03	"
	4978	13409	Lim Hee Ngeok alias Lim Mooi (f) as guardian of Chong Khi Khin Chow	10 0 03	"
	4979	13410	Lim Hee Ngeok alias Lim Mooi (f)	10 0 02	" 30
	4980	13411	Chong Moong Seng as guardian for Chong Kee Seur	10 0 02	"

(1)	(2)	(3)	(4)	(5)	Applicants' Exhibits
	C.T.		A.R.P.		Exhibit "P.1"
4981	13412	Chong Knin Yoong and Chong Moong Seng as guardian for Chong Kee Seun	10 0 03	Whole	Translation of Johore Government Gazette Notification No. 55 (same as Exhibit "A" to first Applicants' Affidavit at page 4 of Record 21st January 1971 (continued)
4982	13413	Chong Khin Yoong	10 0 02	"	
4983	13414	Loh Kuan Keow (f)	9 3 39	"	
10 4984	13415	Chong Moong Seng and Chong Moong Hian	10 0 03	"	
4985	13516	"	10 0 00	"	
4986	13416	"	10 0 01	"	
4987	13418	"	10 0 01	"	
4988	13419	"	10 0 01	"	
4989	13420	"	10 0 01	"	
4990	13421	"	10 0 02	"	
4991	13422	"	10 0 01	"	
2424	13498	Fatimah binte Ooyub	6 0 01	"	
2425	13499	Mahmood bin Ooyub	5 3 23	"	
20 4438	8542	Ang Keong Lan	5 0 00	"	
4439	8543	Aw Ah Kim	5 0 00	"	
4440	8544	Ang Quee Hong	5 0 02	"	
4441	8545	Ang Kwai Chiok	5 0 00	"	
4442	8546	Ang Eng Tiong	5 0 00	"	
4443	8547	Ang Keok Hua	5 0 00	"	
2422	9687	Johore Associated Trading Co. Sdn.Bhd.	5 0 03	"	
2421	9686	"	5 0 01	"	

Applicants' Exhibits	(1)	(2)	(3)	(4)	(5)
Exhibit "P.1"					
		C.T.		A.R.P.	
Translation of Johore Government Gazette Notification No. 55 (same as Exhibit "A" to first Applicants' Affidavit at page 4 of Record 21st January 1971 (continued))	2420	9685	Johore Associated Trading Co. Sdn.Bhd.	5 0 00	Whole
	2419	9684	"	5 0 01	"
	2488	9693	"	5 0 01	"
	2487	9692	"	5 0 01	"
	2485	9690	"	4 3 26	"
	1942	2950	Tian Kit Onn, See Kui Seng and Tian Yan Onn alias Tian Soo	27 3 20	"
	4945	13376A	Chong Moong Seng and Chong Moong Hian	10 0 01	"
	4946	13377	"	10 0 01	"
	4947	13378	"	10 0 01	"
	4948	13379	"	10 0 01	"
	4949	13380	"	10 0 01	"
	4950	13381	"	10 0 01	"
	4951	13382	"	10 0 02	"
	4952	13383	"	10 0 00	"
	4953	13384	"	10 0 01	"
	4954	13385	"	10 0 01	"
	4955	13386	"	9 3 39	"
	4956	13387	"	10 0 00	"
	4957	13388	"	10 0 00	"
	4958	13389	"	10 0 00	"
	4959	13390	"	10 0 00	"

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(1)	(2)	(3)	(4)	(5)	Applicants' Exhibits
	C.T.		A.R.P.		Exhibit "P.1"
4960	13391	Choong Moong Seng and Chong Moong Hian	10 0 00	Whole	Translation of Johore Government Gazette
4961	13392	"	10 0 00	"	Notification No. 55 (same as Exhibit "A"
4962	13393	"	10 0 00	"	to first
4963	13394	"	10 0 17	"	Applicants' Affidavit at
4964	13395	Chong Yuat Yin (f)	9 3 33	"	page 4 of Record
10	4965	13396 Loh Chee Soh (f) as guardian for Chong Kee Leong	10 0 00	"	21st January 1971 (continued)
	4966	13397 Loh Chee Soh as guardian for Chong Kee Chen	10 0 01	"	
	4967	13398 Ho Siet Kim (f) as guardian for Chong Khin Wei $\frac{1}{2}$ share, Chong Moong Hian $\frac{1}{2}$ share	10 0 01	"	
20	4968	13399 Ho Siet Kim (f) and Ho Siet Kim (f) as guardian for Chong Khin Wei	10 0 01	"	
	4969	13400 Ho Siet Kim (f) as guardian for Chong Khin Wei	10 0 01	"	
	4970	13401 Ho Siet Kim (f)	10 0 01	"	
	4971	13402 Ho Siet Kim (f) and Chong Moong Hian	10 0 01	"	
30	4972	13403 Chong Moong Hian	10 0 01	"	
	4973	13404 Loh Chee Soh (f)	10 0 01	"	
	4974	13405 Chong Khin Yoong and Loh Chee Soh (f)	10 0 04	"	

Applicants'
Exhibits

Exhibit "P.1"	(1)	(2)	(3)	(4)	(5)
Translation of Johore Government Gazette Notification No. 55 (same as Exhibit "A" to first Applicants' Affidavit at page 4 of Record 21st January 1971 (continued)		C.T.		A.R.P.	
	4975	13406	Loh Chee Soh (f) as guardian for Chong Kee Jan	10 0 04	Whole
		G.			
	2279	22685	River Bulch Plantation Limited	955 2 00	"
	1124	5784	Chew Choon Huat	26 2 20	"
	1125	3243	Taio Paper Manufacturing Company	42 3 30	" 10
	1846	7979	Alwee Aikaff	10 1 13	"
	301	165	Bian Aik Limited	440 1 00	"
		E.M.R.			
	1337	952	Tan Seck Hiang	8 2 12	"
		Q.T.(MG)			
	1300	88	Taib bin Taha	0 2 26	"
	2067	102	Abdul Majid bin Mohd. Yusof	0 3 32	" 20
	2052	7	Fatimah binte Haji Jaffar	1 0 00	"
	MLO.82	6	Sartti bin Sutadipara	3 3 00	"
	MLO.83	40	"	2 3 14	"
	MLO.787	41	Pono bin Totiwario	3 1 06	"
	MLO.788	42	Surodirono bin Ronorejo	3 1 00	"
	MLO.84	81	Sartti bin Sutadipara	1 2 00	" 30

(1)	(2)	(3)	(4)	(5)	Applicants' Exhibits
	A. O.		A.R.P.		Exhibit "P.1"
MLO.65	320	Leng Kok Teng	4 0 00	Whole	Translation of Johore Government Gazette
	G. Mk.				Notification No. 55 (same as Exhibit "A" to first Applicants' Affidavit at page 4 of Record 21st January 1971 (continued))
2124	36	A. Majid bin Mohd. Yusoff	1 0 09	"	
2122	37	Maznah binte Yusof	1 3 35	"	
	Q.T.(MG)				
10 MLO.4064	82	Syed Omar bin Abdul Rahman Taha Alsagoff	4 2 04	"	
MLO.4063	83	Lim Buck Chai	1 1 09	"	
MLO.4062	84	Lim Bak Seah	1 1 23	"	
MLO.4061	85	Lim Teck Chye	1 3 09	"	
LO.431	121	Markiban bin Suleiman	2 0 38	"	
	E.M.R.				
1304	1638	Sitiawah Bee binte Kader	1 2 04	"	
22	1617	Tan Ah Tee	1 0 00	"	
20 23	1618	"	1 3 05	"	
24	1619	"	0 3 35	"	
25	1620	"	1 0 15	"	
26	1621	"	0 2 15	"	
27	1622	"	2 1 35	"	
1306	1636	Sitiawah Bee binte Kader	0 2 01	"	
1306	1313	Lok bin Supok	0 1 34	"	
1297	1312	Amir bin Abu Bakar	3 0 07	"	

Applicants' Exhibits	(1)	(2)	(3)	(4)	(5)
Exhibit "P.1"					
		E.M.R.		A.R.P.	
Translation of Johore Government Gazette Notification No. 55 (same as Exhibit "A" to first Applicants' Affidavit at page 4 of Record 21st January 1971 (continued))	1301	1314	Halimah binte Johore	0 1 31.2	Whole
	1303	1315	Mohamed Ali bin Bram 2/5 share, Sa'imah binte Beram 1/5 share, Norijah binte Bram 1/5 share and Norsiah binte Bram 1/5 share	2 2 13	"
	1291	1257	Dali bin Pakak	0 3 26.4	"
	1294	1260	Yet bin Kail	0 2 06	"
	1295	1261	Mohamed bin Wahid	1 0 00	"
	1298	1317	Sulong bin Dwaleh	1 1 30	"
	14	1456	Tan Ah Tee	1 0 15	"
	19	1489	Hussin bin Mohamed Shah	0 3 35	"
	1292	1567	Chua Song Lim	2 3 32	"
	460	779	Chong Ah Lek (f)	6 3 20	"
		G.			
	2770	9106	Liow Niow Siew	13 3 24	"
	2837	23687	Yap Pheng Geck	5 3 00	"
	2836	9983	Lee Brothers (Wee Kee) Limited	57 3 25	"
	2618	7743	Teo Nui Kia and Tan Seck Hiang	15 0 10	"
	300	121	Adaikkammai Achi daughter of Angappa Chettiar as representative $\frac{2}{4}$ share, ST.K.Kasiviswanathan Chettiar s/o Chethambaran Chettiar, ST.M.	146 0 00	"

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(1)	(2)	(3)	(4)	(5)	Applicants' Exhibits
	G.		A.R.P.		Exhibit "P.1"
10		Muthiah Chettiar son of Chethambaram Chettiar, ST.S. S ngaram Shettiar s/o Chethambaram Chettiar and ST.S. Subbiah Chethiar son of Chethambaram Chether, St.S. Sethu alias Ramasamy Chethar son of Chethambaram Chethar $\frac{1}{4}$ share			Translation of Johore Government Gazette Notification No. 55 (same as Exhibit "A" to first Applicants' Affidavit at page 4 of Record 21st January 1971 (continued)
	447	1695	Ang King Siang $\frac{1}{2}$ share and Tan Ah Nhai (f) $\frac{1}{2}$ share	7 3 30	Whole
	1761	5787	Lee Rubber Company Limited	0 2 01	"
20	1762	5788	"	6 0 08	"
		C.T.			
	2581	13458	Tan Eng Wan and Chua Kim Seng	10 0 01	"
	2583	14971	Chia Kia Yong	9 0 01	"
	2584	14972	Liew Yew Chong	9 0 00	"
	2585	14973	Chua Eng Kian	9 0 00	"
	2586	14974	Ong Poh Seng	9 0 00	"
	2587	14975	Chang Chee Jiat	8 3 38	"
	2588	14976	Lim Seng Yiong	9 0 00	"
30	2589	14977	Ng Siew Chong	9 0 00	"
	2590	14978	Yeo Boon Tee	8 3 39	"
	2591	14979	Tan Her Yam	3 3 05	"
	2592	14980	Tan Soon Wah	8 3 39	"
	2594	14982	Tan King Min	10 0 00	"

Applicants' Exhibits	(1)	(2)	(3)	(4)	(5)	
Exhibit "P.1"						
Translation of Johore Government Gazette Notification No. 55 (same as Exhibit "A" to first Applicants' Affidavit at page 4 of Record 21st January 1971 (continued))	2595	C.T.	Tan Kong Min as natural guardian of Tan Soon Teng	A.R.P. 9 0 00	Whole	
	2596	14984	Tan Kong Min as natural guardian of Tan Siew Ching	9 0 00	"	
	2597	14985	Tan Kong Min as natural guardian of Tan Bee Chai	9 0 00	"	10
	2598	14986	Tan Kong Min as natural guardian of Tan Bee Ling	9 0 00	"	
		Q.T.(R)				
	6431	1927	Leow Kim Hong (f)	5 0 01	"	
	6432	1928	Leow Shwa (f)	5 0 01	"	
	6433	1929	Lim Suan (f)	5 0 01	"	
	6434	1930	Khaw Peck Kok and Leow Kim Hong (f)	5 0 01	"	20
	6435	1931	Khaw Peck Kok and Leow Shwa (f)	5 0 01	"	
	6436	1932	Khaw Peck Kok and Lim Suan (f)	5 0 01	"	
		G.Mk.				
	2123	38	Mohd. Yatim bin Ariff	2 1 26	"	
		C.T.				
	2564	13441	Ang Hong	10 0 02	"	
	2565	13442	Tan Ah Bah	10 0 02	"	30
	2566	13443	Tan Eng Heng	10 0 02	"	
	2567	13444	Tan Eng Yam	10 0 02	"	

					Applicants' Exhibits	
(1)	(2)	(3)	(4)	(5)		
			C.T.	A.R.P.		
	2568	13445	Tan Kian Chan	10 0 01	Whole	Exhibit "P.1" Translation of Johore Government Gazette Notification No.55 (same as Exhibit "A" to first Applicants' Affidavit at page 4 of Record 21st January 1971 (continued)
	2569	13446	Tan Eng Wah and Tan Oei Been	10 0 03	"	
	2570	13447	Tan Eng Keng and Tan Eng Yam	8 1 19	"	
	2571	13448	Neo Boon Siew and Tan Kian Cheong	10 0 00	"	
10	2572	13449	Chua Kim Seng and Tan Beng Poon	10 0 01	"	
	2573	13450	Tan Tee Wan and Lain Chin Bee	10 0 01	"	
	2574	13451	Tan Tee Wan and Tan Kian Cheong	10 0 02	"	
	2575	13452	Ang Hong and Tan Eng Keng	10 0 02	"	
	2576	13453	Tan Kian Cheong and Tan Eng Heng	10 0 02	"	
20	2577	13454	Tan Kian Cheong and Lian Chin Bee	10 0 02	"	
	2578	13455	Tan Eng Yam and Tan Oei Been	10 0 02	"	
	2579	13456	Tan Eng Heng and Tan Eng Keng	10 0 03	"	
	2580	13457	Tan Eng Wah and Ang Hong	10 0 03	"	
			E.M.R.			
30	31	31	Lim Buk Kiand alias Lim Ah Tee	3 1 20	"	
	32	32	Lim Kim Hock	1 3 10	"	
	33	33	A. Majid bin Md. Tahir as representative	1 3 20	"	

Applicants' Exhibits	(1)	(2)	(3)	(4)	(5)
Exhibit "P.1"					
		E.M.R.		A.R.P.	
Translation of Johore Government Gazette	34	34	Chng Sin Poey	1 3 30	Whole
Notification No.55 (same as Exhibit "A" to first Applicants' Affidavit at page 4 of Record 21st January 1971 (continued))	35	35	"	1 0 30	"
	36	36	"	1 0 05	"
	30	30	Tan Ang Tong (minor) aged 20 years	2 1 15	"
	29	29	"	2 3 30	"
	1332	947	Sulong bin Andoy	1 2 20	"
	1326	941	Omar bin Ally and Abu Talib bin Ally	4 3 38	" 10
	1333	948	Pun binte Mohamed	1 0 15	"
	1334	949	Mohamed Ali bin Beram 2/5 share, Saimah binte Teram 1/5 share, Norijah binte Beram 1/2 share and Norsiah binte Beram 1/5 Share	2 0 00	"
	1331	946	Otham bin Omar as administrator	2 0 30	" 20
	1330	945	Mohamed Salleh bin Mohamed Ariff	2 0 15	"
	1329	944	Himah binte Othman 10/80 share, Abdullah bin Taha 14/80 share, Ismail bin Taha 14/80 share, Omar bin Taha 14/80 share, A. Aziz bin Taha 14/80 share, Siah bin Taha 7/80 share, Normah bin Taha 7/80 share	1 3 20	" 30
	1328	943	Sahrom binte Safar	1 1 00	"
	1327	942	Abdul Kadir bin Hussin	1 1 05	"

(1)	(2)	(3)	(4)	(5)	Applicants' Exhibits
	E.M.R.		A.R.P.		Exhibit "P.1"
1336	951	Syed Omar bin Abdul-rahman Taha Alsagoff	9 1 31	Whole	Translation of Johore Government Gazette
1335	1565	Yusof bin Ismail	0 3 15	"	Notification No.55 (same as Exhibit "A"
2200	1585	Syed Omar bin Abdul-rahman Taha Alsagoff	1 1 00	"	to first Applicants' Affidavit at page 4 of Record
2201	1586	Chee Kutty s/o Abu Bakar	2 0 34	"	21st January 1971 (continued)
10	2199	1588	Md. Salleh bin Abdullah	1 1 30	"
	2202	1587	Puan Sri Salnah binte Awang	1 3 04	"
	A.O.				
	LO.295	188	Othman bin Haji Kassim	1 3 10	"
	LO.298	216	Hashim bin Abu Bakar	1 1 20	"
	Mk.Gr.				
20	2211	32	Abu Bakar bin Mohideen	1 0 17.8	"
	2210	33	"	0 1 32.1	"
	Q.T.(MG)				
	MLO.1137	53	Kassim bin A.Rahman	1 2 10	"
	MLO.3962	111	Othman bin Haji Kassim	1 3 15	"
	A.O.				
	LO.185	254	Ahmad bin Chik	0 1 27	"
	E.M.R.				
	1442	995	Ara binte Basir (f)	1 0 15	"

Applicants' Exhibits	(1)	(2)	(3)	(4)	(5)	
Exhibit "P.1"						
		G.		A.R.P.		
Translation of Johore Government Gazette Notification No.55 (same as Exhibit "A" to first Applicants' Affidavit at Page 4 of Record 21st January 1971 (continued))	2405	7632	Syed Omar bin Abdul-rahman Taha Alsagoff	0 2 10	Whole	
	1764	5790	Lee Rubber Co. Ltd.	9 3 31	"	
	1435	15617	"	933 2 00	"	
	1810	5923	Omar bin Ally and Abu Talib bin Ally	5 2 29	"	
	2639	8550	Lim Lye Guan also spelt as Lim Lian Gua Guan	16 0 00	"	10
	1842	5958	Liow Niow Siew	27 3 00	"	
	1277	2299	Lee Rubber Co. Ltd.	19 3 00	"	
	388	2001	Tan Boon Khak	125 0 20	"	
	1334	2004	Lee Rubber Co.Ltd.	385 1 00	"	
	1439	15700	River Buloh Plantations Limited	618 0 00	"	
	1343	957	Teo Mui Kia (f) and Tan Seck Hiang	2 2 15	"	
	1344	958	Abdul Hamid bin Mohd. Ali	0 3 30	"	20
	1345	959	Abdul Majid bin Osman	0 3 37	"	
	1346	960	Hitam bin Shahdan	0 3 26	"	
	1347	961	Kahar bin Alam	1 0 05	"	
	1348	962	Gadoh bin Rahmat	1 0 00	"	
	1349	963	Dempol bin Titin	0 3 25	"	
	1350	964	Dais bin Haji Ali	1 0 05	"	
	1351	965	Abdul Majid bin Kaman	0 3 31	"	30

					Applicants' Exhibits
(1)	(2)	(3)	(4)	(5)	
E.M.R.			A.R.P.		Exhibit "P.1"
1352	966	Aminah binte Ahmad and Zaiton binte Abdullah	1 3 30	Whole	Translation of Johore Government Gazette Notification No.55 (same as Exhibit "A" to first Applicants' Affidavit at Page 4 of Record 21st January 1971 (continued)
10	1353	967	Mohamed bin Ahad 2/6 share, Ramlah binte Ahad 1/6 share, Okid binte Ahad 1/6 share, Jamilah binte Ahad 1/6 share and Jamaliah (Jemah) binte Ahad 1/6 share	1 3 35	"
	1339	954	Ayat bin Long	2 1 15	"
	1340	955	Omar bin Tahir	0 2 35	"
20	1355	968	Tick binte tunggal 1/3 share, Kechik binte Tunggal 1/3 share, and Bujang bin Tunggal 1/3 share	0 2 14	"
	1357	969	Ahmad bin Chik	1 1 00	"
	1341	1085	Abdul Aziz bin Tahir	0 3 00	"
	1366	977	Tot binte Titin	0 2 34	"
	1342	1616	Ragiman bin Omar	0 3 07	"
	1354	1396	Jantan bin Sasir, Abdul Latiff bin Sasir and Ara	4 2 25	"
	1367	978	Taha bin Manap	0 3 20	"
30	Q.T.(R)				
	6437	1933	Klaw Peck Kok	5 0 01	"
	6438	1934	Khaw Peck Kok, Leow Kim Hong (f), Leow Shwa (f) and Lim Suan (f)	7 3 23	"

Applicants'
Exhibits

	(1)	(2)	(3)	(4)	(5)	
Exhibit "P.1"						
Translation of Johore Government Gazette		C.T.		A.R.P.		
Notification No. 55 (same as Exhibit "A" to first Applicants' Affidavit at Page 4 of Record 21st January 1971 (continued)	2164	11967	Tan Eng Wah	10 0 00	Whole	
	2165	11968	Tan Eng Keng	10 0 00	"	
	2166	11969	Neo Boon Siew	10 0 00	"	
	2167	11970	Tan Beng Poon	10 0 01	"	
	2168	11971	Lian Chin Bee	10 0 00	"	
	2169	11972	Tan Oei Been and Tan Eng Heng	10 0 01	"	
	2170	11973	Chua Kim Seng and Tan Kian Cheong	10 0 01	"	10
	2171	11974	Tan Tee Wan and Ang Hong	10 0 00		
	2172	11975	Tan Ah Bah and Tan Eng Heng	10 0 00	"	
	2173	11976	Tan Eng Yam and Tan Kian Chan	10 0 03	"	
	2174	11977	Tan Eng Wah and Neo Boon Siew	9 3 37	"	
	2175	11978	Tan Eng Keng and Lian Chin Bee	10 0 00	"	20
	2176	11979	Tan Beng Poon and Ang Hong	10 0 00	"	
	2177	11980	Tan Tee Wan and Tan Oei Been	10 0 00	"	
	2178	11981	Tan Soon Poh	3 2 38	"	
	1942	2950	Tan Kit Onn, See Kui Seng and Tian Yam Onn alias Tian Soo	27.3 20	"	30

(1)	(2)	(3)	(4)	(5)	Applicants' Exhibits
	G.		A.R.P.		Exhibit "P.1"
1440	15571	Hock Lim Estate Limited	221 3 20	Whole	Translation of Johore Government Gazette
1763	5789	Lee Rubber Company Ltd.	0 1 16	"	Notification No.55 (same as Exhibit "A"
1517	10867	Ng Choon Neo (f)	48 1 35	"	to first Applicants' Affidavit at Page 4 of Record
1436	16124	Lee Rubber Company Limited	5 3 36	"	21st January 1971
10	C.T.				(continued)
2486	9691	Johore Associated Trading Company Sendirian Berhad	5 0 01	"	
2418	9683	"	5 0 01	"	

EXHIBIT P.2Applicants'
Exhibits

Exhibit "P.2"

Letter Jackson
& Masacorale
to Collector
of Land
Revenue
23rd February
1971

LETTER JACKSON & MASACORALE TO COLLECTOR
OF LAND REVENUE 23rd FEBRUARY, 1971.
(same as exhibit "B" to first Applicants'
Affidavit affirmed 4th June 1972 at page 4
of record)

JACKSON & MASACORALE,
ADVOCATES & SOLICITORS,
NOS. 3F & 3G, 3RD FLOOR,
FOH CHONG BUILDING,
JALAN IBRAHIM,
JOHORE BAHRU.

10

23rd February, 1971.

Our Ref: DCJ/MG/O.141.71.

The Collector of Land Revenue,
Johore Bahru.

Tuan,

Undang2 Pengambilan Tanah 1960

We beg to refer to Form D under Section 8 of
the above-mentioned Act published as Notification
No.55 appearing in the Supplement to the Johore
Government Gazette dated 21st January, 1971.

20

Among the properties appearing in the Schedule
to the Notification are the following properties:-

- | | | | | |
|----|------------------------|--|------------|----|
| 1. | MLO 4064 Q.T.(MG) | Syed Omar b. | 4E-2R-04P | |
| | 82 | Abdul Rahman
Taha Alsagoff | | |
| 2. | Lot 1336 E.M.R.
951 | - do - | 9E-1R-31P | |
| 3. | Lot 2639 G.8550 | Lim Iye Guan
also spelt as
Lim Lian Guan | 16E-OR-00P | 30 |

The property No. 3 above has been sold and
transferred to Syed Omar bin Abdul Rahman Taha
Alsagoff, who is our client, and the documents
were presented for registration on 5th Nov., 1970.

These three properties are shown in the plan
J7/3872, which refers to the lands to be acquired,

as being in the area reserved for "Kegunaan Khas".

Our client has already developed properties Nos. 1 and 2 as beach and holiday resort and as a tourist attraction and it is his intention on becoming the registered owner of property No. 3 to utilize the land for an extension of the resort as a tourist attraction.

10 The lands comprised in all three Lots are at present agricultural lands and our client wishes to apply under Section 124 of the National Land Code for conversion of the lands to the category "building".

There are already eight chalets, 2 restaurants, public changing rooms and showers on property No.1 and property No.2 has a power station with an approach road, three lakes and several islands with flowers being planted.

We will be shortly forwarding a plan showing what the project will consist of on completion.

20 In the circumstances will Government please agree to excise the three properties in question from the intended acquisition proceedings?

Yours faithfully,

Sd. Jackson & Masacorale.

c.c. Tourist Section,
(Local Government & Housing),
State Secretariat,
Johore Bahru.

30 State Planning Officer,
Johore,
Johore Bahru.

Client.

Applicants'
Exhibits

Exhibit "P.2"

Letter Jackson
& Masacorale
to Collector
of Land
Revenue
23rd February
1971
(continued)

Applicants'
Exhibits

EXHIBIT P.3

TRANSLATION OF LETTER ISMAIL BIN A AZIZ
TO SYED OMAR BIN A RAHMAN TAHA ALSAGOFF
DATED 3RD JUNE 1972

Exhibit "P.3"

Translation
of letter
Ismail Bin A.
Aziz to Syed
Omar bin a
Rahman Taha
Alsagoff
3rd June 1972

LAND OFFICE,
JOHORE BAHRU,
POST BOX 38,
JOHORE BAHRU.

3rd June, 1972.

Ref.()dlm. PHT.JB. 7/2/70 (J-92).

Tuan Syed Omar bin A. Rahman Taha Alsagoff,
No. 16, Jalan Mariamah,
Johore Bahru.

Acquisition of Land for Harbour

With reference to the abovementioned matter, you are already well aware that at present all your lands which are affected have become State land. All properties on the said lands have been valued and you have received the compensation. In the circumstances the government will take possession of all existing buildings belonging to you.

I therefore hope that you will call at my office today at your earliest convenience to hand over the keys of the buildings situated in the said area.

Thank you.

Yours faithfully,

SD: (ISMAIL BIN A. AZIZ)
On behalf of Collector of Land
Revenue, Johore Bahru.

IAA/R

EXHIBIT "P.4"

Applicants'
Exhibits

TRANSLATION OF NOTICE OF ACQUISITION OF
FIRST AND SECOND APPLICANTS' LAND (FORM
K) DATED 22ND APRIL 1972 (same as
Exhibit "C" to first Applicants' Affidavit
sworn 8th October, 1972 and second Applicants'
Affidavit sworn 10th October 1972 and
Certificate of Urgency)

Exhibit P.4.
Translation of
notice of
acquisition of
first and
second
Applicants'
land (Form K)
22nd April
1972 and
Certificate
of Urgency.

Ref. PHT. JB.7/2/70(J.) (Land 263)

10

FORM K

LAND ACQUISITION ACT, 1960
(Section 22)

NOTICE THAT POSSESSION HAS BEEN TAKEN OF LAND

Acquisition Proceedings No.
Gazette Notification No. 55 published in Government
of Johor Gazette dated 21st January, 1971.

20

It is hereby notified that I have to-day, pur-
suant to Section 22 of the Land Acquisition Act,
1960, taken formal possession of the land shown in
the Schedule below to the extent declared in the
last column of the Schedule.

✕ A copy of a Certificate of Urgency issued by
the Commissioner is annexed.

Dated this 22nd April, 1972.

Mukim Plentong
District of Johore Bahru.

L.S. Sd. Illegible
Collector
Land Revenue
Johor Bahru.

30

Survey Lot No.	Title or Authority to occupy	Registered Proprietor or Recorded Occupant	Area of Lot	Approx. Area to be acquired
			A-R-P	A-R-P

Schedule as attached

Applicants' Exhibits

FORM I

LAND ACQUISITION ACT, 1960

Exhibit P.4.

(Section 19)

Translation of notice of acquisition of first and second Applicants' land (Form K) 22nd April 1972 and Certificate of Urgency. (continued)

CERTIFICATE OF URGENCY

Acquisition Proceedings No.
Gazette Notification No. 55 in Johore Government
Gazette dated 21st January, 1971.

To: The Collector of Land Revenue,
Johore Bahru.

Whereas the land scheduled below, being country/land arable land/unoccupied land*, was declared by the above Gazette Notification to be required for a public purpose:

10

And whereas such land is now urgently required for use for a public purpose:

Now therefore in exercise of the powers conferred by Section 19 of the Land Acquisition Act, 1960, I hereby certify that such land is urgently required for use for a public purpose and DIRECT you forthwith to take possession of such land.

20

Dated this 20th day of April, 1972.

Sd: Zakaria b. Sulong.
Commissioner.

Mukim of Plentong.
District of Johore Bahru.

SCHEDULE

Survey Lot No.	Title or Authority to Occupy	Registered Area Proprietor of or Recorded Occupant	Approx. Area to be acquired
----------------	------------------------------	--	-----------------------------

30

SCHEDULE AS ATTACHED

* Delete as appropriate.

SCHEDULE

District - Johore Bahru.

Mukim - Plentong

Applicants'
Exhibits

Exhibit P.4

Translation of
notice of
acquisition of
first and
second
Applicants'
land (Form K)
22nd April
1972 and
Certificate
of Urgency.
(continued)

Survey Lot No.	Title or Authority to Occupy	Registered Proprietor or Recorded Occupant	Area of Lot	Approx. Area to be acquired
(1)	(2)	(3)	(4)	(5)
	E.M.R.		A.R.P.	
10	11	11	Hussin bin Mohamed Shah	0 3 25 Whole
	15	15	Tan Ah Tee	0 3 20 "
	16	16	Tik bin Suboh	0 3 35 "
	17	17	Low bin Suboh	1 0 15 "
20	18	18	Ahmad bin Mohamed Ali	2 2 00 "
	20	20	Abdul Gani bin Sulong	0 2 10 "
	21	21	Tan Ah Tee	0 3 05 "
	22	22	Yahya bin Awang	0 3 10 "
	28	28	Wan Mohamed Don bin Mohamed as representa- tive	1 2 35 "
30	39	37	Bian Aik Limited	5 3 15 "
	415	272	Amok bin Omar	0 2 25 "

Applicants'
Exhibits

Exhibit P.4

	(1)	(2)	(3)	(4)	(5)	
		E.M.R.		A.R.P.		
Translation of notice of acquisition of first and second Applicants' land (Form K) 22nd April 1972 and Certificate of Urgency. (continued)	416	274	Ahmad bin Ali	0 0 20	Whole	
	417	275	Rabiah binte Bujang and Fatimah binte Bujang	0 0 21	"	
	418	276	Akob bin Kalam	0 1 27	"	
	420	278	Mahmood bin Puru	1 0 15	"	10
	421	279	Madar binte Mohamed	0 1 39	"	
	422	280	Hussin bin Hassan	0 2 06	"	
	423	281	Puteh binte Tambi Kechil and Jaima binte Tambi Kechil	0 2 31	"	
	424	282	Sadik bin Mahmood	0 2 06	"	20
	425	273	Hitam bin Kilah	0 3 28	"	
	1271	400	Bian Aik Limited	6 0 06	"	
	419	1623	Goh Kee Song	0 2 31	"	
	1296	1614	Baid bin Ahmad	2 3 06	"	
	1302	1615	- ij -	0 3 03	"	
	1299	1613	- ji -	0 2 04	"	30
		C.T.				
	4976	13407	Lim Hee Ngeok alias Lim Mooi (f) as guardian of Chong Khin Chew	10 0 04	"	

					Applicants' Exhibits	
(1)	(2)	(3)	(4)	(5)		
			C.T.	A.R.P.	Exhibit P.4	
	4977	13408	Lim Hee Ngeok alias Lim Mooi (f) as guardian of Chong Khin Yam	10 0 03	"	Translation of notice of acquisition of first and second Applicants' land (Form K) 22nd April 1972 and Certificate of Urgency. (continued)
	4978	13409	Lim Hee Ngeok alias Lim Mooi (f) as guardian of Chong Khin Chow	10 0 03	"	
10	4979	13410	Lim Hee Ngeok alias Lim Mooi (f)	10 0 02	"	
	4980	13411	Chong Moong Seng as guardian for Chong Kee Seun	10 0 02	"	
	4981	13412	Chong Khin Yoong and Chong Moong Seng as guardian for Chong Kee Seun	10 0 03	"	
20	4982	13413	Chong Khin Yoong	10 0 02	"	
	4983	13414	Loh Kuan Keow (f)	9 3 39	"	
	4984	13415	Chong Moong Seng and Chong Moong Hian	10 0 03	"	
	4985	13416	- ij -	10 0 00	"	
	4986	13417	- ij -	10 0 01	"	
	4987	13418	- ij -	10 0 01	"	
	4988	13419	- ij -	10 0 01	"	
	4989	13420	- ij -	10 0 01	"	
	4990	13421	- ij -	10 0 02	"	
30	4991	13422	- ij -	10 0 01	"	
	2424	13498	Fatimah binte OOyub	6 0 01	"	

Applicants'
Exhibits

	(1)	(2)	(3)	(4)	(5)	
Exhibit P.4						
Translation of notice of acquisition of first and second Applicants' land (Form K) 22nd April 1972 and Certificate of Urgency. (continued)		C.T.		A.R.P.		
	2425	13499	Mahmood bin Ooyub	5 3 23	Whole	
	4438	8542	Ang Keong Lan	5 0 00	"	
	4439	8543	Aw Ah Kim	5 0 00	"	
	4440	8544	Ang Quee Hong	5 0 02	"	
	4441	8545	Ang Kwai Chiok	5 0 00	"	
	4442	8546	Ang Eng Tiong	5 0 00	"	
	4443	8547	Ang Keok Hua	5 0 00	"	
	2422	9687	Johore Associated Trading Company Sendirian Berhad	5 0 03	"	10
	2421	9686	- ij -	5 0 01	"	
	2420	9685	- ij -	5 0 00	"	
	2419	9684	- ij -	5 0 01	"	
	2488	9693	- ij -	5 0 01	"	
	2487	9692	- ij -	5 0 01	"	
	2485	9690	- ij -	4 3 26	"	
	1942	2950	Tian Kit Onn, See Kui Seng and Tian Tan Onn alias Tian Soo	27 3 20	"	20
	4945	13376A	Chong Moong Seng and Chong Moong Hian	10 0 01	"	
	4946	13377	- ij -	10 0 01	"	
	4947	13378	- ij -	10 0 01	"	
	4948	13379	- ij -	10 0 01	"	
	4949	13380	- ij -	10 0 01	"	

(1)	(2)	(3)	(4)	(5)	Applicants' Exhibits	
	C.T.		A.R.P.		Exhibit P.4	
	4950	13381	Chong Moong Seng and Chong Moong Hian	10 0 01	Whole	Translation of notice of acquisition of first and second
	4951	13382	- ij -	10 0 02	"	Applicants' land (Form K)
	4952	13383	- ij -	10 0 00	"	22nd April 1972 and
	4953	13384	- ij -	10 0 01	"	Certificate of Urgency.
	4954	13385	- ij -	10 0 01	"	(continued)
10	4955	13386	- ij -	9 3 39	"	
	4956	13387	- ij -	10 0 00	"	
	4957	13388	- ij -	10 0 00	"	
	4958	13389	- ij -	10 0 00	"	
	4959	13390	- ij -	10 0 00	"	
	4960	13391	- ij -	10 0 00	"	
	4961	13392	- ij -	10 0 00	"	
	4962	13393	- ij -	10 0 00	"	
	4963	13394	- ij -	10 0 17	"	
	4964	13395	Chong Yuat Yin (f)	9 3 33	"	
20	4965	13396	Loh Chee Soh (f) as guardian for Chong Kee Leong	10 0 00	"	
	4966	13397	Loh Chee Soh (f) as guardian for Chong Kee Chen	10 0 01	"	
	4967	13398	Ho Siet Kim (f) as guardian of Chong Khin Wei $\frac{1}{2}$ share, Chong Moong Hian $\frac{1}{2}$ share.	10 0 01	"	
30						

Applicants'
Exhibits

Exhibit P.4

Translation of
notice of
acquisition of
first and
second
Applicants'
land (Form K)
22nd April
1972 and
Certificate
of Urgency.
(continued)

(1)	(2)	(3)	(4)	(5)
	C.T.		A.R.P.	
4968	13399	Ho Siet Kim (f) and Ho Siet Kim (f) as guardian for Chong Khin Wei	10 0 01	Whole
4969	13400	Ho Siet Kim (f) as guardian for Chong Khin Wei	10 0 01	"
4970	13401	Ho Siet Kim (f)	10 0 01	"
4971	13402	Ho Siet Him (f) and Chong Moong Hian	10 0 01	"
4972	13403	Chong Moong Hian	10 0 01	"
4973	13404	Loh Chee Soh (f)	10 0 01	"
4974	13405	Chong Khin Yoong and Loh Chee Soh (f)	10 0 04	"
4975	13406	Loh Chee Soh (f) as guardian for Chong Kee Han	10 0 04	" 20
	G.			
2279	22685	River Buloh Plantation Limited	955 2 00	"
1124	5784	Chew Choon Huat	26 2 20	"
1125	3243	Taio Paper Manufacturing Company	42 3 30	"
1846	7979	Alwee Alkaff	10 0 12	" 30
301	165	Bian Aik Limited	440 1 00	"

(1)	(2)	(3)	(4)	(5)	Applicants' Exhibits
	EMR		A.R.P.		Exhibit P.4
1337	952	Tan Seck Hiang	8 2 12	Whole	Translation of notice of acquisition of first and second
	Q.T.(MG)				Applicants' land (Form K) 22nd April 1972 and Certificate of Urgency. (continued)
1300	88	Taib bin Taha	0 2 26	"	
2067	102	Abdul Majid bin Mohd. Yusof	0 3 32	"	
2052	7	Fatimah binte Haji Jaffar	1 0 00	"	
10	MLO.82	6 Sartti bin Sutadipara	3 3 00	"	
	MLO.83	40 -ij-	2 3 14	"	
	MLO.787	41 Pono bin Totiwario	3 1 06	"	
	MLO.788	42 Surodirono bin Ronorejo	3 1 00	"	
	MLO.84	81 Sartti bin Sutadipara	1 2 00	"	
	A.O.				
20	MLO.65	320 Leng Kok Teng	4 0 00	"	
	G.Mk.				
	2124	36 A. Majid bin Mohd. Yusoff	1 0 09	"	
	2122	37 Maznah binte Yusof	1 3 35	"	
	MLO.	Q.T.(MG)			
	4064	82 Syed Omar bin Abdul Rahman Taha Alsagoff	4 2 04	"	
30	4063	83 Lim Buek Chai	1 1 09	"	

Applicants'
Exhibits

	(1)	(2)	(3)	(4)	(5)
Exhibit P.4					
Translation of notice of acquisition of first and second		Q.T.(MG)		A.R.P.	
Applicants' land (Form K) 22nd April 1972 and Certificate of Urgency. (continued)					
	4062	84	Lim Bak Seah	1 1 23	Whole
	4061	85	Lim Teck Chye	1 3 09	"
	LO. 431	121	Markiban bin Suleiman	2 0 38	"
		EMR			
	1304	1638	Satiawah Bee binte Kader	1 2 04	"
	22	1617	Tan Ah Tee	1 0 00	" 10
	13	1618	- ij -	1 3 05	"
	24	1619	- ij -	0 3 35	"
	25	1620	- ij -	1 0 15	"
	26	1621	- ij -	0 2 15	"
	27	1622	- ij -	2 1 35	"
	1306	1636	Sitiawah Bee binte Kader	0 2 01	"
	1306	1313	Lok bin Supok	0 1 34	"
	1297	1312	Amir bin Abu Bakar	3 0 07	" 20
	1301	1314	Halimah binte Johore	0 1 31.2	"
	1303	1315	Mohamed Ali bin Bram 2/5 share, Sa'imah binte Beram 1/5 share, Norijah binte Bram 1/5 share and Norsiah binte Bram 1/5 share	2 2 13	" 30
	1291	1257	Dali bin Pakak	0 3 26.4	"

					Applicants' Exhibits	
(1)	(2)	(3)	(4)	(5)		
	EMR		A.R.P.		Exhibit P.4	
	1294	1260	Yet bin Kail	0 2 06	Whole	Translation of notice of acquisition of first and second
	1295	1261	Mohamed bin Wahid	1 0 00	"	Applicants' land (Form K)
	1298	1317	Sulong bin Dwaleh	1 1 30	"	22nd April 1972 and Certificate of Urgency. (continued)
	14	1456	Tan Ah Tee	1 0 15	"	
	19	1489	Hussin bin Mohamed Shah	0 3 35	"	
	1292	1567	Chua Song Lim	2 3 32	"	
10	460	G.8052	Tan Ah Lye (f)	10 2 28	"	
	2770	G.9106	Liow Niow Siew	13 3 24	"	
	2837	23687	Yap Pheng Geck	5 3 00	"	
	2836	9983	Lee Brothers (Wee Kee) Limited	57 3 25	"	
	2618	7743	Teo Mui Kia and Tan Seck Hiang	15 0 10	"	
20	300	121	Adaikkammai Achi daughter of Angappa Chettiar as representative $\frac{3}{4}$ share, ST.K. Kasiviswanathan Chettiar s/o Chethambaran Chettiar ST.M. Muthaih Chettiar son of Chethambaran Chettiar, ST.S. Singaram Chettiar son of Chethambaran Chettiar and ST. S. Subbiah Chettiar son of Chethambaran Chether, ST.S.Sethu alias Ramasamy Chethar son of Chethambaran Chethar $\frac{1}{4}$ share	146 0 00	"	
30						
40						

Applicants'
Exhibits

Exhibit P.4

Translation of
notice of
acquisition of
first and
secondApplicants'
land (Form K)
22nd April
1972 and
Certificate of
Urgency.
(continued)

	(1)	(2)	(3)	(4)	(5)
		G.		A.R.P.	
	447	1695	Ang King Siang $\frac{1}{2}$ share and Tan Ah Nhai (f) $\frac{1}{2}$ share	7 3 30	Whole
	1761	5787	Lee Rubber Company Limited	0 2 01	"
	1762	5788	- ij -	6 0 08	"
	2581	13458	Tan Eng Wan and Chua Kim Seng	10 0 01	" 10
	2583	14971	Chia Kia Yong	9 0 01	"
	2584	14972	Liew Yew Chong	9 0 00	"
	2585	14973	Chua Eng Kian	9 0 00	"
	2586	14974	Ong Poh Seng	9 0 00	"
	2587	14975	Chang Chee Jiat	8 3 38	"
	2588	14976	Lim Seng Yiong	9 0 00	"
	2589	14977	Ng Siew Chong	9 0 00	"
	2590	14978	Yeo Boon Tee	8 3 39	"
	2591	14979	Tan Her Yam	3 3 05	" 20
	2592	14980	Tan Soon Wah	8 3 39	"
	2594	14982	Tan Kong Min	10 0 00	"
	2595	14983	Tan Kong Min as natural guardian of Tan Soon Teng	9 0 00	"
		C.T.			
	2596	14984	Tan Kong Min as natural guardian of Tan Siew Ching	9 0 00	" 30

(1)	(2)	(3)	(4)	(5)	Applicants' Exhibits
	C.T.		A.R.P.		Exhibit P.4
2597	14985	Tan Kong Min as natural guardian of Tan Bee Chai	9 0 00	Whole	Translation of notice of acquisition of first and second
2598	14986	Tan Kong Min as natural guardian of Tan Bee Ling	9 0 00	"	Applicants' land (Form K) 22nd April 1972 and Certificate of Urgency. (continued)
	Q.T.(R)				
10	6431	1927	Leow Kim Hong (f)	5 0 01	"
	6432	1928	Leow Shwa (f)	5 0 01	
	6433	1929	Lim Suan (f)	5 0 01	"
	6434	1930	Khaw Peck Kok and Leow Kim Hong (f)	5 0 01	"
	6435	1931	Khaw Peck Kok and Leow Shwa (f)	5 0 01	"
	6436	1932	Khaw Peck Kok and Lim Suan (f)	5 0 01	"
	G.MK.				
20	2123	38	Mohd. Yatim bin Ariff.	2 1 26	"
	2564	13441	Ang Hong	10 0 02	"
	2565	13442	Tan Ah Bah	10 0 02	"
	2566	13443	Tan Eng Heng	10 0 02	"
	2567	13444	Tan Eng Yam	10 0 02	"
	2568	13445	Tan Kian Chan	10 0 01	"
	2569	13446	Tan Eng Wah and Tan Oei Been	10 0 03	"
30	2570	13447	Tan Eng Keng and Tan Eng Yam	8 1 19	"
	2571	13448	Neo Boon Siew and Tan Kian Cheong	10 0 00	"

Applicants'
Exhibits

Exhibit P.4

Translation of
notice of
acquisition of
first and
second
Applicants'
land (Form K)
22nd April
1972 and
Certificate of
Urgency.
(continued)

(1)	(2)	(3)	(4)	(5)
	C.T.		A.R.P.	
2572	13449	Chua Kim Seng and Tan Beng Poon	10 0 01	Whole
2573	13450	Tan Tee Wan and Lain Chin Bee	10 0 01	"
2574	13451	Tan Tee Wan and Tan Kian Cheong	10 0 02	"
2575	13452	Ang Hong and Tan Eng Keng	10 0 02	" 10
2576	13453	Tan Kian Cheong Tan Eng Heng	10 0 02	"
2577	13454	Tan Kian Cheong and Lian Chin Bee	10 0 02	"
2578	13455	Tan Eng Yam and Tan Oei Been	10 0 02	"
2579	13456	Tan Eng Heng and Tan Eng Keng	10 0 03	" 20
2580	13457	Tan Eng Wah and Ang Hong	10 0 03	"
	EMR			
31	31	Lim Buk Kiang alias Lim Ah Tee	3 1 20	"
32	32	Lim Kim Hock	1 3 10	"
33	33	A. Majid bin Md. Tahir as representative	1 3 20	"
34	34	Chny Sin Poey	1 3 30	" 30
35	35	- ij -	1 0 30	"
36	36	- ij -	1 0 05	"

(1)	(2)	(3)	(4)	(5)	Applicants' Exhibits
	EMR		A.R.P.		Exhibit P.4
30	30	Tan Ang Tong (minor) aged 20 years	2 1 15	Whole	Translation of notice of acquisition of first and second
29	29	- ij -	2 3 30	"	Applicants' land (Form K)
1332	947	Sulong bin Andoy	1 2 20	"	22nd April 1972 and
1326	941	Omar bin Ally and Abu Talib bin Ally	4 3 38	"	Certificate of Urgency. (continued)
10					
1333	948	Pun binte Mohamed	1 0 15	"	
1334	949	Mohamed Ali bin Beram 2/5 share, Saimah binte Beram 1/5 share, Norijah binte Beram 1/2 share and Norsiah binte Beram 1/5 share	2 0 00	"	
20					
1331	946	Othman bin Omar as administrator	2 0 30	"	
1330	945	Mohamed Salleh bin Mohamed Ariff	2 0 15	"	
1329	944	Himah binte Othman 10/80 share, Abdullah bin Taha 14/80 share, Ismail bin Taha 14/80 share, Omar bin Taha 14/80 share, A. Aziz bin Taha 14/80 share, Siah bin Taha 7/80 share and Normah bin Taha 7/80 share.	1 3 20	"	
30					
	C.T.				
40	1328	943	Sahrom binte Safar	1 1 00	"

Applicants
Exhibits

	(1)	(2)	(3)	(4)	(5)
Exhibit P.4					
Translation of notice of acquisition of first and second Applicants' land (Form K) 22nd April 1972 and Certificate of Urgency. (continued)		C.T.		A.R.P.	
	1327	942	Abdul Kadir bin Hussain	1 1 05	Whole
	1336	951	Syed Omar bin Abdulrahman Taha Alsagoff	9 1 31	"
	1335	1565	Yusof bin Ismail	0 3 15	"
	2200	1585	Sued Omar bin Abdulrahman Taha Alsagoff	1 1 00	"
	2201	1586	Chee Kutty s/p Abu Bakar	2 0 34	"
	2199	1588	Md. Salleh bin Abdullah	1 1 30	"
	2202	1587	Puan Sri Salmah binte Awang	1 3 04	"
	LO.	A.O.			
	295	188	Othman bin Haji Kassim	1 3 10	"
	298	216	Hashim bin Abu Bakar	1 1 20	"
		MK.GR.			
	2211	32	Abu Bakar bin Mohideen	1 0 17.8	"
	2210	33	- ij -	0 1 32.1	"
	MLO	(Q.T.(MG))			
	1137	53	Kassim bin A. Rahman	1 2 10	"
	3962	111	Othman bin Haji Kassim	1 3 15	"

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(1)	(2)	(3)	(4)	(5)	Applicants' Exhibits
					Exhibit P.4
					Translation of notice of acquisition of first and second Applicants' land (Form K) 22nd April 1972 and Certificate of Urgency. (continued)
10.	A.O.		A.R.P.		
185	254	Ahmad bin Chik	0 1 27	Whole	
	EMR				
1422	995	Ara binte Basir (f)	1 0 15	"	
	G.				
2405	7632	Syed Omar bin Abdulrahman Taha Alsagoff	0 2 10	"	
1764	5790	Lee Rubber Co. Ltd.	9 3 31	"	
1435	15617	- ij -	933 2 00	"	
1810	5923	Omar bin Ally Ally and Abu Talib bin Ally	5 2 29	"	
2639	8550	Lim Lye Guan also spelt as Lim Lian Guan	16 0 00	"	
20	1842	Liow Niow Siew	27 3 00	"	
1277	2299	Lee Rubber Co. Ltd.	19 3 00	"	
388	2001	Tan Boon Khak	125 0 20	"	
1334	2004	Lee Rubber Co. Ltd.	385 1 00	"	
1439	15700	River Buloh Plantation Limited	618 0 00	"	
30	1343	Teo Mui Kia (f) and Tan Seck Hiang	2 2 15	"	
1344	958	Abdul Hamid bin Mohd. Ali.	0 3 30	"	
1345	959	Abdul Majid bin Osman	0 3 37	"	

Applicants'
Exhibits

Exhibit P.4

Translation of
notice of
acquisition of
first and
second
Applicants'
land (Form K)
22nd April
1972 and
Certificate of
Urgency.
(continued)

(1)	(2)	(3)	(4)	(5)
	EMR		A.R.P.	
1346	960	Hitam bin Shahdan	0 3 26	Whole
1347	961	Kahar bin Alam	1 0 05	"
1348	962	Gadoh bin Rahmat	1 0 00	"
1349	963	Dempol bin Titin	0 3 25	"
1350	964	Dais bin Haji Ali	1 0 05	"
1351	965	Abdul Majid bin Kaman	0 3 31	"
1352	966	Aminah binte Ahmad and Zaiton binte Abdullah	1 3 30	"
1353	967	Mohamed bin Ahad 2/6 share, Ramlah binte Ahad 1/6 share, Okid binte Ahad 1/6 share, Jamilah binte Ahad 1/6 share and Jamaliah (Jemah) binte Ahad 1/6 share	1 3 35	"
1339	954	Ayat bin Long	2 1 15	"
1340	955	Omar bin Tahir	0 2 35	"
1355	968	Tick binte Tunggal $\frac{1}{2}$ share, kechik binte Tunggal $\frac{2}{3}$ share and Bujang bin Tunggal $\frac{1}{3}$ share	0 2 14	"
1357	969	Ahman bin Chik	1 1 00	"

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(1)	(2)	(3)	(4)	(5)	Applicants' Exhibits
	EMR		A.R.P.		Exhibit P.4
1341	1085	Abdul Aziz bin	0 3 00	Whole	Translation of notice of acquisition of first and second
1366	977	Tot binte Titin	0 2 34	"	Applicants' land (Form K)
1342	1616	Ragiman bin Omar	0 3 07	"	22nd April 1972 and Certificate of Urgency (continued)
1354	1396	Jantan bin Sasir, Abdul Latiff bin Sasir and Ara	4 2 25	"	
1367	978	Taha bin Manap	0 3 20	"	
10	Q.T.(R)				
6437	1933	Khaw Peck Kok	5 0 01	"	
6438	1934	Khaw Peck Kok, Leow Kim Hong (f), Leow Shwa (f) and Lim Suan (f)	7 3 23	"	
	C.T.				
2164	11967	Tan Eng Wah	10 0 00	"	
2165	11968	Tan Eng Keng	10 0 00	"	
20	2166	11969	Neo Boon Siew	10 0 00	"
2167	11970	Tan Beng Poon	10 0 01	"	
2168	11971	Lian Chin Bee	10 0 00	"	
<u>2;69</u>	11972	Tan Oei Been and Tan Eng Heng	10 0 01	"	(sic)
2170	11973	Chua Kim Seng and Tan Kian Cheong	10 0 01	"	
2171	11974	Tan Tee Wan and Ang Hong	10 0 00	"	
30	2172	11975	Tan Ah Bah and Tan Eng Heng	10 0 00	"

Applicants'
Exhibits

	(1)	(2)	(3)	(4)	(5)	
Exhibit P.4						
Translation of notice of acquisition of first and second Applicants' land (Form K) 22nd April 1972 and Certificate of Urgency (continued)		C.T.		A.R.P.		
	2174	11977	Tan Eng Wah and Neo Boon Siew	9 3 37	Whole	
	2175	11978	Tan Eng Keng and Lian Chin Bee	10 0 00	"	
	2176	11979	Tan Beng Poon and Ang Hong	10 0 00	"	
	2177	11980	Tan Tee Wan and Tan Oei Been	10 0 00	"	10
	2178	11981	Tan Soon Poh	3 2 38	"	
		G.				
	1440	15571	Hock Lim Estate Limited	221 3 20	"	
	1763	5789	Lee Rubber Company Limited	0 1 16	"	
	1517	10867	Ng Choon Neo (f)	48 1 35	"	
	1436	16124	Lee Rubber Co. Ltd.	5 3 36	"	20
		C.T.				
	2486	9691	Johore Associated Trading Company Sendirian Berhad	5 0 01	"	
	2418	9683	- ij -	5 0 01	"	

APPLICANTS EXHIBITSEXHIBIT P5

Plan exhibited to first Applicant's Syed Omar bin Abdul Rahman Taha Alsagoff affidavit affirmed 8th October 1972 (in pocket of cover of record)

RESPONDENT'S EXHIBITS

EXHIBIT "D. 6"

TRANSLATION OF LETTER PEGAWAI
KEMAJUAN NEGERI SETIA USAHA
PERINDUSTRIAN NEGERI JOHOR, TO
PEGAWAI PERANCANG NEGERI JOHOR
2ND APRIL 1970 (same as exhibit A to
Affidavit of Eddie Chi Swee Guan
affirmed 12th September 1973)

Respondent's
Exhibits

Exhibit "D.6"

Translation
of letter
Pegawai
Kemajuan
Negeri Setia
Usaha
Perindustrian
Negeri Jonor to
Pegawai
Perancang
Negeri Johor
2nd April
1970

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PEMBANGUNAN NEGARA DAN LUAR BANDAR
(State National & Rural Development Office)
NEGERI JOHOR
STATE OF JOHORE

1st Floor Government
Offices Building,
Johore Bahru.
2nd April, 1970.

Tel: No.J.B.2188, 2493

Your Ref:.....

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My Ref: PNLB(J) 217/21 (Confidential)

State Planning Officer,
Johore.

Industrial Site, Jetty/Harbour
- Pasir Gudang.

30

As you are aware the State Government is taking steps to acquire land in the Pasir Gudang area for the purpose of turning it into Harbour and Industrial sites. Please see attached plan, in which the required areas have been bounded by the red line.

2. Please scrutinize the plan and prepare a draft layout of how these sites are to be developed. The requirements which must be given attention are:-

- (1) One Harbour site of 300 acres
- (2) One Heavy Industrial site of 400 acres
- (3) One Medium Industrial site of 800 acres
- (4) One Light Industrial site of 300 acres,
and

Respondent's Exhibits

(5) One residential town of 200 acres. This site is for the accomodation of between 10,000 - 12,000 people.

Exhibit "D.6"

Translation of letter Pegawai Kemajuan Negeri Setia Usaha Perindustrian Negeri Johor to Pegawai Perancang Negeri Johor
2nd April 1970
(continued)

3. You are required to complete the said layout in the earliest possible time and submit 3 copies of same to me in due course.

S.d.

(RADIN SEOENARNO ALHAL)
STATE DEVELOPMENT OFFICER/SECRETARY
STATE INDUSTRIAL DEVELOPMENT COMMITTEE,
JOHORE.

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RSA/uiy.

Exhibit D.7

EXHIBIT "D.7"

Translation of letter Eddie Chi Swee Guan to Pegawai Kemajuan Negeri 6th June 1970
(same as Exhibit "B" to Affidavit of Eddie Chi Guan affirmed 12th September 1973 at page 28 of record)

TRANSLATION OF LETTER EDDIE CHI SWEE GUAN TO PEGAWAI KEMAJUAN NEGERI 6th June 1970 (same as exhibit "B" to Affidavit of Eddie Chi Swee Guan affirmed 12th September 1973 see page 28)

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C O P Y

Ref: J7/1432/(16)

6th June, 1970.

State Development Officer
Secretary, State Industrial
Development Committee,
Johore: Johore Bahru.

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Industrial Site, Jetty/Harbour
- Pasir Gudang.
Your letter PNLB(J) 217/21 (Confidential)

In reply to your above-mentioned memo, I am forwarding herewith 3 copies each of plans J7/3872 and J7/3872A which show the planning for the proposed Jetty/Harbour and Industrial site and

residential town.

2. 3 copies of report concerning the planning are also attached for your reference.

S.D. Eddie Chi Swee Guan
State Planning Officer,
Johore.

c.c.

State Engineer, Johore.)

C.L.M. Johore,)

District Officer, Johore.)

Harbour Master, Johore.)

With a copy of
plan

Respondent's Exhibits

Exhibit D.7

Translation of letter Eddie Chi Swee Guan to Pegawai Kemajuan Negeri 6th June 1970 (same as Exhibit "B" of Eddie Chi Guan affirmed 12th September 1973 at page 28 of record) (continued)

RESPONDENTS EXHIBITS

EXHIBIT D8

Two plans exhibited to affidavit of Eddie Chi Swee Guan affirmed 12th September 1973 (in pocket of cover of record)

EXHIBIT "D.9"

TRANSLATION OF REPORT BY EDDIE CHI SWEE GUAN TO PEGAWAI KEMAJUAN NEGERI JOHOR UNDATED (same as Exhibit "D" to Affidavit of Eddie Chi Swee Guan affirmed 12th September 1973 at page 28 hereof)

(COPY)

OUTLINE REPORT OF THE PROPOSED JOHOR JETTY/
PORT & TOWN

Government action was taken to freeze an area of about 5,000 acres in the Pasir Gudang region for the purpose of selecting a suitable site for the development of a port and industrial area to serve the Johore State and in particular Johor Bahru, the central and south Johor region. After ground detail study an area totalling roughly 2,000 acres, edged in red was selected for which a draft plan is to be prepared to include the following :-

Exhibit "D.9"

Translation of Report by Eddie Chi Swee Guan to Pegawai Kemajuan Negeri, Johor Undated

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Respondent's Exhibits

Exhibit "D.9"
Translation
of Report by
Eddie Chi
Swee Guan to
Pegawai
Kemajuan
Negeri, Johor
Undated
(continued)

- (1) Port area of approx. 300 acres
- (2) Heavy Industrial Area of approx. 400 acres
- (3) Medium Industrial Area of approx. 800 acres.
- (4) Light Industrial Area of approx. 300
- (5) Residential area of 200 acres to accommodate between 10,000 - 12,000 people.

THE PORT AREA

Berths:- Ten berths of deep water wharf of 7,000 feet in length are proposed in the plan; six ocean wharves are sited immediately east of Sungei Buloh with a total length of 42,000 feet and the four ocean wharves with a total length of 28,000 feet are sited between the rivers namely Sungei Buloh to the east and Sungei Perembi to the west. The capacity of the ten berths would be approximately 2,000,000 tons per annum with provision for a transit shed of 50,000 sq.ft. in area.

The total port area is 393 acres which should be adequate to provide the following port facilities:-

- (1) Area for storage warehouses located behind the berths including roads and rail 52.1 acres.
- (2) Open storage area for handling and storage of heavy bulky goods including road and rail 43.2 acres.
- (3) Area for Private - owned warehouses within the port area 66.8 acres.
- (4) Area for Bulk storage i.e. bulk installation for storage of palm oil, latex, coconut oil, petroleum, fuel oil with pipeline connections to wharves, 95.2 acres.
- (5) Office Area for port authority and customs 11.3 acres.
- (6) Marshalling yard etc. for containers 124.2 acres.

In 1964 the total quantity of export and import through Singapore is 600,000 tons and 450,000 tons respectively. Thus the 1964 population of 1,125,778 generated in the neighbourhood of 1,050,000 tons per annum i.e. one million population tends to generate in the neighbourhood of 932,000. It is estimated that the population of Johor state will increase by slightly over a million to 2,089,000 in 1990 by which time the total generated tonnage of over 2 millions to be expected. The wharves could be constructed in phases according to demand anticipated every five years.

INDUSTRY

The population of Johore was 738,251 in 1947 and had increased to 926,859 by 1957. It is estimated that population would have reached 1,276,000 by 1970, and assuming a continuance of the 1947 - 1957 trends and if present rates of increase should continue the population of the state will exceed 2.089 million by 1990. This is an increase of 0.813 million. If 35% of the increase in population is assumed to constitute the economically active section of the community a total of 284,550 new jobs must be found over the period of 1970 - 1990. Of these it is assumed that 11% will be absorbed in industry which works out to 89,430.

The Plan provides for a total of 1,478 acres of land for industry out of which 403 acres are set aside for Heavy Industry, 814 acres for medium Industry and 231 acres for light Industry. Together they will provide employment for a total of 44,340 people assuming an industrial density of 30 persons per acre.

The heavy industrial zone is sited immediately north and east of the port area. The zone east of the port area has a sea frontage of 4,000 feet so that private jetties could be constructed if so required.

The light industrial zone is sited near the residential area and adjoining the medium industrial zone which is situated between the light and heavy industrial zone.

RESIDENTIAL AREA

The residential zones are sited north of the industrial area and the special area zone. At net

Respondent's
Exhibits

Exhibit "D.9"

Translation
of Report by
Eddie Chi
Swee Guan to
Pegawai
Kemajuan
Negeri, Johor
Undated
(continued)

Respondent's
Exhibits

Exhibit "D.9"

Translation
of Report by
Eddie Chi
Swee Guan to
Pegawai
Kemajuan
Negeri, Johor
Undated
(continued)

density of between 20 - 30 persons per acre the total number of persons that can be accommodated in the residential areas totalling 1,949 acres is 50,000. The immediate area of 315 acres to be developed by the Government at a density of 60 persons per acre will be able to accommodate a total of 18,900 people. This low cost residential area is in close proximity to the industrial and shopping zone and is ideal for development for high density low cost terrace houses and flats.

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The medium and high class residential areas are clustered around the proposed town centre away from the industrial and port area. These could be developed by private enterprise as it is anticipated that there will be a demand for housing with the progress of port and industrial development. The residential area may be divided into five zones. In each residential zone local shopping centres should be provided and these can be incorporated in the detail plan. Primary and Secondary schools should also be provided in residential zones and their sites could only be determined when preparing the detailed layout of each residential neighbourhood.

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SPECIAL AREA

An Area of approximately 385 acres has been zoned for special purposes which includes recreation such as beaches for swimming, boating, picnic areas, camping sites, hotels, chalets and shops.

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TOWN CENTRE

The Town Centre of approximately 140 acres is situated centrally in relation to the town as a whole and is convenient to the port, industrial area and the residential area.

It should consist of the following :-

Shops and banks

Office

Petrol Filling Station

Warehouses and General Business

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Residential

Reserve Areas

Education

Govt. Offices
 Local Govt. Offices
 Places of worship
 Public open space
 Car parks
 Bus Stations
 Railway Uses
 Service Industry
 Telephone Exchange
 General Post Office
 Health Centre
 Recreation and Roads.

Respondent's
 Exhibits

 Exhibit "D.9"
 Translation
 of Report by
 Eddie Chi
 Swee Guan to
 Pegawai
 Kemajuan
 Negeri, Johor
 Undated
 (continued)

10

COMMUNICATION

Road System

Regional road lines have been planned to provide quick and convenient access to the port and shopping centre from any part of the residential areas and have reserves of between 100' - 132' wide. They are also linked directly to Johore Bahru and Masai Road leading to Kota Tinggi and Mersing. The local thoroughfares and shopping streets have reserves of not less than 60 feet.

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Railway

Although there is no direct rail connection with the area the plan provides for rail service in the port and industrial area.. As the port gains more importance with time it may be necessary to connect it with the nearest railway line and provision is also made for a railway station.

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GENERAL

The communications, zoning proposals and reservations are planned together to form one complete unit. The road layout is designed to avoid the sub-division of awkwardly shaped lots and the amenities of the sea beaches are easily shared and enjoyed by the maximum number of people. Consideration is also given in the layout of streets to the contour of the ground. Public buildings are sited for the best architectural effect and open

40

Respondent's spaces integrated with the general design of the
Exhibits town as a whole.

Exhibit "D.9"

Translation
of Report by
Eddie Chi
Swee Guan to
Pegawai
Kemajuan
Negeri, Johor
Undated
(continued)

Sgd. Eddie Chi Swee Guan,
Pegawai Peranchang Negeri,
J O H O R.
