

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2019

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.Nos.16836 & 16845 of 2019
and

W.M.P.Nos.16427, 16432, 16433,16436, 16439 & 16440 of 2019

1.T.Kanagaraj ... Petitioner in W.P.No.16836/19
2.S.Geetha ... Petitioner in W.P.No.16845/19

Versus

- 1.The Principal Secretary to Government,
Highways Department,
Fort St.George, Chennai-600 009.
- 2.The Chief Engineer,
State Highways, (Projects),
Integrated Chief Engineers Office,
HRS Campus, 76 Sardar Patel Road,
Guindy, Chennai-600 025.
- 3.The District Collector,
Salem District, Salem.
- 4.The General Manager,
Southern Railway,
Chennai.
- 5.The Chief Administrative Officer,
Southern Railway,
Works/Construction/MS
Egmore, Chennai.
- 6.The Commissioner of Land Administration,
Ezhilagam, Chennai.
- 7.The Land Acquisition Officer,
District Revenue Officer,
Collectorate, Salem-636 001.
- 8.The Assistant Divisional Engineer (Highway),
Planning, Sub-Division, Salem. ... Respondents in both WPs

COMMON PRAYER: Writ Petition filed under Article 226 of the
Constitution of India, praying for the issue of Writ of

Certiorarified Mandamus call for the records in respect of the impugned order in G.O.(Ms).No.206, Highways and minor Ports(HP1) Department dated 06.12.2018 passed by the 1st respondent and the consequent impugned Award Proceedings Award No.1/2018 under Roc.No.9015/2013/B3 dated 21.01.2019 passed by the 7th respondent and quash the same and consequently direct the 1st respondent to dispose the representation dated 19.12.2018 on merits within a reasonable time.

For Petitioner in both WPs : Mr.T.Aravind
For R1 to R3 & R6 to R8 : Mr.V.Anandhamurthy
in both WPs Additional Government Pleader

COMMON ORDER

Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 3 and 6 to 8.

2. The case of the petitioners is that the petitioners being the land owners and the house constructed there upon in the Pallapatti Village, Salem Corporation limit. Aggrieved by the fact in the Highways department G.O.(Ms).No.200, Highways & Minor Ports (HQ-2) Department, dated 07.12.2011 has granted technical sanction for construction of Road Over Bridge for 203/2 of V.C.C.Road in lieu of existing L.C.No.187 at Railway Km 192/300-400 between Salem junction and Market Railway station. Subsequent that the petitioners herein along with others have filed a writ petition in W.P.No.27660 of 2018 seeking mandamus to consider the representation dated 04.10.2018 and conduct enquiry and pass award fixing the compensation based on market value within a time limit. This Court disposed of the said writ petition on 20.11.2018 with the following direction:-

" 4.Considering the circumstances, as the enquiry already completed and the enquiry proceedings was also submitted before the Government, and the 1st petitioner has also submitted his detailed objections in the award enquiry, I am of the view, it is suffice to direct the petitioners 2 to 8 to appear before the 7th respondent, and submit their written objections, within a period of one week from the date of receipt of the copy of this order. On receipt of the Written objections from the petitioners 2 to 8, the 7th respondent is directed to submit their objections immediately before the 6th respondent enabling the Government to pass orders on their objections"

3. Thereafter, the objection has been filed by the petitioners and others, based on which the enquiry has been conducted and fixed the compensation. It is reported by the

learned Additional Government Pleader that the entire compensation amount is also been deposited.

4. The learned counsel for the petitioners would submit that there was no hearing for fixation of compensation. However, they have received impugned notice dated 15.02.2019, wherein the Assistant Divisional Engineer has stated that the enquiry was conducted on 27.03.2018 and the award was passed on 21.01.2019 and the award amount deposited, which is not factually correct.

5. The learned Additional Government Pleader would submit that pursuant to the order passed by this Court directed the authority to afford opportunity to fix the compensation. Due liberty was given, the order of fixation of compensation was passed on 21.01.2019 and the same was duly communicated to the petitioners. If the petitioners in any way aggrieved by the compensation awarded, they have right to agitate before the Tribunal in the LAOP proceedings. The status report submitted by the Divisional Engineer, Highways Department, Salem indicates that the petitioners herein after conclusion of the enquiry proceedings failed to vacate the premises even after intimation. Hence, the structure in the acquired land was cleared on 29.05.2019 as per law.

6. In the said circumstances, this Court is of the view that the grievance of the petitioners regarding inadequacy of compensation has to be agitated before the LAOP proceedings and not before this Court. The order which is impugned in this writ petition indicates that enough opportunity was given to the petitioners herein and for want of proper documents even the ownership could not be ascertained. The petitioners and other stake holders have failed to produce sufficient documents to prove the ownership. Further, the learned Additional Government Pleader would also circulate the judgment of this Court in W.P.No.5711 of 2019 passed on 21.03.2019, wherein this Court while considering a similar writ petition challenging the very same proceedings has held that it is open for the petitioners to work out their remedy before the concerned Civil Court and the writ petitions to quash the land acquisition proceedings is not maintainable. This Court is fully endorsed the view of the Hon'ble Mr.Justice D.Krishnakumar expressed in his order dated 21.03.2019.

7. Accordingly, these writ petitions are dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Chief Engineer,
State Highways, (Projects),
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3.The District Collector, Salem District, Salem.

4.The General Manager,
Southern Railway, Chennai.

5.The Chief Administrative Officer,
Southern Railway,
Works /Construction/MS,
Egmore, Opp to Daily Thanthi Office,
Chennai.

6.The Commissioner of Land Administration,
Ezhilagam, Chennai.

7.The Land Acquisition Officer,
District Revenue Officer,
Collectorate, Salem-636 001.

8.The Assistant Divisional Engineer (Highway),
Planning, Sub-Division, Salem.

+lcc to Mr.K.Annamma, Advocate, S.R.No. 52659

+lcc to the Government Pleader, S.R.No. 52373

+lcc to Mr.P.T.Ram Kumar, Advocate, S.R.No. 52213 (31.01.2020)

+lcc to Mr.P.T.Ram Kumar, Advocate, S.R.No. 52660 (31.01.2020)

+lcc to Mr.P.T.Ram Kumar, Advocate, S.R.No. 52212 (31.01.2020)

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VD(CO)
GN(22/07/2019)