

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.01.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.853 of 2015

1.R.Ramasamy

2.R.Natarajan

3.R.Doraisami

4.M.R.Ramasamy

5.P.Rajamanickam

6.P.Karuppannan

7.P.Varadharajan

8.K.Sengodan

9.P.Palaniappan

10.P.Kandayee

...Appellants

Vs

1.Union of India

Rep. by its Secretary to Government,
Ministry of Shipping, Road Transport and Highways,
Shastri Bhavan, R.P.Road,
New Delhi.

2.The Competent Authority

Revenue Officer,
Namakkal, Namakkal District.

3.P.Rajamani

4.P.Panneer Selvam

5.P.Ramasamy

...Respondents

(R3 to R5 are not necessary parties.

Hence, given up for notice)

Prayer:- Writ Appeal filed under clause 15 of the Letter Patent to set aside the order dated 26.11.2014 made in W.P.No.28457 of 2007. Wsrit Petition Under Article 226 of the Constitution of India to issue writ of Certiorari to call for the records in the impugned notification under ssec 3G (3) of National High ways Act, 1956(48 of 1956) dated 14/5/2007 in R.O.C. NO 2295/2004 (H4) issued by the 1st respondent, quash the same

For Appellants : Mr.V.Bhiman for

M/s.Samathkumar and Associates

For Respondents: Mr.N.Rajan for R1
Mr.V.Anandhamurthy
Addl.Govt.Pleader for R2
R3 to R5 - Given up

J U D G M E N T

(made by K.K.SASIDHARAN,J.)

The appellants challenged the notification under Section 3G (3) of National Highways Act, 1956 (hereinafter referred to as "the Act") on the ground that objections raised against the acquisition of land were not considered by the statutory authority. The learned single Judge dismissed the writ petition. Feeling aggrieved, the unsuccessful writ petitioners have come up with this intra court appeal.

2. We have heard the learned counsel for the appellants. We have also heard the learned counsel on behalf of respondents 1 and 2.

3. The National Highways Department by notification dated 4 May, 2006, declared its intention to acquire the subject land for the purpose of forming a highway at Namakkal. The appellants challenged the initiation of land acquisition proceedings by filing a writ petition in W.P.No.42422 of 2006. During the currency of the said writ petition, the second respondent issued a declaration under Section 3D of the Act. The writ petition was dismissed by order dated 28 June, 2007. The order has become final. Thereafter, the competent authority issued a notification under Section 3G(3) of the Act for determination of compensation payable to the land owners. It was the said notification, which was put in issue before the writ court in W.P.No.28457 of 2007.

4. The appellants in the writ petition in W.P.No.28457 of 2007 challenged the notification under Section 3G(3) of the Act primarily on the ground that objections raised by them against the acquisition were not considered.

5. There is no dispute that the earlier writ petition filed by the appellants challenging the land acquisition was dismissed by this Court. The said order has become final. It is also a matter of record that even during the currency of the said writ petition, the competent authority issued a declaration under Section 3D of the Act. It was only thereafter, the writ petition was dismissed. The appellants ought to have challenged the declaration under Section 3D of the Act. The notification issued under Section 3G(3) of the Act was only a consequential one for determination of compensation. The decision taken by the Government for acquiring the land has attained finality on account of the declaration made under Section 3D of the Act. There must be a specific challenge to the said declaration.

There is no question of considering the legality of acquisition in a proceeding initiated for determination of compensation under Section 3G(3) of the Act. Since there was no challenge to the declaration under Section 3D of the Act, the learned single Judge was correct in dismissing the writ petition. We do not find any ground made out by the appellants to set aside the land acquisition in a proceeding challenging the notification under Section 3G(3) of the Act.

6. The learned counsel for the appellants submitted that the competent authority is yet to pay the compensation to the appellants. It is always open to the appellants to take appropriate action in accordance with law in case compensation amount has not been deposited.

7. The intra court appeal is dismissed with the above observation. No costs.

Sd/-
Assistant Registrar (CS-ix)

//True Copy//

Sub Assistant Registrar

svki

To

1.The Secretary to Government,
Union of India
Ministry of Shipping, Road Transport and Highways,
Shastri Bhavan, R.P.Road,
New Delhi.

2.The Competent Authority
Revenue Officer,
Namakkal, Namakkal District.

+1cc to MR.SAMPATH KUMAR ASSO. Advocate, S.R.No. 283

+1cc to Mr.N.RAJAN, Advocate, S.R.No. 581

W.A No.853 of 2015

KJI (CO)
TR(30/01/2018)