



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2015

CORAM :

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Writ Appeal(MD) Nos.1220 and 1221 of 2015

and

M.P(MD)Nos.1 and 1 of 2015

Kannan ... Appellant in both W.As.
Vs.

1.The State of Tamil Nadu
through the District Collector,
Trichirappalli.

2.The District Revenue Officer,
Trichirappalli.

3.Arulmighu Thayumanaswamy Devasthanam,
Malaikottai, Trichy 02,
through its Executive Officer.

4.Highways and Minor Ports Department,
Rep by its Divisional Engineer,
(Highways Project) Project Officer,
Srirangam, Trichy. ... Respondents in W.A.No.1220/2015

1.The State of Tamil Nadu
through the District Collector,
Trichirappalli.

2.The District Revenue Officer,
Trichirappalli. ... Respondents in W.A.No.1221/2015

Writ Appeals filed under Clause 15 of the Letters Patent against the order dated 23.09.2015 made in W.P.(MD)Nos.32 of 2012 and 13944 of 2011.

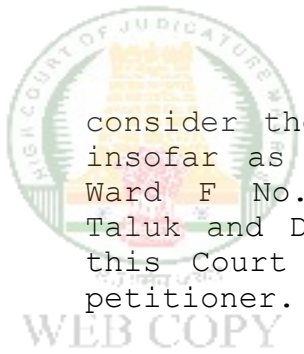
Prayer in WP(MD) No.32/2012:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court, To issue a WRIT OF CERTIORARI, call for the records Respondents 1 and 2 in so far as it relates to Town Survey No.2/2, Hc 0.0505.0, in Block No.8, Ward F, No.50, Devathanam Village, Trichirappalli Corporation Village, Taluk and District as published in Government Notification in Tamilnadu Government Gazette Part II, Section II and 05.10.2011 at page 349 quash the same.

Prayer in WP(MD) 13944/2011:

<https://hcservices.ecourts.gov.in/hcservices/>

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus directing the respondents to



consider the petitioner's representations dated 23.11.2010 and 4.10.2011 insofar as it relates to Town Survey No.2/2, Hc.0.0505.0, in Block 8, Ward F No.50 Devathanam Village, Trichirapalli Corporation, Village, Taluk and District and dispose it off within time frame to be fixed by this Court and pay compensation for the said Land Acquisition to the petitioner.

For Appellant : Mr.Raguvaran Gopalan
For Respondents 1,2&4 : Mr.M.Alagadevan,
Special Government Pleader.
For 3rd Respondent : Mr.R.Subramanian

JUDGMENT

(Judgment of the Court was delivered by **V.RAMASUBRAMANIAN, J**)

The writ appeals arise out of a common order passed by the learned Judge dismissing the writ petitions filed by the appellant herein challenging the proceedings for acquisition of a particular land under the provisions of the Tamil Nadu Highways Act, 2001.

2.Heard Mr.Raguvaran Gopalan, learned counsel for the appellant. Mr.M.Alagadevan, learned Special Government Pleader takes notice for the respondents 1, 2 and 4 and Mr.R.Subramanian, learned counsel takes notice for the third respondent.

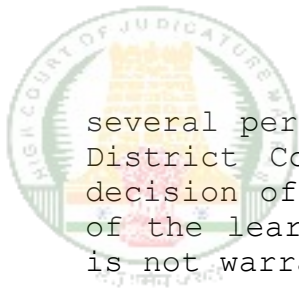
3.By a notification issued under Section 15(2) of the Tamil Nadu Highways Act, 2001 in Form B, the land of an extent of 0.05.05.0 in Town Survey No.2/2 in Block No.8, Ward F, No.50, Devathanam Village, Trichy Taluk and District was sought to be acquired, for the purpose of construction of flyover. The appellant filed objections to the said notice issued on 19.11.2010. However, the District Collector proceeded to publish a notification under Section 15(1) in the District Gazette dated 05.10.2011. Therefore, the appellant filed two writ petitions in W.P(MD)Nos.13944 of 2011 and 32 of 2012. The prayer in the first writ petition was for a mandamus to consider his representations and to pay compensation for the acquired land. The prayer in the second writ petition was for quashing the Gazette notification dated 05.10.2011 issued under Section 15(1).

4.In the writ petitions, the appellant also impleaded a temple by name, Arulmighu Thayumanasamy Devasthanam, Malaikottai, Trichy since the name of the temple was indicated as the owner of the acquired land in Form-B as well as in the Gazette publication.

5.By a common order passed on 23.09.2015, a learned Judge of this Court rejected the prayer of the appellant on the ground that there is a dispute with regard to the title of the property to the acquired land between the appellant and the temple and that therefore, the appellant should go before the competent Civil Court and establish his title. Aggrieved by the said order, the appellant has come up with the above appeals.

<https://hcservices.ecourts.gov.in/hcservices/>

6.The only point canvassed in the appeals is that whenever



several persons claim to be interested in the amount of compensation, the District Collector himself is competent to refer the dispute for the decision of the Civil Court and that therefore, that portion of the order of the learned Judge directing the appellant to approach the Civil Court is not warranted.

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7. The said contention, in our considered view, is well founded. Section 21(2) of the Tamil Nadu Highways Act, 2001, which is similar to Section 30 of the Land Acquisition Act, 1894, mandates the Collector to refer any dispute with regard to the apportionment of compensation, for the decision of the Civil Court. Therefore, the Collector, himself could have referred the dispute to the Civil Court.

8. In **P. Ramakrishnan Vs. The District Collector (2006) 4 MLJ 1046**, a Division Bench of this Court to which one of us was a party (VRSJ) has held that as per Section 21 of the Act, the District Collector is to disburse the compensation payable after determining the persons who are entitled to receive the same. If there is any dispute regarding the persons to whom the compensation is payable, the Collector is obliged to refer the dispute to the appropriate Court.

9. Learned counsel for the third respondent temple states that according to the temple, the appellant is not the owner of the property. However, on the procedure for the determination of the claim of such persons, he agrees that Section 21(2) is the appropriate remedy.

10. Therefore, the writ appeals are allowed and the order of the learned Judge is modified to the following extent:-

"(i) Within four weeks of receipt of a copy of this order, the District Collector who is the first respondent herein, shall make a reference to the appropriate Court under Section 21 (2) of the Tamil Nadu Highways Act, 2001, seeking directions as to the person to whom the compensation is payable.

(ii) Within a period of one year, the appropriate Court shall endeavour to dispose of the reference subject to the co-operation of the appellant and the third respondent.

(iii) If the reference is answered either partly or fully in favour of the appellant, it will be open to the appellant to initiate proceedings seeking enhancement of the compensation in terms of Section 20(1) of the Tamil Nadu Highways Act, 2001".

11. We make it clear that the date of determination of the right of the appellant by the appropriate Court would be the date with reference to which the period of limitation for seeking a reference in terms of Section 20(1) of the Tamil Nadu Highways Act, 2001 read with Section 18(2) of the Land Acquisition Act, 1894 has to be calculated. No costs. Consequently, M.P(MD) Nos. 1 and 1 of 2015 are closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar



sms

To

1. The District Collector,
Trichirappalli.

2. The District Revenue Officer,
Trichirappalli.

3. The Divisional Engineer, Highways and Minor Ports Department,
Rep by its Divisional Engineer,
(Highways Project) Project Officer,
Srirangam, Trichy.

+2CC to Mr.K.Prabhakar Advocate Sr.No.66585, 66586

+1CC to Mr.R.Subramanian Advocate Sr.No.66399

+1CC to Spl.Government Pleader Sr.No.66518

GJM/SKS/RR/3.12.2015-3P-8C

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and
M.P (MD) Nos.1 and 1 of 2015
19.11.2015