

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.42868 of 2016

and

W.M.P.No.36757 to 36759 of 2016

1. Mrs.Devi Kalaiselvi
2. Mrs.Jayanthi
3. Mrs.Bharathi
4. Mr.Ramesh Petitioners

(Respondents 1 to 4 are represented by their power of attorney agent, Mrs.Baby as per registered power of attorney dated 13.05.2010 registered as document No.76/2010 on the file of Sub-Registrar, Thirukovilur)

Vs

1. Government of Tamil Nadu,
Represented by its Principal Secretary
to Government,
Highways and Minor Ports Department,
Secretariat, Chennai.

2. The Special District Revenue Officer,
(Land Acquisition),
Tamil Nadu Road Development Scheme-II,
Chennai-28.

3. The Special Tahsildar (Land Acquisition),
Tamil Nadu Road Development Scheme-II,
Tiruvannamalai.

4. The Project Manager,
Tamilnadu Road Sector Project-II,
Greenways Road,
Raja Annamalaipuram,
Chennai-28.

5. Divisional Engineer,
(Tamil Nadu Road Sector Project-II),
Highways Department,
Villupuram Division,
Villupuram District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the entire records of relating to G.O.(D) No.210, Highways and Minor Ports(HN2), dated 27/10/2015 in respect of lands in S.No.286/1B-0.0374 Sq.Metre, S.No.286/2A-0.0119 Sq.Metre, S.No.287/2-0.3167 Sq.Metre, S.No.285/1B-0.2480 Sq.Metre & G.O.(D) No.228 Highways and Minor Ports (HN2), dated 06.11.2015 in respect of lands in S.No.293/7B2-0.0433 Sq.Metres, S.No.293/7C2-0.0978 Sq.Metre S.No.293/8A2-0.1986 Sq.Metres S.No.293/8B2-0.0499 Sq.Metre of Aviyur Village, Tirukovilur Taluk, Villupuram District published in the TamilNadu Government Gazette by the first respondent and consequential notices issued by the second respondent under Section 19(2) of the Tamil Nadu Highways Act, 2001 and all other consequential process of acquisition of the lands on the file of the respondents and quash the same.

For Petitioners : Dr.G.Krishnamurthy

For Respondents : Mr.M.Karthikeyan
Addl.Government Pleader

ORDER

The case of the petitioners is that the petitioners, who are represented this petition through their power of attorney holder and their mother Baby is that their father Krishnamurthy owned 12.76 acres of land in Aviyur Village, Villupuram District under various survey numbers, that part of the said extent was sought to be acquired under the provisions of the Tamil Nadu Highways Act, 2001, that a notification under Section 15(1) of the said Act was published on 27.10.2015, that Krishnamurthy had died even prior to 2010, that notification under Section 15(1) and subsequent notices issued under Section 19(2) dated 23.12.2015 and 02.02.2016 were issued only in the name of the 4th petitioner, and since the property jointly belonged to the petitioners, they seek through this present petition to quash the two notifications namely G.O.(D) No.210, Highways and Minor Ports(HN2), dated 27/10/2015 and G.O.(D) No.228 Highways and Minor Ports (HN2), dated 06.11.2015.

2. In the counter filed by the 2nd respondent, the Special District Revenue Officer (Land Acquisition), it is inter alia alleged that notice under Section 15(1) and notice 19(2) were issued in the name of the 4th petitioner since his name alone figured as the registered owner of the acquired land in the revenue records. However, the respondents have conceded in the counter that the award in the case will be passed in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013 (Central Act, 30 of 2013).

3. The learned counsel for the petitioner submitted that the possession of the property was already taken and the project is also being implemented and that since compensation was not paid and award has not yet been passed, and that since the entire acquisition proceedings have been commenced only in the year 2015, after the commencement of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013, enquiry for quantifying the compensation has to be held in terms of the Central Act, 30 of 2013.

4. The learned Additional Government Pleader submitted that the Power of Attorney, the mother of the petitioners, has appeared for the enquiry pursuant to the notice given, and reiterated that the award would be passed only consistent with the provisions of Central Act 30 of 2013.

5. It is apparent that the land acquisition proceeding itself has commenced under the Tamil Nadu Highways Act, 2001, but after commencement of the Central Act, 30 of 2013. Since the project was already implemented and the petitioner also expressed their anxiety to obtain compensation in terms of the Central Act, 30 of 2013 and inasmuch as the respondents too have agreed to pass the award only in terms of the said Act, this petition can be disposed of based on the submissions now made.

6. This Court therefore, modifies the prayer and direct the 2nd respondent to issue fresh notice for the enquiry under the Central Act, 30 of 2013 to the Power of Attorney Agent Mrs. Baby, the mother of the petitioners at the address given in the petition, hold enquiry and pass appropriate orders in terms of the Central Act, 30 of 2013.

7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ssn

To

1. The Principal Secretary
Government of Tamil Nadu,
Highways and Minor Ports Department,
Secretariat, Chennai.
2. The Special District Revenue Officer,
(Land Acquisition),
Tamil Nadu Road Development Scheme-II,
Chennai-28.
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Tamilnadu Road Sector Project-II,
Greenways Road, Raja Annamalaipuram, Chennai-28.
5. Divisional Engineer,
(Tamil Nadu Road Sector Project-II),
Highways Department, Villupuram Division,
Villupuram District.

+1 CC to Mr.V.Jaisankar, Advocate Sr.No.6368

+1 CC to Government Pleader, High Court, Chennai Sr.No.7410

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and

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SKS (CO)
KP (03/04/2018)