

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2018

CORAM : THE HON'BLE Mr.JUSTICE N.SESHASAYEE

W.P.No.33119 of 2017
and W.M.P.Nos.36523 to 36525 of 2017

K.Gurunathan

... Petitioner

Vs.

1.The State of Tamil Nadu
Rep by its Principal Secretary to Government
Highways & Minor Port
Fort St.George
Chennai - 600 009.

2.The Collector
Vellore District
Vellore - 632 009.

3.The District Revenue Officer (L.A.)
Collector Office, Sathuvachari
Vellore - 632 009.

4.The Divisional Engineer (Projects)
Highways Department
5th West Cross Road
Gandhi Nagar, Vellore - 632 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the third respondent pertaining to the notice issued under Section 15(2) of the Tamil Nadu Highways Act 2001 and published in the MAKKAL KURAL and TRINITY MIRROR, Chennai Edition dated 23.11.2017 and quash the same.

For Petitioner : Ms.Subadra Marimuthu
for Mr.P.Chandrasekar

For Respondents: Mr.M.Karthikeyan
Additional Government Pleader

O R D E R

1. The grievance of the petitioner is that he owns a piece of property comprised in T.S.No.2107/2, 2108/1B, 2113/4A1A, 2116/2A1, 2097/1B1B, 2097/1B1C, 2107/4 and 2108/D of Vellore North Village, Vellore Taluk, that this property was sought to be acquired by the Tamil Nadu Highways Authority. However, no notice under Section 15(2) of the Act was served on the petitioner as contemplated therein and that even the paper publication was made in the Chennai Edition of Makkal Kural and in a certain unknown paper named 'Trinity Mirror'.

2. Heard Ms.Subhadra Marimuthu, the learned counsel appearing for the petitioner and Mr.M.Karthikeyan, learned Additional Government Pleader. The third respondent has filed his counter. Today Mr.D.Thirunavukkarasu, Personal Assistant to Collector (Legal/Deputy Collector), Vellore District and Ms.A.Durgabai, Assistant Engineer (H) Projects, Tirupattur Sub Division, Vellore Division are present and assisted the Court. Their presence and assistance are recorded and appreciated.

3. Ms.Subhadra Marimuthu, the learned counsel appearing for the petitioner ably argued that the authorities have rendered the entire proceedings under Section 15(2) of the Act farcical and made a mockery of public notice through newspaper publication contemplated when they opted for a little known daily named 'Trinity Mirror' with almost zero circulation in Vellore Town and Chennai Edition of 'Makkal Kural'.

4. Responding to the submission of the learned counsel for the petitioner, Mr.M.Karthikeyan, the learned Additional Government Pleader appearing for the respondent submitted that the respondent irrespective of the petitioner's allegation as to the non-compliance or otherwise under Section 15(2) of the National Highway Act, 2001, has lodged an objection and her objection is yet to be considered.

5. What stands out in petitioner's contention is an objection as to the choice of the English newspaper that the Collector has chosen to issue the paper publication. To deal with citizens right to property is a serious matter and that it cannot be more carelessly done than to choose a newspaper which no one knows where it exists. Are there not leading English dailies in this country for the Collector to choose for issue his publication? Anything in such deviation which is intended not to serve the purpose contemplated under Section 15(2) of the National Highways Act, 2001, will amount to fraud on the statute and the Collector have to be very careful in future not to get carried away by his choice of newspaper where publications are made.

6. Turning to the merit of the petitioner's contention, inasmuch as the petitioner has already lodged his objection, it can no more be contended by him that non-issuing of notices under Section 15(2) of the Act has prejudiced his interest. The petitioner is well advised to participate in the enquiry to be held which shall be conducted as contemplated in Rules 5(2) and 5(3) of the Tamil Nadu Highways Rules, 2003, for which purpose the authority concerned is directed to issue a fresh notice on the petitioner at the address given in the petition, whereupon the petitioner shall participate in the enquiry. The authority concerned shall grant the petitioner adequate and effective opportunity of being heard in the matter. The authorities are particularly directed not to deviate from the procedures contemplated for holding enquiry etc., since this Court frequently encounters cases of procedural violations which lead to filing of such litigations before this Court.

7. The petition is disposed of as per the directions given above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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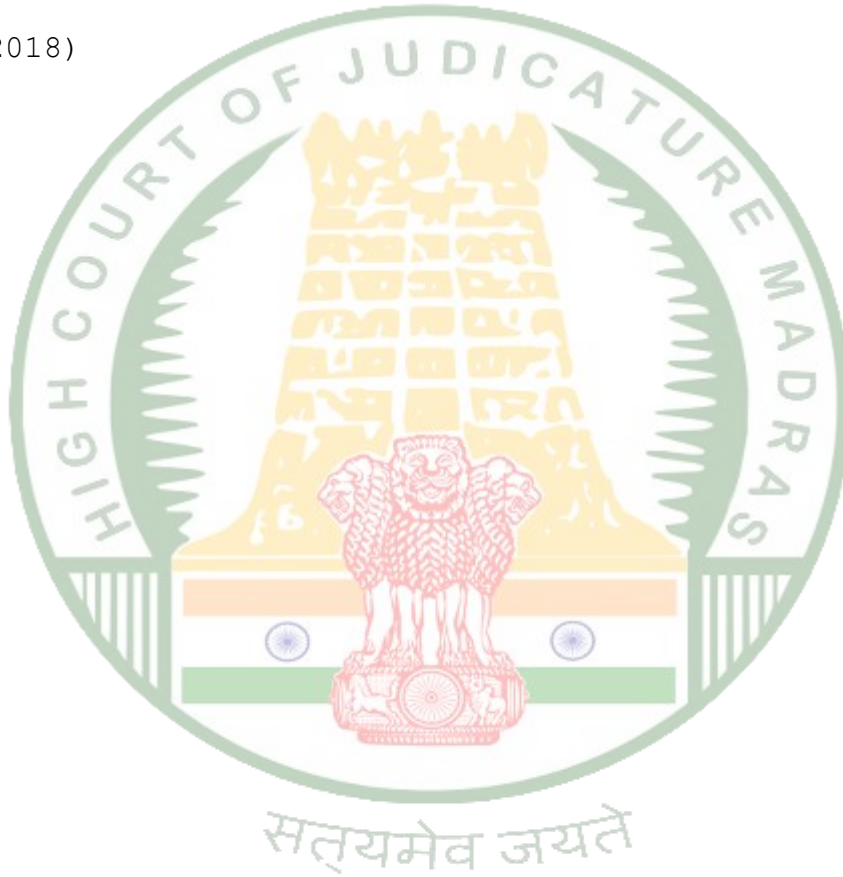
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+ 1 cc to Mr.P. Chandrasekar, Advocate Sr.11365

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NRJK (CO)
EU (23/03/2018)



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