

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.Nos.37716 of 2015, 38440 to 38442 of 2015
and
MP.Nos.1 to 3 in W.P.No.37716 of 2015
and
MP.Nos.1 &2 in W.P.Nos.38440 to 38442 of 2015

- 1.Nambi Gnanasambandam
Rep. by his mother and Power of Attorney Agent
Mrs.G.Rajeswari
... Petitioner in WP.No.37716 of 2015
- 2.S.Revathi
... Petitioner in WP.No.38440 of 2015
- 3.D.Premkumar
Rep. by his father and Power of Attorney Agent
Mr.V.A.Dorai Raj
... Petitioner in WP.No.38441 of 2014
- 4.P.B.Sivaraj Mohan
Rep. by his Power of Attorney Agent
Mr.M.V.Jayakumar
... Petitioner in WP.No.38442 of 2014

-Vs-

- 1.The Secretary to Government
Highways Department
Fort St.George
Chennai - 600 009.
- 2.The District Collector
Kancheepuram District
Kancheepuram.
- 3.The Special Deputy Collector - Land Acquisition
Tamil Nadu Urban Development Project-III
No.15, M.G.Nagar Main Road
Poonamallee
Chennai - 600 056. ... Respondents in all WPs.

Prayer in W.P.No.37716 of 2015 :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned public notice dated 06.11.2015 Ref.No.377/2014/B1 published by the respondents in one issue of the New Indian Express dated 09.11.2015 in so far as the same relates to the petitioner's plot of land in Plot No.109, Shanthi Niketan Layout, measuring 1960 sq.ft.(182 sq.mtrs.) comprised in Survey No.406/265 Old Survey No.406/3A1A, Okkiam Thoraipakkam Village, Sholinganallur Taluk, Kancheepuram District (formerly Tambaram Taluk) and quash the same and direct the respondents not to proceed with the acquisition of petitioner's land under T.N.Act 34 of 2002 (Tamil Nadu Highways Act, 2001).

Prayer in W.P.No.38440 of 2015 :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned public notice dated 06.11.2015 Ref.No.377/2014/B1 issued by the third respondent in so far as the same relates to the petitioner's house and plot in Plot No.110, measuring 2000 sq.ft. (185 sq.mtrs.) comprised in Survey No.406/178, Okkiam Thoraipakkam Village, Sholinganallur Taluk, Kancheepuram district (formerly Tambaram Taluk) and quash the same and direct the respondents not to proceed with the acquisition of petitioner's land under T.N.Act 34 of 2002 (Tamil Nadu Highways Act 2001).

Prayer in W.P.No.38441 of 2015 :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned public notice dated 06.11.2015 Ref.No.377/2014/B1 issued by the third respondent in so far as the same relates to the petitioner's plot of land in Plot No.150, measuring 3216 sq.ft. (269 sq.mtrs.) and the existing new residential building therein comprised in Survey No.406/260, Old Survey No.406/3A1A, Okkiam Thoraipakkam Village, Sholinganallur Taluk, Kancheepuram district (formerly Tambaram Taluk) forming part of the layout of the house sites known as Shanthi Nikethan Layout and quash the same and direct the respondents not to proceed with the acquisition of petitioner's land under T.N.Act 34 of 2002 (Tamil Nadu Highways Act 2001).

Prayer in W.P.No.38442 of 2015 :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned public notice dated 06.11.2015 Ref.No.377/2014/B1 issued by the third respondent in so far as the same relates to the petitioner's plot of land in Plot No.149, measuring 4405 sq.ft. (393 sq.mtrs.) comprised in Survey No.406/318, Okkiam Thoraipakkam Village, Sholinganallur Taluk,

Kancheepuram district (formerly Tambaram Taluk) forming part of the layout of house sites known as Shanthi Nikethan Layout and quash the same and direct the respondents not to proceed with the acquisition of petitioner's land under T.N.Act 34 of 2002 (Tamil Nadu Highways Act 2001).

For Petitioner : Mr.S.Thanka Sivan
(in all Wps.)

For Respondents : Mr.Akhil Akbar Ali
(in all Wps)

ORDER

The petitioners involved in this batch of cases own separate properties in Survey Nos.406/265, 406/178, 406/260, 406/318 respectively in Okkiam Thoraipakkam Village, Sholinganallur Taluk, Kancheepuram District and they are house-sites. While so, their properties were sought to be acquired under the provisions of the Tamil Nadu Highways Act, 2001 (TN Act 34 of 2002) (hereinafter referred to as "Act" in brevity) by the third respondent Vide notification in Ref.No.377/2014/B1 dated 06.11.2015 under Section 15(2) of the Act and this the petitioners came to know only when the said notification was published in the New Indian Express dated 09.11.2015. The said notification was issued in the name of the petitioners' vendor despite the fact that the petitioners have mutated their names in the revenue records and obtained patta even prior to the date of notification. Therefore, the petitioners approached the third respondent and submitted their objections/representations, but the same was refused to be considered by the acquisition authority. Hence the petitioners have moved this Court in this batch of writ petitions to challenge the notice issued under Section 15(2) of the Act.

2. The counters have been filed in all these cases and the one aspect that is relevant and pertinent to the point raised by the petitioners is that since the property continued to remain in the name of the predecessor in title of the petitioners, the notification was occasioned to be issued in his name.

3. Heard Mr.S.Thanka Sivan, learned counsel appearing for the petitioners and Mr.M.Karthikeyan, learned Additional Government Pleader for the respondents.

4. The learned Additional Government Pleader on instructed by Mr.E.Kabilan, Assistant Divisional Engineer Highways, Chennai Metro Development Project, Chennai and the Special Deputy Collector, Tamil Nadu Urban Development Project-III, submitted that since the proceedings are under preliminary stage, the land acquisition authority would issue a fresh set of notices on the

petitioners herein to enable them to raise their objections before the third respondent.

5. Since the land acquisition proceedings is at the preliminary stage, in which pre-acquisition enquiries are to be conducted to assess the viability of the project, and the need for acquisition, there is no need to quash the notifications issued under Section 15(2) of the Act. However, it is imperative that those who are owners of the property proposed to be acquired and all those who have subsisting interest in the property must be heard, as to their objections to the proposed acquisition, lest the same will have a deep repercussion on the legality of the acquisition proceedings itself.

6. The third respondent, the authority authorised and entrusted with the responsibility of acquisition of the property, is therefore directed to issue separate notices to all the four petitioners to the addresses given in their respective writ petitions within four weeks from today, granting them reasonable and adequate time to the petitioners to put forth their objections and to hold an enquiry strictly in accordance with Rule 5 of the Tamil Nadu Highways Rules, 2003 and to decide the entire matter in strict adherence to law.

7. With the said direction, these petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To:

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

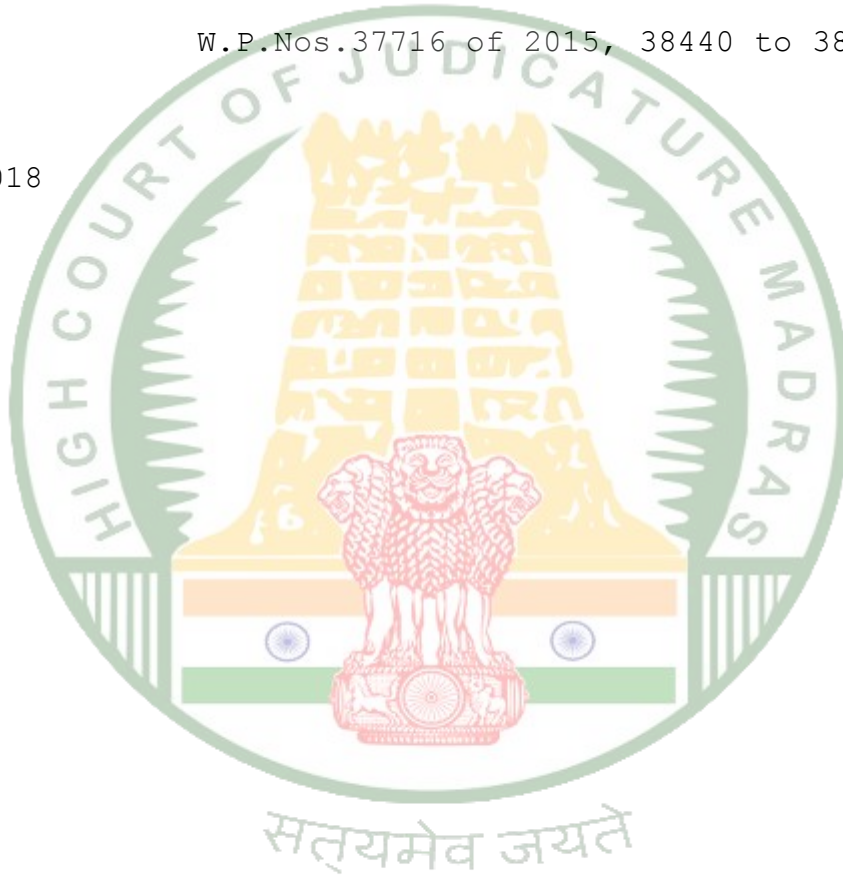
2.The District Collector
Kancheepuram District
Kancheepuram.

3.The Special Deputy Collector - Land Acquisition
Tamil Nadu Urban Development Project-III
No.15, M.G.Nagar Main Road
Poonamallee
Chennai - 600 056.

+1 cc to M/s.S.Thankasivan Advocate sr 16100
+1 cc to the Govt Pleader sr 17111

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