

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2017

Coram

The Honourable Mr. Justice M.M.SUNDRESH

W.P.No.15763 of 2017
and
W.M.P.Nos.17046 and 17047 of 2017

K.Jayaprakash

... Petitioner

versus

1.The District Collector,
Thiruppur,
Thiruppur District.

2.The Special Tahsildar (Land Acquisition)-cum-
District Revenue Officer,
Thiruppur.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the second respondent in Na.Ka.No.20514/2011/Vul dated 27.07.2016 and quash the same and further direct the respondents to follow the procedure contemplated under Tamil Nadu Highway Act, 2001 (Act 34/2002).

For Petitioner : Mr.S.Thiruvengadam

For Respondents : M/s.M.E.Raniselvam
Additional Government Pleader

ORDER

This writ petition has been filed for issuance of Writ of Certiorarified Mandamus, calling for the records of the second respondent in Na.Ka.No.20514/2011/Vul dated 27.07.2016 and quash the same and further direct the respondents to follow the procedure contemplated under Tamil Nadu Highway Act, 2001 (Act 34/2002).

2.It is submitted by the learned counsel appearing on both sides that the issue involved is covered by an order of this Court dated 10.04.2017 in W.P.Nos.34314, 34315 and 38036 of 2016, wherein it has been held as follows:

"The petitioners, challenging the proceedings of the second respondent dated 27.07.2016, by which, the objections of the petitioners have been rejected, have filed the present writ petitions.

2.On receipt of the proposal of the Revenue Divisional Officer, Tiruppur, dated 06.10.2015, publication has been made in the local dailies on 12.01.2016 for the purpose of acquiring land. It was also published in the locality on the very same day. Subsequent to the notices issued under Section 15(2) of the Tamil Nadu Highways Act, 2001, (hereinafter referred to as "the Act"), the petitioners, being the land owners, appeared and putforth their objections. On the objections received, the Divisional Engineer, Highways,

offered his remarks. Thereafter, an order was passed by the second respondent. It is this communication, which is sought to be challenged.

3.The learned counsel appearing for the petitioners submits that the order impugned is bad in law as there is no proper application of mind involved.

4.The learned Special Government Pleader appearing for the respondents submits that the remarks of the requisitioning body has been called for and thereafter, an order has been passed.

5.Under Section 15(3) of the Act, when an enquiry is conducted by the Collector, a decision has to be taken by the Government. This has to be seen on a conjoined reading of Section 15(3) of the Act read with Rule 5(4) of the Tamil Nadu Highways Rules, 2003. As per Rule 5(4) of the Tamil Nadu Highways Rules, 2003, in case of an enquiry conducted by the Collector, he in turn, after completion, shall submit all the details to the Government under Section 15(3) of the Act. Unfortunately, such a situation has not come. Thus, this stage is rather premature. Ultimately it is for the Government, which is not a party before this Court, to take a decision, on going through the file with specific reference to the enquiry report of the Collector vis-a-vis the objections of the petitioners. After an order is passed under Section 15(3) of the Act, it has to be followed in the event of a decision having been taken to acquire the lands by way of notification to be published in the Government Gazette by

the Government on satisfying that the land proposed to be acquired is required for the purpose for which it is meant for.

6. Since the said situation has not arisen in the case on hand, this Court is not inclined to entertain and adjudicate the issues raised in these writ petitions. The impugned order may at best, the enquiry report of an officer, who is not competent to take a decision on the question of acquisition, one way or other finally. In such view of the matter, the writ petitions stand dismissed giving liberty to the petitioners to raise all the contentions in the event of notification having been published against the petitioners' land.

7. The writ petitions stand disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed."

3. In such view of the matter, the writ petition stands disposed of on the same lines. No costs. Consequently, connected miscellaneous petitions are closed.

22.06.2017

Index: Yes/No
cse

To

- 1.The District Collector,
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Thiruppur District.
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Thiruppur.

M.M.SUNDRESH, J.

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