

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2018

CORAM:

THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.3750 of 2018

and WMP. Nos.4575 and 4576 of 2018

A.Kaleem Ahmed

... Petitioner

Vs

1.The Government of Tamil Nadu  
Rep by Secretary to Government  
Highways Department  
Fort St.George  
Chennai - 600 009.

2.The District Collector  
Vellore District.

3.The District Revenue Officer  
Vellore.

4.The Tahsildar  
Vaniampadi  
Vellore District.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records relating to the notice u/s 15(2) of the Tamil Nadu Highways Act 2001 dated 21.06.2017 and quash the same in so far as it relates to the petitioner's property in T.S.No.3/1B of Block 22, Ward E of Amburpettai Town, Vaniampadi Taluk, Vellore District and quash the same.

For Petitioner : Mr.AR.Karthik Lakshmanan  
For M/S.AL.GANTHIMATHI

For Respondents : Mr.M.Karthikeyan  
Additional Government Pleader

## ORDER

Abdul Malik was petitioner's father, and he purchased a plot measuring 1,080 sq.ft., and another plot of 540 sq.ft. in T.S.No.3, Block No.22, E Ward of C.N.Annadurai Road, Katherpet Trunk Road, Vaniampadi, respectively under two sale deeds dated 10.12.1993 and 17-07-1995, and came to be in possession and enjoyment of the property. There is a building in the 1,080 sq.ft plot, in which he was running a restaurant. He died leaving behind him surviving his children born through his two wives. As concerning the aforesaid building is concerned, petitioner came to be in possession and is in his enjoyment. While so, the third respondent had issued notice under Section 15(2) of the Tamil Nadu Highways Act 2001 on 21.06.2017, to which the petitioner has filed his written objection on 20.07.2017. The petitioner now challenges this notice on the ground that the attempt to invoke Tamil Nadu Highways Act, 2001 is repugnant to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. Mr.AR.Karthik Lakshmanan, learned counsel arguing for the petitioner submitted that the petitioner's valuable right to object under Section 15(2) of the Act is in jeopardy as the authorities are keen to overlook the enquiry contemplated under Rule 5(2) to 5(4) of the Tamil Nadu Highways Rules 2003. The learned counsel for the petitioner submitted that 15(2) notice itself is issued in the name of the petitioner's father, who is no more. Hence, the petitioner has approached this Court in this writ petition.

3. Per contra, Mr.M.Karthikeyan, learned Additional Government Pleader appearing for the respondents submitted that enquiry pursuant to notice under Sec. 15(2) is under way and the petitioner would be offered due liberty to present his case.

4. The statement of the learned Additional Government Pleader is recorded. The nature of submissions made on behalf of the petitioner revolved more on the issuance of notice under Sec.15(2) in the name of his father, who is now dead, and a potential possibility for denying the petitioner an opportunity to putforth his objections to the intended acquisition, and not so much on the legality invoking the Tamil Nadu Highways Act, 2001.

5.1 Inasmuch as the enquiry under Section 15(2) of the Act is ongoing, the Land Acquisition Authority is directed to issue fresh notices in the names of persons who are interested in the property consequent to the demise of Abdul Malik, intimating the date of enquiry and afford effective opportunity to present his case. In all such cases, the Land Acquisition Authority is directed to comply with the requirements of Rules 5 (2) to 5(4) of the Tamil Nadu Highways Rules, 2003, since their non-compliance serves as breeder for litigations.

5.2. The authorities concerned are directed not to dispossess the petitioner except in due process of law.

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

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

ds

To:

1.The Secretary to Government  
Government of Tamil Nadu  
Highways Department  
Fort St.George  
Chennai - 600 009.

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+1 CC to M/S.AL.GANTHIMATHI, Advocate Sr.No.17927

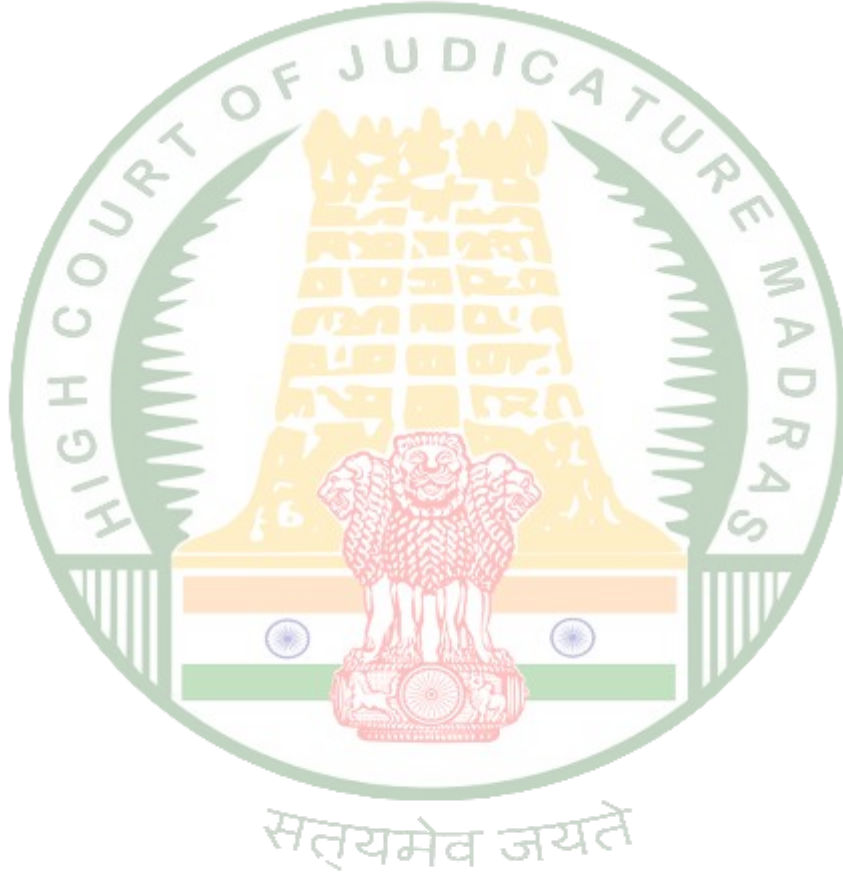
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