

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.22098 of 2014
and MP.No.1 of 2014

M.Murugesan

... Petitioner

-Vs-

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

2.The Divisional Engineer (Highways)
NABARD and Rural Roads
Salem - 5. ... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the second respondent to dispose of the petitioner's representation dated 06.04.2014 within a time frame to be fixed by this Court.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.Akhil Akbar Ali
Government Advocate

ORDER

1. The petitioner in this case challenges the notice issued under Section 14(1) of the Tamil Nadu Highways Act, 2001. It is alleged in the petition that there was an earlier attempt to acquire the petitioner's land, following which the respondent has issued a notice under Section 14(1) of the Tamil Nadu Highways Act, 2001, which grants the authorities the power to enter upon survey and take measurement and levels of any land or mark such levels, dig or bore into the sub-soil of the land etc., for the purposes connected with the object of the enactment. Apprehending acquisition might be taken, the petitioner has come to this Court with the present petition. It is also alleged inter alia that the respondents has been keep changing the design for the purpose of laying road and this constant change of design is malafide.

2. Mr.Akhil Akbar Ali, learned Government Advocate enters appearance for the respondents. The second respondent has filed its counter, in which it is explained why the design is being changed.

3.1 In the course of submission, Mr.V.Raghavachari, learned counsel appearing for the petitioner submits that the petitioner suspected malafide in the action of the second respondent in changing or altering the course of the proposed road. He also informed the Court that he has required the authorities to part with certain information to ascertain the bonafide of the action, as early as 28.02.2014 Vide Registered Post and the same did not evoke any response.

3.2. The learned counsel further added that now notice under Section 15(2) of the Act has been issued to the petitioner and to enable him to participate effectively in the enquiry contemplated under Rule 5(2) and 5(3) of the Tamil Nadu Highways Rules 2003, the petitioner seeks some information. Refuting to part with the information which in no way can be termed as "classified information" would be detrimental to the effective opportunity of being heard in the matter that the petitioner is entitled to within the scheme of the enactment, argued the counsel.

4. Heard the Government Advocate appearing for the respondents.

5. Without going into the merits of the submissions of the learned counsel for the petitioner, it is sufficient to state that exercise of power under Section 14 of the Tamil Nadu Highways Act, 2001 per se does not involve violation of any of the civil rights of the petitioner and hence the present petition in that context is premature.

6. This writ petition is accordingly dismissed as premature. The petitioner, however, is not precluded from approaching this Court or any other forum provided there for in law in the eventuality of any of the substantial rights of the petitioner is infringed by the authorities or any act done by the authorities inconsistent with the provisions of the statute governing it. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ds

To:

1.The Secretary,
Highways Department,
Fort St. George,
Chennai.

2.The Divisional Engineer, (Highways)
NABARD and Rural Roads,
Salem.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.9550

W.P.No.22098 of 2014

GJ II(CO)
RRK(26/02/2018)



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