

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.5418 of 2018

and

W.M.P.Nos.6676 & 6677 of 2018

C. Ravi

... Petitioner

Vs

1. The State of Tamil Nadu,
Represented by its Principal Secretary,
Highways and Minor Ports (HS2) Department,
St. Fort George,
Chennai - 600 009.
2. The District Collector,
O/o. The District Collector,
Tirupur District.
3. The District Revenue Officer,
O/o District Revenue Officer,
Collectorate Complex,
Tirupur.
4. The Tahsildar,
Tirupur North,
Tirupur District.
5. The Village Administrative Officer,
Thottipallayam Village,
Tirupur District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from in any manner acquiring the petitioners property at T.S. No.111 & 112 and having Door No.24, 6/179, Ravii Complex, Universal Theatre Road, (Valipalayam Main Road) Tirupur 641 602 under Section 15(1) of the Tamil Nadu Highways act, 2001 without determining the compensation in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and in the light of the petitioners

representation dated 08.02.2018 consequently direct the respondents not to take any coercive action to disposes' the petitioner from his property at T.S.No.111 & 112 and having Door No.24, 6/179, Ravii Complex, Universal Theatre Road, (Valipalayam Main Road) Tirupur 641 602 otherwise than in accordance with law.

For Petitioner : Mr.R.Selvakumar

For Respondents: Mr.E.Neelakandan
Government Advocate

ORDER

The only grievance of the petitioner is that the petitioner owned a piece of property at T.S. No.111 & 112 and having Door No.24, 6/179, Ravi Complex, Universal Theatre Road, (Valipalayam Main Road) Tirupur 641 602, and it was acquired under the provisions of the Tamil Nadu Highways act, 2001, that notices dated 24.08.2011 and 29.08.2011 under Section 15(2) was served on the petitioner, that the petitioner has filed his objection stating that without issuing necessary notification under Section 15(1) of the Act, as is mandatory, the petitioner was issued a notice under Section 15(2) of the Act and the same are now challenged.

2. The learned counsel for the petitioner submitted that (a) without publishing a notification under Section 15(1) of the Act, the Land Acquisition Authority cannot proceed to hold an enquiry for passing the award; and (b) at any rate, award should be passed only in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act, 30 of 2013).

3. Mr.K.T.Subramanian, Tahsildar, Tirupur (North) is present and assisted the Court. Mr.E.Neelakandan, the learned Government Advocate, appearing for the respondents submitted that as regards the first contention, the Government has already Gazetted 15(1) notification in G.O.Ms.No.256/Highways and Minor Ports (HS2) Department, dated 16.11.2017 and as to second contention, the compensation would be paid only in terms of the provisions of the Central Act, 30 of 2013.

4. There is a fundamental premise to petitioner's case and it is flawed: That the notice under Sec.15(2) will follow a notification under Sec.15(1) when the contra is true as per the Tamil Nadu Highways Act. As to the rest, since the apprehension of the petitioner is allayed by the statement made by the respondents, this Court modifies the prayer and directs the Land Acquisition Authority to issue a fresh notice to the petitioner

at the address given in this writ petition, grant him full and effective opportunity to present such necessary facts as would enable him to pass an award in terms of the principles statutorily provided under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act, 30 of 2013).

5. This petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssn/ggi

To

1. The Principal Secretary,
Government of Tamil Nadu,
Highways and Minor Ports (HS2) Department,
St. Fort George,
Chennai -600 009.
2. The District Collector
O/o The District Collector
Tirupur District.
3. The District Revenue Officer,
O/o District Revenue Officer,
Collectorate Complex,
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4. The Thasildar,
Tirupur North, Tirupur District.
5. The Village Administrative Officer,
Thottipallayam Village,
Tirupur District.

+1cc to Mr.R.Selvakumar, Advocate SR.No.21469

LRS(CO)

sm:18.4.2018

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