

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2017

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.Nos.34314, 34315 & 38036 of 2016
& W.M.P.Nos.29585, 29586, 32602 of 2016 & 6128 of 2017

M.Dhanalakshmi Petitioner in
W.P.No.34314 of 2016

K.Ganesan Petitioner in
W.P.No.34315 of 2016

M.A.Matheen Petitioner in
W.P.No.38036 of 2016

Vs.

1.The District Collector,
Thiruppur, Thiruppur District.

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

.... Respondents in
both W.Ps.

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus to call for the records of the second respondent in Na.Ka.No.20514/2011/Vu1 dated 27.07.2016, quash the same and further direct the respondents to follow the procedure contemplated under the Tamil Nadu Highways Act, 2001 (Act 34/2002).

For Petitioner : Mr.S.Thiruvengadam
in all W.Ps.

For Respondents: Mr.S.Diwakar,
in all W.Ps. Special Government pleader

COMMON ORDER

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 put forth 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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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

+3cc to Mr.Thiruvengadam, Advocate, S.R.No.22020 ti 22022

सत्यमेव जयते

W.P.Nos.34314, 34315 &
38036 of 2016

KK (CO)
RS (26/04/2017)

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