

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16-02-2016

Coram :

THE HONOURABLE MR. JUSTICE R. SUBBIAH

Writ Petition No. 5022 of 2016
and
W.M.P. No. 4377 of 2016

Kondapalli Srinivasarao
Senior Manager, Madhucon Projects Limited
Plot No.1129/A, 36th Road
Jubilee Hills, Hyderabad, Andhrapradesh
now having office at
No.77, Sundaram Meena Nagar
Nagai Road, Mariamman Koil
Tanore - 613 501
and Patta No.101 and 317
59, Aravathur Village,
Valangaiman Taluk
Tiruvavarur District .. Petitioner

Versus

1. The Collector
Thiruvavarur
2. The District Revenue Officer
Thiruvavarur
3. The Revenue Divisional Officer
Thiruvavarur
4. The Tasildar
Valangaiman Taluk
Thiruvavarur District
5. R. Selvakumar .. Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Certiorari calling for the impugned notice of the fourth respondent issued to the petitioner dated 18.01.2016 No.Ku.u.Pa.No.13/A1/2016 received by the petitioner on 26.01.2016 and quash the same.

For Petitioner : Dr. R. Rajagopal

For Respondents : Mr. P. Sanjay Gandhi
Additional Government Pleader

ORDER

The petitioner has come forward with this writ petition challenging the notice dated 18.01.2016 of the fourth respondent, by which the fourth respondent called upon the petitioner to appear for an enquiry on the basis of a petition filed by the fifth respondent herein.

2. According to the petitioner, the lands in S.F. No.84/2, 85/2 and 87/2 were acquired by the National Highways Authority of India by invoking the provisions of Land Acquisition Act. The said lands belonged to Saradha and Revathi Ramachandran. After completing the formalities, National Highways Authority of India has taken possession of the lands for public purpose i.e., to strengthen and widen the 2/4 lane Highway Projects from Nagapattinam to Thanjavur of NH 67, the compensation amount were also paid to the land owners. For the purpose of implementing this project, the petitioner company was engaged by the National Highways Authority of India as a Concessionaire. According to the petitioner, on the basis of a petition purportedly given by the petitioner claiming tenancy rights over the lands which were acquired, the fourth respondent has issued the impugned notice calling upon the petitioner for an enquiry. According to the petitioner, the petitioner is no way connected with the dispute between the fifth respondent and National Authority of India and therefore, the petitioner would contend that the impugned notice has been issued without application of mind.

3. The learned counsel for the petitioner reiterated the averments made in the affidavit filed in support of the writ petition and contend that the petitioner has nothing to do with the proposed enquiry to be conducted by the fourth respondent on the basis of the petition given by the petitioner. Therefore, according to the counsel for the petitioner, the impugned notice has been issued without application of mind and therefore it is liable to be set aside.

4. The learned Additional Government Pleader would contend that the impugned notice is not a final order determining the right of the fifth respondent. It is well settled that a writ petition against a show cause notice is not maintainable and therefore he prayed for dismissal of the writ petition.

5. I heard the counsel for both sides and perused the materials placed on record. In my considered view, the petitioner has hastily filed this writ petition before this Court instead of approaching the fourth respondent in response to the impugned notice. What is challenged in this writ petition is only a show cause notice calling upon the petitioner to appear for an enquiry. The petitioner could very well appear before the fourth respondent and submit his objections, if any, for conduct of such enquiry. The fourth respondent has issued the notice impugned in this writ petition

only to ascertain certain facts within the knowledge of the petitioner. Further, by the impugned notice, the right of the parties to the dispute has not been determined or the right of the petitioner has been affected in any way. In fact, the fourth respondent, in compliance of principles of natural justice, has issued the impugned notice to the petitioner inter alia to seek their response based on a petition filed by the fifth respondent. While so, I am of the opinion that the relief sought for in this writ petition is pre-mature. However, having regard to the above facts and circumstance of the case, I am only inclined to issue a direction to the fourth respondent to complete the enquiry and to pass final orders within a time limit.

6. Accordingly, the writ petition is dismissed. No costs. Consequently connected WMP No. 4377 of 2016 is closed. The fourth respondent is directed to commence, conduct and complete the enquiry and to pass final orders thereon in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Collector
Thiruvarur

2. The District Revenue Officer
Thiruvarur

3. The Revenue Divisional Officer
Thiruvarur

4. The Tasildar
Valangaiman Taluk
Thiruvarur District

+2ccs to Mr.Rajagopal, Advocate, S.R.No.9819

+1cc to the Government Pleader, S.R.No.9959

MG(CO)
EU(19/02/2016)

WP No. 5022 of 2016