

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 25.08.2020

Delivered on 28.08.2020

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

WP.No.27226/2019 & WMP.Nos.26626, 26627 & 26628/2019

1.Ponnayal
2.S.Devaraj
3.S.Rajeswari

... Petitioners

Versus

- 1.The State of Tamil Nadu
rep.by the Additional Chief Secretary
Highways and Minor Ports Department
Secretariat, Chennai 600 009.
- 2.The Special District Revenue Officer
[Land Acquisition Officer]
Tamilnadu Road Development Scheme II
Salem.
- 3.The Project Director/Principal Secretary
Tamilnadu Road Sector Project II
171, South Kesavaperumalpuram
Greenways Road, Chennai 600 028.
- 4.The Superintending Engineer
Tamilnadu Road Sector Project II
Kothavari Road, Nedunchalai Nagar, Salem.
- 5.The Divisional Engineer
Tamilnadu Road Sector Project II
416, Collector Office Complex
Tiruppur.
- 6.The District Collector
Erode District, Erode-638 011.

.. Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records relating to the impugned G.O [D] No.28, Highways and Minor Ports [HN2], dated 25.02.2019 issued by the 1st respondent, which is published in Tamil Nadu

Government Gazette, Part II-Section 2 dated 13.03.2019, insofar as Sl.No.33, which is relating to the petitioners' lands in SF.No.557 [eastern part], Odathurai Village, Bhavani Taluk, Erode District and quash the same.

For Petitioners : Mr.N.Manoharan
For Respondents : Mr.E.Manoharan, Spl.GP

ORDER

- (1)The present writ petition has been filed challenging the Government Order issued by the first respondent under Section 15(1) of the Tamil Nadu Highways Act, 2001 (hereinafter referred to as "the Act") and the Notification published in the Government Gazette on 13.03.2019, insofar as the lands belonging to the petitioners are concerned.
- (2)The case of the petitioners is that they are the owners of the subject property and that they have been cultivating the said lands. The second respondent issued a Notification dt. 27.11.2014 under section 15(2) of the Act to acquire large extents of land for the purpose of widening the existing Erode-Ooty State Highways. Pursuant to the Notification, the second respondent issued a show cause notice under Section 15(2) of the Act and directed the petitioners to submit their explanation/objections within a period of 30 days. The petitioners submitted their objections on 25.12.2014.
- (3)The main objections that were taken by the petitioners is that the lands sought to be acquired are fertile agricultural lands and the existing road margin is more than sufficient to widen the highways.
- (4)The second respondent thereafter issued an amended acquisition Notification dt.22.12.2018, under Section 15(2) of the Act. By virtue of the amended Notification, the extent of land that was sought to be acquired from the petitioners in Survey No. 557 was increased from 4.62 cents to 21.85 cents. No further or fresh show cause notice was served on the petitioners calling for their objections even though a larger extent of land was sought to be acquired from them.
- (5)The petitioners came to know about the amended Notification only upon its publication in the newspapers on 28.12.2018. Out of abundant caution, the petitioners submitted their objections on 22.01.2019. The main objection that was raised by the petitioners against the amended Notification was that the lands which formed part of the earlier Notification namely, property bearing S.F. No 567/2, located opposite to the lands belonging to the petitioners, was deleted in the amended Notification. According to the petitioners, the owner of the said property

being a police officer had used his influence to get his lands deleted from the amended Notification and thereby, a larger extent was sought to be acquired from the petitioners. To that extent, the petitioners have alleged mala fide on the part of the officials belonging to the Highways Department.

(6) The petitioners in fact questioned the amended Notification by filing W.P. No 3026 of 2019. During the pendency of this writ petition, the first respondent proceeded to issue the impugned Government Order which was also published in the Government Gazette. Therefore, the petitioners have filed the present writ petition challenging the acquisition.

(7) The second respondent has filed a counter affidavit and the relevant portions in the counter affidavit is extracted hereunder:

"... 5. I humbly submit that in the meanwhile, for the past four years, various land owners, whose lands were sought to be acquired for the present project, have filed writ petitions before the Hon'ble High Court, Madras with regard to alignment as well as on various other grounds. Taking into account of the writ petitions filed by the land owners, the existing Notification to the earlier notice dated 03.12.2014 was issued under u/s. 15(2) of the Tamil Nadu Highways Act on 22.12.2018. The amendment Notification was published in the daily newspapers both in Tamil and English on 28.12.2018. As the lands to be acquired in S.F. No. 557 was already notified in 15(2) Notification dated 04.12.2014 and objections were also already heard and disposed on 30.01.2015, notices were not served for hearing objections for the amended Notifications. Hence, in this case as the S.F. No. 557 was already notified on 04.12.2014 objection for amended Notification was not invited.

6. I humbly submit that there is one Govt. Harijan Colony in S.F. No. 567/1 adjacent to S.F. No. 567/2. In the Govt. Harijan Colony situated in S.F. No. 567/1, around 50 families are residing. Out of which 10 families will get affected due to land acquisition as per original Notification dated 04.12.2014. As such, it was analysed by the requisitioning body later that slight alteration in the alignment would fulfill the technical requirements of the project road as well as would avoid the impact on the

settlement of Harijan Colony. Hence, in order to avoid the impact, the alignment has changed and shifted the centerline in such a way that the land in S.F. No. 567/1 and 567/2 is totally avoided. Moreover, opposite to S.F. No. 567/1 and 567/2, there is one open vacant land in S.F. No. 557 with a total extent of 0.94.0 Hectare. As already the S.F. No 557 was notified for acquisition to an extent of 189 sq.mts, it was proposed to acquire additional extent. Therefore, the acquisition in S.F. No. 557 with increased extent is unavoidable.

7. I humbly submit that it is hereby denied that the lands in S.F. No. 567/2 which is situated just opposite side of the subject land, has been deleted from acquisition with an oblique motive as the same is false and an incorrect one. The reason for deletion of the lands which are situated quite opposite to the subject land on the other side of the road is for the reason that the original alignment itself has been slightly modified from the starting to the end point due to pendency of the writ petitions filed by other land owners in some other area and for other factors as stated above. Moreover, the S.F. No. 564 is highway road having a curve in the field. Now as per the alignment the curve is designed as per IRC Standard from chainage 137+831 to 138+186 for a total length of 355 m. As such the extent of land sought to be acquired is worked out more than the original Notification. Further, in the opposite side of the subject land, an existing Harijan Colony is also deleted from the acquisition which is situated along with the S.F. No. 567 and the present alignment has been properly fixed after taking into account of various factors mentioned above, as such the lands under acquisition in the subject land was worked out to more extent than the original Notification issued on 3.12.2014."

(8) Mr. N. Manokaran, learned counsel appearing on behalf of the petitioners made the following submissions:

- The amended Notification that was issued by the respondents is not in the nature of a Corrigendum and it was more in the nature of a fresh Notification under section 15(2) of

the Act and therefore, the respondents were duty bound to issue a fresh show cause notice to the petitioners calling for their objections, if any.

- The petitioners out of abundant caution gave their objections after noticing the amended Notification published in the newspaper and the objections submitted by the petitioners were not considered in accordance with Section 15(3) of the Act read with Rule 5 of the Rules, 2003.
- The first respondent has proceeded to issue the final Notification under Section 15(1) of the Act even without passing orders on the objections made by the petitioners.
- The fifth respondent who did not possess any authority has rejected the objections made by the petitioners by his proceedings dt. 11.03.2019 and by doing so, he has usurped the jurisdiction that the Act, exclusively conferred on the first respondent.
- The owner of the property in S. F. No. 567/2 had used his influence as a police official and got his lands deleted in the amended Notification and therefore, the officials of the Highways Department have acted in a hasty manner and proceeded to acquire a larger extent of land from the petitioners only to accommodate the interests of the owner of the property bearing S. F. No. 567/2.
- The enquiry contemplated under the Act, is not a mere formality and Rule 5(3) of the Rules, 2003 even mandates recording of evidence, if required and the first respondent ought to have passed an order on the objections made by the petitioners and without doing so, the impugned Government Order has been issued under section 15(1) of the Act.

(9) The learned counsel in order to substantiate his submissions relied upon the following judgements:

[a] Bhusawal Municipal Council v. Nivrutti Ramachandra Phalak and Ors. reported in 2015 (14) SCC 327;

[b] Bondu Ramaswamy and Ors. v. Bangalore Development Authority and Ors. reported in 2010 (7) SCC 129;

[c] Hindustan Petroleum Corporation Ltd. v. Darius Shapur Chennai and Ors. reported in 2005 (7) SCC 627; and

[d] Union of India v. Mukesh Hans reported in 2004 (8) SCC 14.

(10) Per contra, Mr. E. Manoharan, learned Special Government Pleader appearing on behalf of the respondents made the

following submissions:

- ➔ The amended Notification cannot be considered to be a fresh Notification and therefore, it is not necessary to issue a fresh show cause notice to the petitioners.
- ➔ The petitioners anyway had given their objections and the same were also considered and therefore, the non-issuance of a fresh show cause notice after the issuance of the amended Notification will be of no consequence.
- ➔ The first respondent had taken into consideration the objections made by the petitioners in accordance with the Act and Rules and only thereafter, the Government Order was passed under Section 15(1) of the Act. The property bearing S.F. No. 567/1 which is a poramboke land, contained 10 harijan families and their interest was taken into consideration and that apart, the property bearing S.F. No. 567/2 was also deleted in the amended Notification since the alignment itself was changed to fulfil the technical requirements of the project.
- ➔ The alignment is designed as per the Indian Road Congress (IRC) Standards and the deletion and addition of lands was required, taking into consideration the alignment of the road and there were absolutely no extraneous considerations for deleting property bearing S.F. No. 567/2, through the amended Notification.

(11) This court has carefully considered the submissions made on either side and the materials available on record.

(12) The lands in question are agricultural lands. The Hon'ble Supreme Court in Bondu Ramaswamy and Others, referred supra, while considering the plight of the farmers losing their fertile lands, has discussed in detail, the travails undergone by them. The relevant portions in the judgement is extracted hereunder:

"157. Inclusion of the land of a person in an acquisition Notification, is a traumatic experience for the landowner, particularly if he was eking out his livelihood from that land. If large areas are notified and then large extents are to be deleted, it breeds corruption and nepotism among officials. It also creates hostility, mutual distrust and disharmony among the villagers dividing them on the lines of "those who can influence and get their lands deleted" and "those who cannot". Touts and middlemen flaunting political connections flourish, extracting money for getting lands deleted. Why subject a large number of citizens to such

traumatic experience? Why not plan properly before embarking upon acquisition process? In this case, out of the four villages included at the final stages of finalizing the development scheme, irregularities have been found at least in regard to three villages, thereby emphasizing that the need for proper planning and survey before embarking upon acquisition.

158. Where arbitrary and unexplained deletions and exclusions from acquisition, of large extents of notified lands, render the acquisitions meaningless, or totally unworkable, the court will have no alternative but to quash the entire acquisition. But where many landlosers have accepted the acquisition and received the compensation, and where possession of considerable portions of acquired lands has already been taken, and development activities have been carried out by laying plots and even making provisional or actual allotments, those factors have to be taken note of, while granting relief. The Division Bench has made an effort to protect the interests of all parties, on the fact and circumstances, by issuing detailed directions. But implementation of these directions may lead to further litigations and complications.

(13) The Hon'ble Supreme Court in Mukesh Hans Case, referred supra, dealt with the importance of considering the objections of the land owner while conducting an enquiry under Section 5 (A) of the Land Acquisition Act, 1894 and it was held that there was only a limited right given to the owner and therefore it should not be made an empty formality. The relevant portions in the judgement is extracted hereunder:

35. At this stage, it is relevant to notice that the limited right given to an owner/person interested under Section 5A of the Act to object to the acquisition proceedings is not an empty formality and is a substantive right, which can be taken away for good and valid reason and within the limitations prescribed under Section 17(4) of the Act. The object and importance of 5A inquiry was noticed by this Court in the case of Munshi Singh and Ors. v. Union of India

reported in [1973]1SCR973 where this Court held thus:-

7. "Section 5A embodies a very just and wholesome principle that a person whose property is being or is intended to be acquired should have a proper and reasonable opportunity of persuading the authorities concerned that acquisition of the property belonging to that person should not be made.

The legislature has made complete provisions for the persons interested to file objections against the proposed acquisition and for the disposal of their objections. It is only in cases of urgency that special powers have been conferred on the appropriate Government to dispense with the provisions of Section 5A."

36. It is clear from the above observation of this Court that right of representation and hearing contemplated under Section 5A of the Act is a very valuable right of a person whose property is sought to be acquired and he should have appropriate and reasonable opportunity of persuading the authorities concerned that the acquisition of the property belonging to that person should not be made. Therefore, in our opinion, if the appropriate Government decides to take away this minimal right then its decision to do so must be based on materials on record to support the same and bearing in mind the object of Section 5A."

(14) The Hon'ble Supreme Court has dealt with the same issue in Hindustan Petroleum Corporation Case, referred supra. The relevant portions in the judgement is extracted hereunder:

6. It is not in dispute that Section 5-A of the Act confers a valuable right in favour of a person whose lands are sought to be acquired. Having regard to the provisions contained in Article 300A of the Constitution of India, the State in exercise of its power of 'eminent domain' may interfere with the right of property of a person by acquiring the same but the same must be for a public purpose and reasonable compensation therefore must be paid.

8. The conclusiveness contained in Section 6 of the Act indisputably is attached to a need as also the

purpose and in this regard ordinarily, the jurisdiction of the court is limited but it is equally true that when an opportunity of being heard has expressly been conferred by a statute, the same must scrupulously be complied with. For the said purpose, Sections 4, 5-A and 6 of the Act must be read conjointly. The court in a case, where there has been total non-compliance or substantial non-compliance of the provisions of Section 5-A of the Act cannot fold its hands and refuse to grant a relief to the writ petitioner. Sub-section (3) of Section 6 of the Act renders a declaration to be a conclusive evidence. But when the decision-making process itself is in question, the power of judicial review can be exercised by the court in the event the order impugned suffers from well-known principles, viz., illegality, irrationality and procedural impropriety. Moreover, when a statutory authority exercises such enormous power it must be done in a fair and reasonable manner.

9. It is trite that hearing given to a person must be an effective one and not a mere formality. Formation of opinion as regard the public purpose as also suitability thereof must be preceded by application of mind as regard consideration of relevant factors and rejection of irrelevant ones. The State in its decision-making process must not commit any misdirection in law. It is also not in dispute that Section 5-A of the Act confers a valuable important right and having regard to the provisions, contained in Article 300A of the Constitution of India has been held to be akin to a fundamental right.

15. Section 5-A of the Act is in two parts. Upon receipt of objections, the Collector is required to make such further enquiry as he may think necessary whereupon he must submit a report to the appropriate Government in respect of the land which is the subject matter of Notification under Section 4 of the Act. The said Report would also contain recommendations on the objections filed by the owner of the land. He is required to forward the records of the proceedings held by him together with the report. On receipt of such a Report together with the records of the case, the Government is to render a decision thereupon. It is now well-settled in view of a catena of decisions that the declaration made under Section 6 of the Act need not contain any reason. [See *Kalumiya Karimmiya v. The State of Gujarat and Ors.*, :[1977]2SCR606 and *Delhi*

Administration v. Gurdip Singh Uban and Ors.,: (2000)7SCC296].

16. However, considerations of the objections by the owner of the land and the acceptance of the recommendations by the Government, it is trite must precede a proper application of mind on the part of the Government. As and when a person aggrieved questions the decision-making process, the court in order to satisfy itself as to whether one or more grounds for judicial review exists, may call for the records whereupon such records must be produced. The writ petition was filed in the year 1989. As noticed hereinbefore, the said writ petition was allowed. This Court however, interfered with the said order of the High Court and remitted the matter back to it upon giving an opportunity to the parties to raise additional pleadings."

(15) In the judgement in Busawal Municipal Council Case, referred supra, the Hon'ble Supreme Court after referring to all the earlier judgements held that right to property is not only a constitutional right under Article 300-A of the Constitution of India, 1950 but is also a statutory right and sometimes it may even be a human right since at times a person may lose his livelihood by losing his property. The relevant portions in the judgement is extracted hereunder:

"13. In Tukaram Kana Joshi and Ors. v. Maharashtra Industrial Development Corporation and Ors.: AIR 2013 SC 565, this Court held that right to property is not only a Constitutional or a statutory-right but also a human right and human rights are considered to be in realm of individual rights which are gaining an even greater multifaceted dimension and, therefore, in case the person aggrieved is deprived of the land without making the payment of compensation as determined by the Collector/court, it would tantamount to forcing the said uprooted persons to become vagabond or to indulge in anti-social activities as such sentiments would be born in them on account of such ill treatment. Therefore, it is not permissible for any State/authority to uproot a person and deprive him of his human rights, without ensuring compliance of the statutory requirement under the garb of development.

14. In K. Krishna Reddy and Ors. v. The Special Dy. Collector, Land Acquisition Unit II, LMD Karimnagar, Andhra Pradesh: AIR 1988 SC 2123, this Court while directing the statutory authorities to make the payment of compensation at the earliest observed that the person so uprooted may not be having any savings,

he may not be knowing any other avocation, thus, he may face starvation with rising inflation. A delayed payment may lose the charm and utility of the compensation. Thus, the compensation must be determined and paid without loss of time.

15. In *Narain Das Jain (since deceased) by L.Rs. v. Agra Nagar Mahapalika, Agra*: (1991) 4 SCC 212, this Court placed reliance upon various reports including the report of the Law Commission of India which made it clear that "community has no right to enrich itself by deliberately taking away the property of any of its members in such circumstances without providing adequate compensation for it".

16. The judicial process of the court cannot subvert justice for the reason that the court exercises its jurisdiction only in furtherance of justice. The State/authority often drags poor uprooted claimants even for payment of a paltry amount upto this Court, wasting the public money in such luxury litigation without realising that poor citizens cannot afford the exorbitant costs of litigation and, unfortunately, no superior officer of the State is accountable for such unreasonable conduct. It would be apt to quote the well-known words of Justice Brennan:

"Nothing rankles more in the human heart than a brooding sense of injustice. Illness we can put up with. But injustice makes us want to pull things down. When only the rich can enjoy the law, as a doubtful luxury, and the poor, who need it most, cannot have it because its expense puts it beyond their reach, the threat to the continued existence of free democracy is not imaginary but very real, because democracy's very life depends upon making the machinery of justice so effective that every citizen shall believe in and benefit by its impartiality and fairness."

17. The fundamental right of a farmer to cultivate his land is a part of right to livelihood "Agricultural land is the foundation for a sense of security and freedom from fear. Assured possession is a lasting source for peace and prosperity." India being predominantly an agricultural society, there is a "strong linkage between the land and the person's status in the social system."

"10. ...A blinkered vision of development, complete apathy towards those who are highly adversely affected by the development process

and a cynical unconcern for the enforcement of the laws lead to a situation where the rights and benefits promised and guaranteed under the Constitution hardly ever reach the most marginalised citizens.

11. ...For people whose lives and livelihoods are intrinsically connected to the land the economic and cultural shift to a market economy can be traumatic."

(Vide: Mahanadi Coal Fields Ltd. and Anr. v. Mathias Oram and Ors.: (2010) 11 SCC 269; and Narmada BachaoAndolan v. State of Madhya Pradesh and Anr: AIR 2011 SC 1989)"

18. A farmer's life is a tale of continuous experimentation and struggle for existence. Mere words or a visual can never convey what it means to live a life as an Indian farmer. Unless one experiences their struggle, that headache he will never know how it feels. The risks faced by the farming community are many: they relate to natural calamities such as drought and floods; high fluctuation in the prices of input as well as output, over which he has no control whatsoever; a credit system which never extends a helping hand to the neediest; domination by middlemen who enjoy the fruits of a farmer's hard work; spurious inputs, and the recent phenomenon of labour shortages, which can be conveniently added to his tale of woes. Of late, there, have been many cases of desperate farmers ending their lives in different parts of the country. The Principles of Economics provides for the producer of a commodity to determine his prices but an Indian farmer perhaps is the only exception to this principle of economics, for even getting a decent price for their produce is difficult for them.

19. Economic growth through the 1990's had made India a more market-oriented economy, but had failed to benefit all Indians equally. The problems that plagued the farmers several decades ago are still glaringly present today; there is little credit available. What is available is very expensive. There is no advice on best practice in conducting agriculture operations. Income through farming is not enough to meet even the minimum needs of a farming family. Support systems like free health facilities from the government are virtually non-existent. The drama of millions leaving their homes in search of jobs, which are non-existent of villages swiftly losing able-bodies of adults, leaving behind the old, hungry and vulnerable. Families break up as their

members head in diverse directions."

- (16) It is an admitted case that initially, when the Notification was issued under Section 15(2) of the Act on 27.11.2014, the extent of land that was sought to be acquired from the petitioner measured an extent of 4.62 cents. The petitioners had immediately given their objections and an enquiry was also conducted on 29.02.2015 where the petitioners appeared for the enquiry and made their submissions. Nearly after four years, an amended Notification was issued on 22.12.2018 and the same was published in the daily newspapers on 28.12.2018. As per this Notification, the total extent of land that was sought to be acquired from the petitioners was increased to 21.85 cents. In the considered view of this court, the petitioners were losing a larger extent of land and therefore, the respondents ought to have issued a fresh show cause notice under Section 15(2) of the Act. However, the respondents failed to do the same. The respondents must have borne in mind that the owners of the land already have a very limited right of submitting their objections and that right cannot be taken away, more particularly, when a larger extent of land is sought to be acquired from the petitioners. The petitioners were entitled for a fresh show cause notice after the amended Notification was issued in the year 2018. Even though the Notification issued on 22.12.2018 is called as an "amended Notification", insofar as the petitioners are concerned, it must be construed as a fresh Notification under Section 15(2) of the Act since a larger extent of land was sought to be acquired from the petitioners.
- (17) The petitioners on seeing the amended Notification published in the newspapers, gave their objections, out of abundant caution, even though they were not served with any fresh show cause notice. In the said objections, the petitioners have raised a very strong objection with regard to the deletion of property bearing S.F. No 567/2 which is a property on the other side of the road right opposite to the property of the petitioners. According to the petitioners, this property was owned by a police official and only due to his influence, it was deleted in the amended Notification and to set off the same, a larger extent was acquired from the petitioners.
- (18) This objection made by the petitioners cannot be brushed aside. It requires a very serious consideration. The second respondent in the counter affidavit has stated that the property bearing S.F. No 567/2 stood deleted along with the property bearing S.F. No 567/1. According to the respondent, the property bearing S.F. No. 567/1 had certain harijan families living in the poramboke land and that therefore, it was deleted. The land bearing S.F.No. 567/2 was deleted since there was a modification in the alignment and therefore, there was no oblique motive in deleting the property bearing S.F.No

567/2 from the Notification.

(19) A combined reading of Section 15(2) of the Act and Rule 5(3) of the Rules, 2003, makes it very clear that the objector should be heard in-person and if necessary, even evidence can be recorded. For better appreciation, the relevant provisions are extracted hereunder:

Section 15(2) of the Act

15. Power to acquire land

"15. (2) Before publishing a notice under sub-section (1), the Government shall call upon the owner and any other person having interest in such land to show cause within such time as may be specified in the notice, why the land should not be acquired. The Government shall also cause a public notice to be given in such manner as may be prescribed."

Rule 5(3) of the Rules, 2003

5. Manner of publication of notice

"5.(3) On the date fixed for enquiry or any other date to which the enquiry may be adjourned, [the Government or the Collector or the Special Deputy Collector (Land Acquisition), Tamil Nadu Urban Development Project III], as the case may be, shall hear the objector or a person authorised by him in this behalf and the representative, if any, of the Highways Department and record any evidence that may be produced in support of the objection and in support of the need for acquiring the land."

A reading of the above provisions shows that the enquiry conducted by the Government is not an empty formality and the objections must be considered with all seriousness. In the present case, even though the petitioners had submitted their objections on 22.01.2019 and 24.02.2019, after the amended Notification was issued, the petitioners were never called for an enquiry and therefore, there is a clear violation of Section 15(2) of the Act read with Rule 5(3) of the Rules, 2003.

(20) The Hon'ble Supreme Court, in its judgments referred supra, in very uncertain terms has held while considering the scope of Section 5-A of the Land Acquisition Act, 1894, that the objections to the acquisition proceedings is not an empty formality and that it is a substantive right. It is a right given to the land owner, giving him a reasonable opportunity to persuade the authority concerned, against the acquisition of the property belonging to him. The provision under Section 5-A of the Land Acquisition Act, 1894 is akin to Section 15(2) of the Act read with Rule 5(3) of the Rules, 2003. It clearly contemplates a personal hearing and in this case, the objections given by the petitioners were not properly considered after the amended Notification was issued and they

were not called for an enquiry and therefore, it clearly vitiates the decision-making process of the first respondent by issuing the Notification under Section 15(1) of the Act, insofar as the lands belonging to the petitioners is concerned.

(21) It is also really surprising as to how the fifth respondent proceeded to deal with the objections made by the petitioners through his proceedings dated 11.03.2019, much after the publication of the Notification under Section 15(1) of the Act, on 25.02.2019. The fifth respondent did not have the power or authority to deal with the objections given by the petitioners and the fifth respondent, by usurping the powers of the first respondent, has acted in a hasty manner.

(22) In view of the above discussion, this court has no hesitation in interfering with the impugned Government Order issued by the first respondent dated 25.02.2019 and the publication made in the Tamil Nadu Government Gazette on 13.03.2019, insofar as the property belonging to the petitioners is concerned and accordingly the same is quashed.

(23) In the result, this writ petition is allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP
To

1. The Additional Chief Secretary
State of Tamil Nadu
Highways and Minor Ports Department
Secretariat, Chennai 600 009.
2. The Special District Revenue Officer
[Land Acquisition Officer]
Tamilnadu Road Development Scheme II
Salem.
3. The Project Director/Principal Secretary
Tamilnadu Road Sector Project II
171, South Kesavaperumalpuram
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4.The Superintending Engineer
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Kothavari Road, Nedunchalai Nagar,
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5.The Divisional Engineer
Tamilnadu Road Sector Project II
416, Collector Office Complex
Tiruppur.

6.The District Collector
Erode District, Erode-638 011.

+1 cc to Mr.N.Manokaran, Advocate Sr.No. 28461

WP.No.27226/2019

KS (CO)

RMP (14/09/2020)



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