

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2018

C O R A M

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

Writ Petition No.26070 of 2018
& WMP.Nos.30293 & 30297 of 2018

Writ Petition No.26179 of 2018
& WMP.Nos.30399 & 30401 of 2018

Writ Petition No.26180 of 2018
& WMP.Nos.30403 & 30404 of 2018

Writ Petition No.27543 of 2018
& WMP.Nos.32061 & 32064 of 2018

Writ Petition No.27587 of 2018
& WMP.Nos.32123 & 32125 of 2018

Writ Petition No.27632 of 2018
& WMP.Nos.32172 & 32174 of 2018

1. M.Manoharan ... Petitioner in W.P.No.26070 of 2018
2. C.Venkatasubramanian ... Petitioner in W.P.No.26179 of 2018
3. P.Samuel Rajkumar ... Petitioner in W.P.No.26180 of 2018
4. P.S.Rajeev ... Petitioner in W.P.No.27543 of 2018
5. N.Noordheen ... Petitioner in W.P.No.27587 of 2018
6. M.Jayaraman ... Petitioner in W.P.No.27632 of 2018

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Highways Department,
Fort St.George, Chennai-600 009.
2. The District Collector,
Coimbatore District, Coimbatore.

3. The District Revenue Officer,
Collectorate Office, Coimbatore.

4. The Tahsildar,
Coimbatore North,
Coimbatore District.

... Respondents in all the WPs.

Prayer in W.P.No.26070 of 2018: Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the Records relating to the Impugned Public Notice dated 28.05.2018 under R.O.C.No.23292/2017/VU3 issued by the 3rd respondent in one issue of Indian Express in so far as the same relating to the Petitioner's Plot No.282 in NGGO Officers Rural Cooperative Society, Coimbatore and to quash the same and direct the respondents not to proceed with the acquisition of the petitioner's land under Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34 of 2002) and to pass orders.

Prayer in W.P.No.26179 of 2018: Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the Records relating to the Impugned Public Notice dated 28.05.2018 under R.O.C.No.23292/2017/VU3 issued by the 3rd respondent in one issue of Indian Express in so far as the same relating to the Petitioner's Plot No.283 Survey No.167/33 by NGGO Officers Rural Cooperative Society, Coimbatore and to quash the same and direct the respondents not to proceed with the acquisition of the petitioner's land under Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34 of 2002) and to pass orders.

Prayer in W.P.No.26180 of 2018: Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the Records relating to the Impugned Public Notice dated 28.05.2018 under R.O.C.No.23292/2017/VU3 issued by the 3rd respondent in one issue of Indian Express in so far as the same relating to the Petitioner's Plot No.358 Survey No.168/27 by NGGO Officers Rural Cooperative Society, Coimbatore and to quash the same and direct the respondents not to proceed with the acquisition of the petitioner's land under Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34 of 2002) and to pass orders.

Prayer in W.P.No.27543 of 2018: Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the Records relating to the

Impugned Public Notice dated 28.05.2018 under R.O.C.No.23292/2017/VU3 issued by the 3rd respondent in one issue of Indian Express in so far as the same relating to the Petitioner's Plot No.284 in NGGO Officers Rural Cooperative Society, Coimbatore and to quash the same and direct the respondents not to proceed with the acquisition of the petitioner's land under Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34 of 2002) and to pass orders.

Prayer in W.P.No.27587 of 2018: Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the Records relating to the Impugned Public Notice dated 28.05.2018 under R.O.C.No.23292/2017/VU3 issued by the 3rd respondent in one issue of Indian Express in so far as the same relating to the Petitioner's Plot No.359 in S.No.168/32 in NGGO Officers Rural Cooperative Society, Coimbatore and to quash the same and direct the respondents not to proceed with the acquisition of the petitioner's land under Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34 of 2002) and to pass orders.

Prayer in W.P.No.27632 of 2018: Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the Records relating to the Impugned Public Notice dated 28.05.2018 under R.O.C.No.23292/2017/VU3 issued by the 3rd respondent in one issue of Indian Express in so far as the same relating to the Petitioner's Plot No.352 in Survey No.168/16 in NGGO Officers Rural Cooperative Society, Coimbatore and to quash the same and direct the respondents not to proceed with the acquisition of the petitioner's land under Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34 of 2002) and to pass orders.

For Petitioners : Mr.R.Dasaratha Rao, (in all the WPs)

For Respondents : Mr.M.Elumalai,
(in WP. 26070, 26179, 26180/18,
Government Advocate.

For Respondents : Mr.D.Raja,
(in W.P.No.27543, Additional Government Pleader.
27632 of 2018)

For Respondents : Mr.C.Thirumaran,
(in W.P.Nos.27587, Special Government Pleader.
of 2018)

C O M M O N O R D E R

Since, the issues involved in all the writ petitions are one and the same they are all disposed of by this common order.

2. All these writ petitions have been filed, challenging the notice issued under Section 15(2) of the Tamilnadu Highways Act, (hereinafter referred to as 'the Act') calling for objections from the petitioners' for the proposed acquisition on the petitioners lands for construction of Railway over bridge between Thudiyalur to Kovilpalayam.

3. The above writ petitions have been filed mainly on the ground that after issuance of the notification under the Act, all the petitioners have raised their objections before the Land Acquisition Officer namely the District Revenue Officer/3rd respondent. The 3rd respondent, also conducted enquiry and now the petitioners' came to know that instead of forwarding the objections of the petitioners, enabling the Government to pass orders under Section 15(3) of the Act. The 3rd respondent has passed orders on the objections thereby, partly rejecting the objections made by the petitioners for which he has no power.

4. Earlier notice was ordered to the respondents.

5. Today, the learned Counsel appearing for the 3rd respondent filed a common affidavit stating that the lands were sought to be acquired for Thudiyalur Railway over bridge in Thudiyalur Kovilpalayam Road, in lieu of the existing level crossing in the Coimbatore (North) and Karamadai Railway stations. A public notice under the Act, has been issued calling for the objections from the land owners and the notification was also duly published as per law. Pursuant to the above said notice, 48 land owners objected to the acquisition. Thereafter, a public enquiry was conducted on 03.07.2018, by the 3rd respondent, after obtaining a report from the requisition body namely the Division Engineer of Highway, Project Division, Coimbatore, and Sub-Collector Coimbatore(North). After considering the objections and the report submitted by the requisitioning body, the objection of the petitioners were rejected. Thereafter, challenging the same the notice were issued under the Act. Hence, the present writ petitions have been filed.

6. Now, after realising the fact that the 3rd respondent does not have any power to pass orders, he is only expected to send the objections, and the remarks received from the

requisition body to the Government. Earlier order passed by the 3rd respondent dated 11.10.2018, will be recalled and the objections of the land owners will be forwarded to the competent authority.

7. The learned Counsel appearing for the 3rd respondent on instructions submitted that already the 3rd respondent recalled the earlier order passed by him and the objections filed by the petitioners on 11.10.2018, and he will be send to the Government enabling the Government to pass orders.

8. Considering the above submission, now the 3rd respondent come forward to submit all the details of the enquiry to the Government, enabling the competent authority to pass orders under Section 15(3) of the Act. The 3rd respondent is directed to submit all the enquiry report to the Government as per Rule 5(4) of the Tamilnadu Highways Rules, within a period of two weeks from the date of receipt of a copy of this order. Thereafter, on receipt of the enquiry report the Government is directed to consider and pass suitable orders under Section 15 (3) of the Act.

9. In the result, the writ petitions are disposed of with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msvm

To

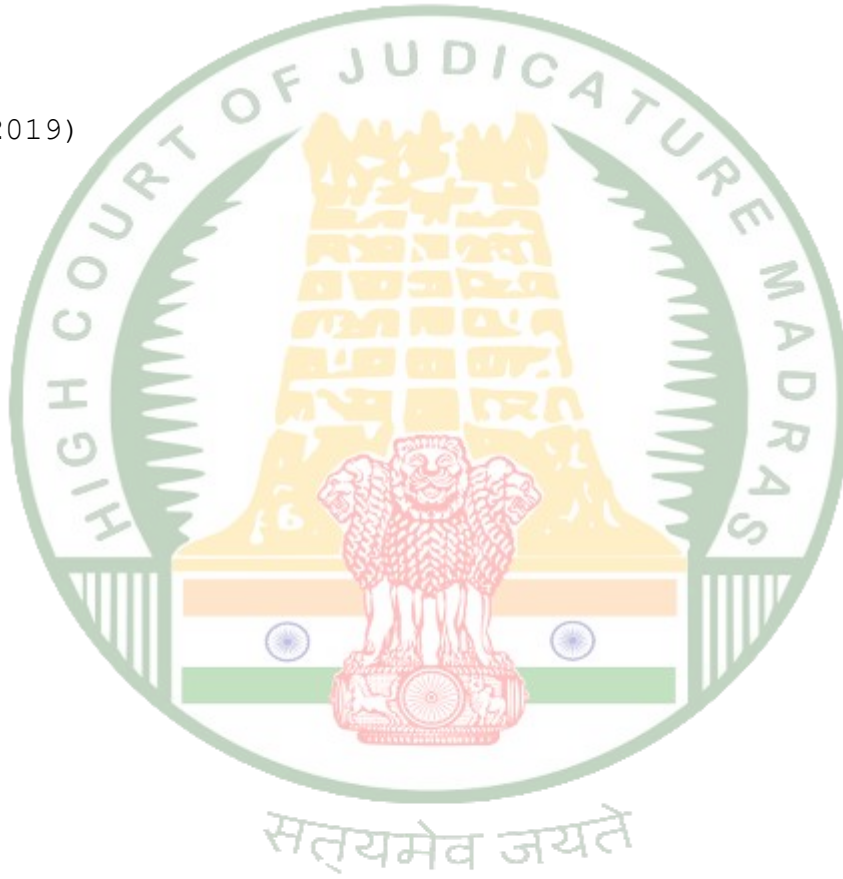
1. The Secretary to Government,
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2. The District Collector,
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3. The District Revenue Officer,
Collectorate Office,
Coimbatore.

4. The Tahsildar,
Coimbatore North,
Coimbatore District.

+6cc to Mr.V.Usha Rani, Advocate, S.R.No. 74516, 74517,74518,
74519, 74520 & 74521

Writ Petition Nos.26070, 26179, 26180, 27543, 27587
& 27632 of 2018

RJ(CO)
GN(05/02/2019)



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