

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.27877 of 2018
& WMP.Nos.32420 & 32423 of 2018

Writ Petition No.27883 of 2018
& WMP.Nos.32426 & 32429 of 2018

Writ Petition No.27892 of 2018
& WMP.Nos.32435 & 32437 of 2018

Writ Petition No.27896 of 2018
& WMP.Nos.32445 & 32446 of 2018

P.Sarojini ... Petitioner in W.P.No.27877 of 2018
K.Palanisamy ... Petitioner in W.P.No.27883 of 2018
V.Bhaskar ... Petitioner in W.P.No.27892 of 2018
B.A.Gururaj ... Petitioner in W.P.No.27896 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.27877 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 Site No.279 in G.S.No.167/38 and 168/29 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.27883 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 Site No.289 in G.S.No.156/2 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.27892 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.281 in S.F.No.167/36 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.27896 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.348 in S.F.No.168/8 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.P.Ravishankar Rao, (in all the WPs)

For Respondents : Mr.M.Elumalai,
(in W.P.No.27877 Government Advocate.
of 2018)

For Respondents : Mr.D.Raja,
(in W.P.Nos.27883 Additional Government Pleader.
& 27892 of 2018)

For Respondents : Mr.C.Thirumaran,
(in W.P.Nos.27896, 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 notice under Section 15(2) of 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, hence the present writ petitions have been filed challenging the notice.

4. The 3rd respondent filed a common counter affidavit stating that, the lands were sought to be acquired for Thudiyalur Railway over bridge in Thudiyalur Kovilpalayam Road, in 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 submitted their objection

to the acquisition. Thereafter, a public enquiry was conducted on 03.07.2018, by the 3rd respondent, after obtaining a report from the acquisition body namely the Divisional Engineer, Highway, Project Division, Coimbatore, and Sub-Collector, Coimbatore(North). After considering the objections and the report submitted by the acquisition body, the objection of the petitioners were rejected. Thereafter, challenging the notice, the present writ petitions have been filed.

5. Now, after realising the fact that the 3rd respondent does not have any power to pass orders on the objection and he is only expected to send the objections, along with the remarks received from the requisitioning body to the Government, the earlier order passed by the 3rd respondent dated 11.10.2018, will be called and the objections of the land owners will be forwarded to the competent authority.

6. The learned Counsel appearing for the 3rd respondent on instruction submitted that already the 3rd respondent recalled the earlier order passed by him and the objections filed by the petitioners will be send to the Government, enabling the Government to pass orders under Section 15(3) of the Act.

7. Considering the above submission, now the 3rd respondent is come forward to submit all the details of the enquiry conducted under Section 15(2) of the Act to the Government, to enable the competent authority to pass orders under Section 15(3) of the Act. The 3rd respondent is directed to submit all the details of the enquiry 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 same, the Government is directed to consider and pass suitable orders under Section 15(3) of the Act.

8. The writ petitions are disposed of with the above directions. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

msvm

To

1. The Secretary to Government,
The State of Tamil Nadu,
Highways Department,
Fort St.George, Chennai-600 009.

2. The District Collector,
Coimbatore District,
Coimbatore.

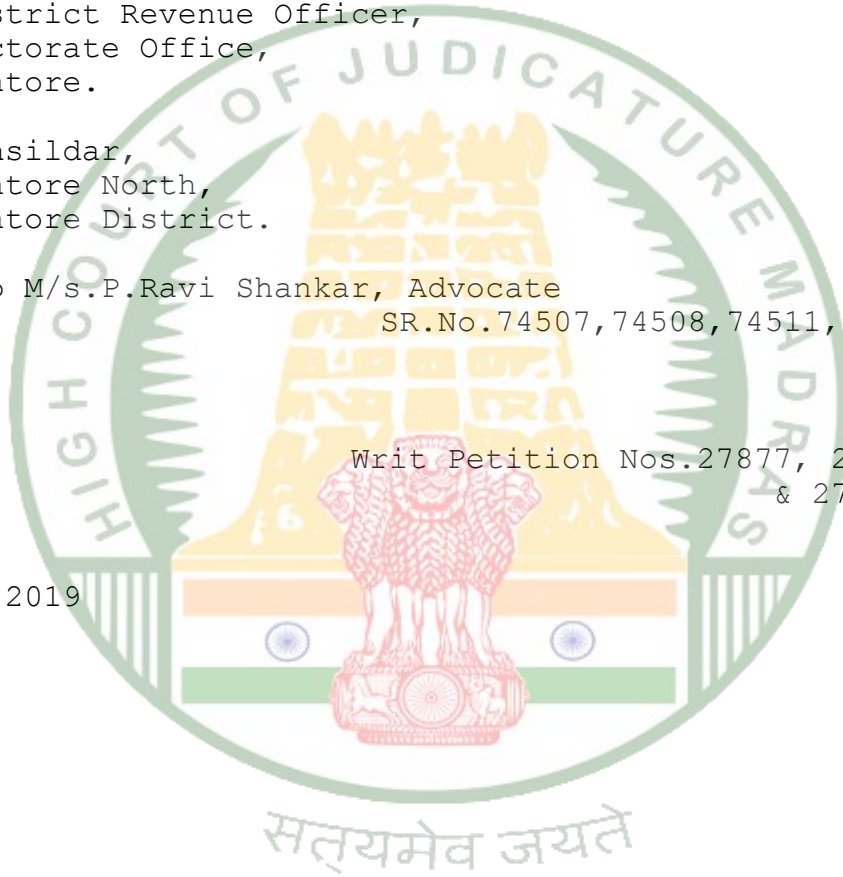
3. The District Revenue Officer,
Collectorate Office,
Coimbatore.

4. The Tahsildar,
Coimbatore North,
Coimbatore District.

+4 cc's to M/s.P.Ravi Shankar, Advocate
SR.No.74507,74508,74511,74510

Writ Petition Nos.27877, 27883, 27892
& 27896 of 2018

PPA(CO)
CSL/06.02.2019



WEB COPY