



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 03.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)Nos.962 and 995 of 2014

and

M.P(MD)Nos.1,1,2 of 2014 and W.M.P(MD)No.2530 of 2017

T.A.Mohamed Ali Jawahar

.. Petitioner in both W.Ps.

Vs.

1.The District Collector,
Tirunelveli District, Tirunelveli.

2.The District Revenue Officer,
Tirunelveli District, Tirunelveli.

3.The Divisional Engineer (Highways),
Nabard and Village Salai,
Tirunelveli.

.. Respondents 1 to 3 in both W.Ps.

4.Raja Pushpam

.. Respondent No.4 in W.P(MD)No.995/2014

PRAYER IN W.P(MD)No.962/2014: Writ Petition is 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's show cause notice Form A dated 20.12.2013 under Section 15(2) of the Tamil Nadu Highways Act, 2001 and quash the same as violation of Section 8(3) of the said Act, 2001 and prohibit the further proceedings till the final adjudication of the petitioner objection dated 11.12.2013 and further representation dated 06.01.2014.

PRAYER IN W.P(MD)No.995/2014: Writ Petition is 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's communication in Na.Ka.No.752/2013/EvaA.2 dated 02.01.2014 and quash the same as violation of Section 8(3) of the Tamil Nadu Highways Act, 2001 and direct the second respondent to consider the petitioner's objection dated 11.12.2013 and further representation dated 06.01.2014 in accordance with Section 8 of the said Act, 2001 within a period stipulated by this Court.

For Petitioner
in both W.Ps.

: Mr.Haja Mohideen

For Respondents 1 to 3
in both W.Ps.

: Mr.J.Gunaseelan Muthaiah,
Government Advocate.

For Respondent No.4 in
W.P(MD)No.995/2014

: Mr.M.P.Senthil

COMMON ORDER

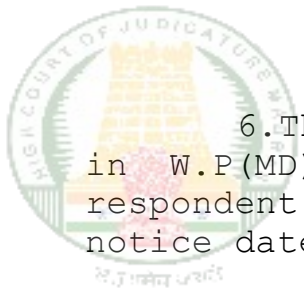
These writ petitions are filed seeking a writ of Certiorari Mandamus to quash the show cause notice dated 20.12.2013 and communication in Na.Ka.No.752/2013/EvaA.2 dated 02.01.2014 issued by the second respondent as violation of Section 8(3) of the Tamil Nadu Highways Act, 2001 and direct the second respondent to consider the petitioner's objection dated 11.12.2013 and further representation dated 06.01.2014 in accordance with Section 8 of the said Act, 2001, within a period stipulated by this Court.

2.The case of the petitioner is that he is running Hydraulic Pressing business under the name and style of SHANFACO in his property bearing Door No.4/28B, situated in Survey Nos.24/1A, 1B and 25/1C1, 1C2 and 1B, Ambasamudram Main Road, Tenkasi, Tirunelveli District. The respondents tried to lay bypass road over his property from east to west and prepared a draft plan. The petitioner made several representations and requested them to lay the same in an alternative way. Without considering the same, the third respondent on 29.11.2013, published a draft notification under Section 8 of the Tamil Nadu Highways Act, 2001, for which, he made a representation along with objection on 11.12.2013, suggesting to fix boundary by taking half part of his property and half from his neighbour's land situated on the south and he also sought some other poramboke land for his business. But, before expiration of 30 days period from 11.12.2013, the second respondent issued the impugned notification in Form A, dated 20.12.2013, violating Section 8(3) of the said Act. Thereafter also, he made several representations. But, the second respondent replied that the said proposal was confirmed by the Highways Straightening Committee and his objections were rejected vide communication dated 02.01.2014. Therefore, the petitioner is before this Court with these writ petitions.

3.Since the issue involved in both these writ petitions, is one and the same, they are taken up for hearing together and disposed of by this common order.

4.Heard both sides.

5.The learned counsel appearing for the petitioner would submit that the impugned show cause notice is challenged only on the ground that there are enough space available on the southern part of his property, which is sought to be acquired and therefore he filed his objections to the second respondent and the same were rejected. He would further submit that the petitioner now confines his prayer only to direct that the objections dated 11.12.2013 and 06.01.2014 considered by the second respondent before taking a final decision, for which, the learned Government Advocate appearing for the respondents 1 to 3, has no serious objection.



6.The learned counsel appearing for the fourth respondent in W.P(MD)No.995 of 2014 would also submit that the fourth respondent is also going to file objections for the show cause notice dated 20.12.2013.

7.Considering the said submissions, this Court, without going into the merits of the petitioner's claim, directs the petitioner to file his objections before the second respondent once again and on such filing, the same shall be considered along with the objections to be filed by the fourth respondent in W.P (MD)No.995 of 2014 and thereafter take a decision after affording due opportunity of hearing to the petitioner as well as the fourth respondent in W.P(MD)No.995 of 2014 and implement the same, if no decision is taken earlier.

8.The writ petitions are disposed of as above. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.The District Collector,
Tirunelveli District, Tirunelveli.
- 2.The District Revenue Officer,
Tirunelveli District, Tirunelveli.
- 3.The Divisional Engineer (Highways),
Nabard and Village Salai, Tirunelveli.

+2cc to M/S.A.Haja Mohideen, Advocate SR.No. 70031, 70032
+1cc to Special Government Pleader, SR.No. 70584, 70881

COMMON ORDER MADE IN
W.P (MD)Nos.962 and 995 of 2014
and
M.P (MD)Nos.1,1,2 of 2014 and W.M.P (MD)No.2530 of 2017
03.08.2017

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