

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.3751 of 2018

and WMP. Nos.4577 and 4578 of 2018

Syed Jamal

... 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

The case of the petitioner is that he had purchased a plot measuring 320 sq.ft. in T.S.No.3, Block No.22, E Ward of C.N.Annadurai Road, Katherpet Trunk Road, Vaniampadi from a certain Abdul Malick Saibu Vide registered sale deed dated 22.01.1996. The petitioner is in actual possession and enjoyment of the said property for more than 21 years and he has been running a sweet stall under the name and style of "Ahmed

Sweets". While so, the third respondent had issued notice under Section 15(2) of the Tamil Nadu Highways Act 2001 on 08.07.2017, to which the petitioner has filed his written objections dated 20.07.2017 and 24.11.2017. The petitioner now challenges this notice on the ground that an 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 Tamil Nadu Highways 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. 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) and 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 notice to the petitioner, 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

To:

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

2.The District Collector
Vellore District.

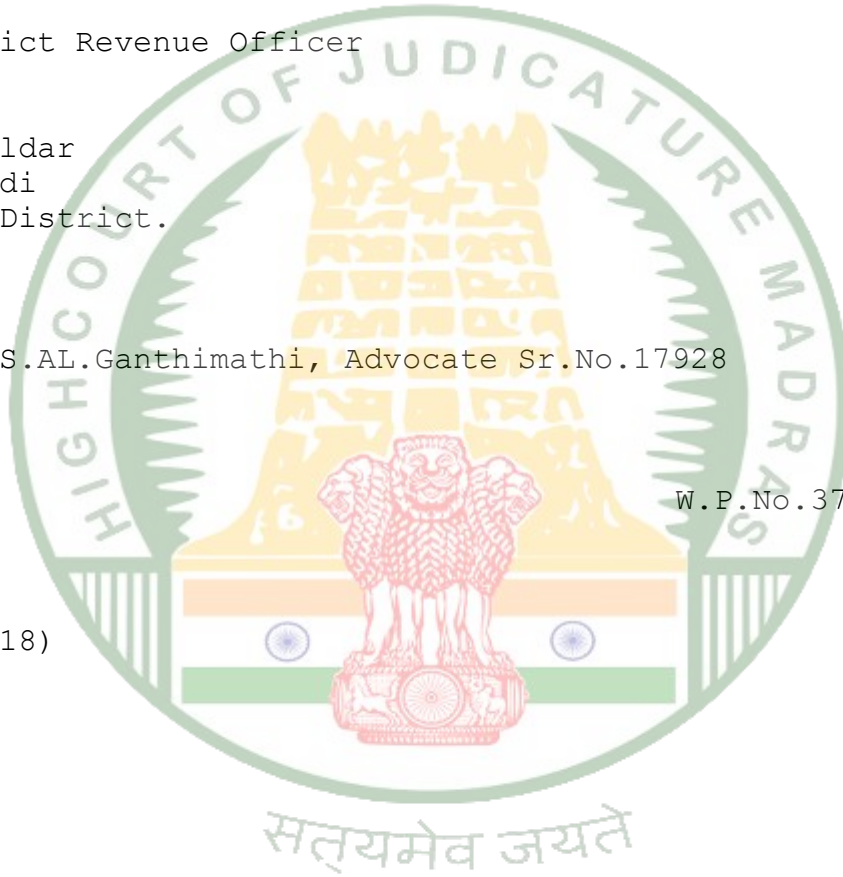
3.The District Revenue Officer
Vellore.

4.The Tahsildar
Vaniampadi
Vellore District.

+1 CC to M/S.AL.Ganthimathi, Advocate Sr.No.17928

W.P.No.3751of 2018

KJI (CO)
KP(12/04/2018)



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