

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 31-01-2017

CORAM

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO

AND

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.A.No.36 of 2017

1.R.Jayapal

2.J.Selvi

Appellants

-vs-

1. The District Collector,
Tiruvallur District,
Tiruvallur.

2. The Revenue Divisional Officer/
Land Acquisition Officer,
Tiruvallur District,
Tiruvallur.

3. The Tahsildar,
Tiruvallur Taluk Office,
Tiruvallur.

4. The Chief Project Manager,
Railway Vikas Nigam Limited,
Thirumayilai Railway Station,
Mylapore,
Chennai-600 004.

Respondents

Appeal under Clause 15 of the Letters Patent against the order, dated 03.11.2016, passed in W.P.No.11164 of 2013, on the file of this Court.

Prayer in W.P.NO.11164 of 2013:

Petition filed under Article 226 of the constitution of India praying for issuance of a writ of mandamus forbearing the respondents, their men and subordinates from and in any manner dispossessing the petitioners from the petition property, being ground and premises situated at No.1/56, Rajaji Salai Kadambattur, Tiruvallur Taluk & District in Patta No.136/2 present Natham Survey No.136/7 measuring extent of 8 cents together with built up area of 1500 sq. feet except due process of law.

For appellant : Mr.R.Munuswamy
For respondents 1 to 3 : Mr.P.S.Sivashanmugasundaram,
Spl.Govt.Pleader.

JUDGMENT

(Judgment of the Court was delivered by Nooty.Ramamohana Rao,J.)

This Writ Appeal is directed against the order, dated 03.11.2016, passed in W.P.No.11164 of 2013, by a learned single Judge of this Court.

2. Writ petitioners are the appellants before us. The land belonging to the writ petitioners, measuring 8 cents, with a built-up area of 1500 sq.ft., was compulsorily acquired for the public purpose of laying third and fourth lane between Tiruvallur and Ambattur. It is also noted that the petitioners have participated in the award enquiry, conducted by the Revenue Divisional Officer, Tiruvallur. In spite of the same, they instituted the Writ Petition, seeking a direction to the respondents to forbear from dispossessing them from the said property. Since the petitioners have participated in the award enquiry conducted on 27.08.2008 and an award has also been passed for compulsory acquisition of the land coupled with the structure thereon, the learned single Judge has dismissed the Writ Petition.

3. Heard Sri R.Munuswamy, learned counsel for the appellants, and Sri P.S.Sivashanmugasundaram, learned Special Government Pleader, appearing for respondents 1 to 3.

4. One of the strenuous contentions canvassed before us by the learned counsel for the appellants is that no notice under Section 9 (3) of the Land Acquisition Act, 1894, in short, "the Act", has been served on the appellants and, without even providing such a basic opportunity, the land acquisition proceedings are sought to be proceeded behind the back and the appellants' valuable rights and the properties are sought to be divested.

5. In the above context, we required the learned Special Government Pleader to secure and produce before us the relevant file from the office of the Revenue Divisional Officer, Tiruvallur, and satisfy that notice under Section 9 (3) of the Act has, in fact, been served on the appellants and that the appellants have participated in the award enquiry, by making relevant statements.

6. Accordingly, the learned Special Government Pleader has produced the relevant record before us today.

7. We have noticed from the record that notice in Form 7 under Section 9 (3) of the Act has been received by Sri R.Jayapal and he made the following endorsement thereon :

“நகல் பெற்றுக்கொண்டேன்,”

(translated it means, “received a copy”)

Then, he signed it in English as R.Jayapal. We are, therefore, satisfied that the contention canvassed on behalf of the appellants that no notice under Section 9 (3) of the Act has been served on the appellants is not a factually correct or well-founded statement. From the award enquiry file also, we have noticed that Sri R.Jayapal appeared before the Revenue Divisional Officer, Tiruvallur, and made a statement and he also claimed a sum of Rs.1,75,000/- per cent, as compensation, for the land acquired. He further endorsed thereon that after reading the contents of his statement recorded in the printed proforma of the questionnaire, he has understood that his answers have been correctly recorded. Then, he signed in the proceedings in English as R.Jayapal. It is, therefore, more than clear to us that the writ petitioners had a full and fair opportunity of participating in the award enquiry and they have claimed compensation in a sum of Rs.1,75,000/- per cent of land and, hence, they cannot turn around at this distant point of time and urge us to refrain the respondents from dispossessing them. The Writ Petition, in our opinion, has rightly been dismissed, as there is no merit in it.

8. Therefore, we do not find any warrant, calling for our interference in the matter, and, we, accordingly, dismiss this Writ Appeal. No costs. Consequently, the connected C.M.P.No.531 of 2017 is closed. The records produced by the learned Special Government Pleader are returned to him.

s/d-

Assistant Registrar (CS-VI)

//True Copy//

Sub-Assistant Registrar

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To

1. The District Collector,
Tiruvallur District,
Tiruvallur.

2. The Revenue Divisional Officer/
Land Acquisition Officer,
Tiruvallur District,
Tiruvallur.

3. The Tahsildar,
Tiruvallur Taluk Office,
Tiruvallur.

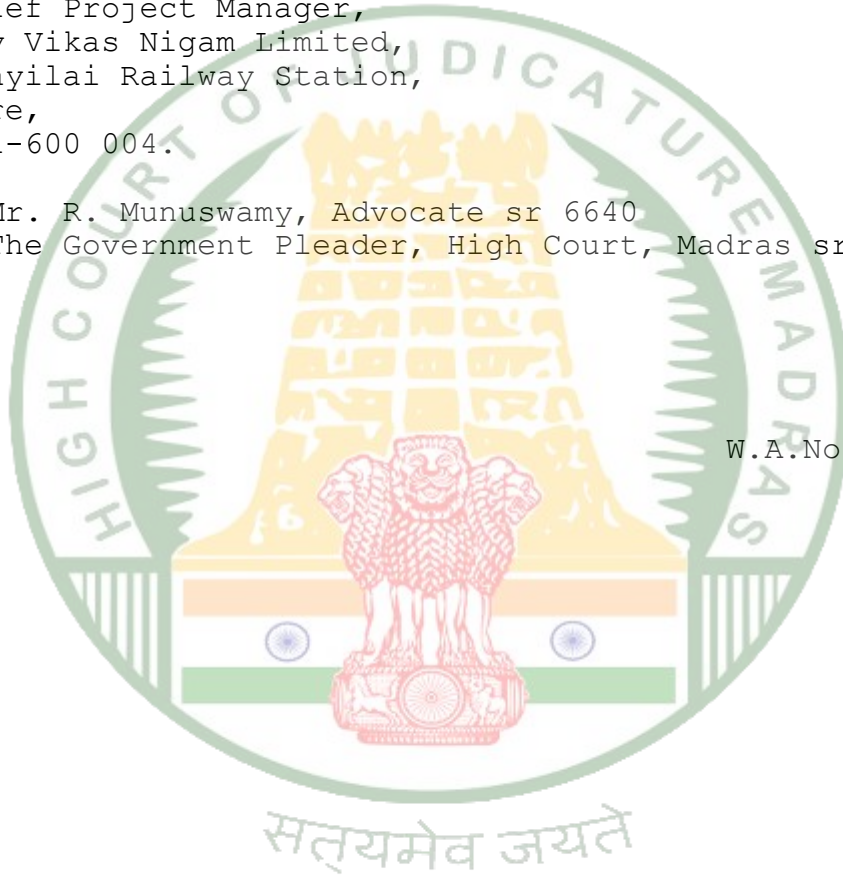
4. The Chief Project Manager,
Railway Vikas Nigam Limited,
Thirumayilai Railway Station,
Mylapore,
Chennai-600 004.

+1 CC to Mr. R. Munuswamy, Advocate sr 6640

+1 CC to The Government Pleader, High Court, Madras sr 6413

NMI (CO)
sp/21/2

W.A.No.36 OF 2017



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