

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2021

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 14194 of 2012
and M.P. No.3 and 5 of 2012

K.Loganathan

.. Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Highways Department,
Secretariat,
Chennai – 600 009.

2.The Commissioner of Land Revenue Administration,
Chepauk,
Chennai – 600 005.

3.The District Collector,
Tirupur District,
Tirupur .

4.The Chief Engineer,
Highways Department,
Chepauk,
Chennai – 600 005.

5.The District Revenue Officer,
Tirupur,
Tirupur District.

6.The Divisional Engineer,
Highways Department,
Tirupur Division,
Tirupur District.

7.S.Jaganathan

8.S.Duraisamy

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the fifth respondent in his proceeding Na.Ka.27192/2010/U2 dated 29.08.2011 and quash the same and consequently forbear the respondents from proceeding further in respect of the land in Survey No.M7/75/2 measuring an extent of 0.0112.2 Square meter situated in Ward No..M, Block No.7 of Tiruppur Town, Tirupur Taluk and District, in which the petitioner is having a Commercial Complex.

For Petitioner : Mr. K.Raja

For Respondent 1-6 : Mr. M.Elango
Additional Government Pleader

7&8 : Mr. K.Govi Ganesan

ORDER

Though the learned counsel for the petitioner sought time on the ground that he has to produce several documents, this Court is not inclined to grant any adjournment having regard to the scope of the writ petition.

2. The petitioner has challenged before this Court a notification issued under Section 15(2) of Tamil Nadu Highways Act, 2001 (hereinafter referred as 'the Act'). By an impugned notice, the petitioner was called upon to show cause regarding acquisition of his land for the purpose of expansion of road in Tiruppur Taluk. The grievance of the petitioner in this case is that the petitioner has received notice in respect of two parcels of land on either side of the existing road. The petitioner's request is that the official respondents can acquire the land belonged to the petitioner on any one side of the road so that he can save the property belonged to him on the other side of the road. In other words, the petitioner states that he has built a residential house abutting the road on one side and a commercial complex building on the other side. In order to save either the house or the commercial complex belonged to the petitioner, learned counsel for the petitioner states that he has filed several objections. This Court cannot entertain the writ petition challenging the show cause notice.

3. The notice issued under Section 15(2) of the Act, is a preliminary notice where the Government or the person authorised by the Government issues a notice to the land owner to show cause why the land should not be acquired. It is only after considering the objections, the Government or the authorised officer can pass orders under Section 15(1) of the Act upon

satisfying that the land belonged to the individual is required for the purpose of Highway. Learned counsel for the petitioner states that an order of stay regarding dispossession was granted by this Court. It is unfortunate to notice that the petitioner while challenging the preliminary notification issued under Section 15(2) has obtained the interim order. Hence this Court is not inclined to keep this matter pending any more.

4. Having regard to the reasons stated above in this order, this writ petition is not maintainable as the petitioner has to wait till the issuance of notice under Section 15(1) of the Act. Though this Court by order dated 26.09.2012, modified the interim order of injunction restraining the respondents to take possession of the property, it is reported that no notice under Section 15(1) of the Act is issued so far. If a notice is issued under Section 15(1) of the Act, it is open to the petitioner to challenge the said notice on any ground.

Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

17.03.2021

Index: Yes/No

Speaking order / Non speaking order

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To

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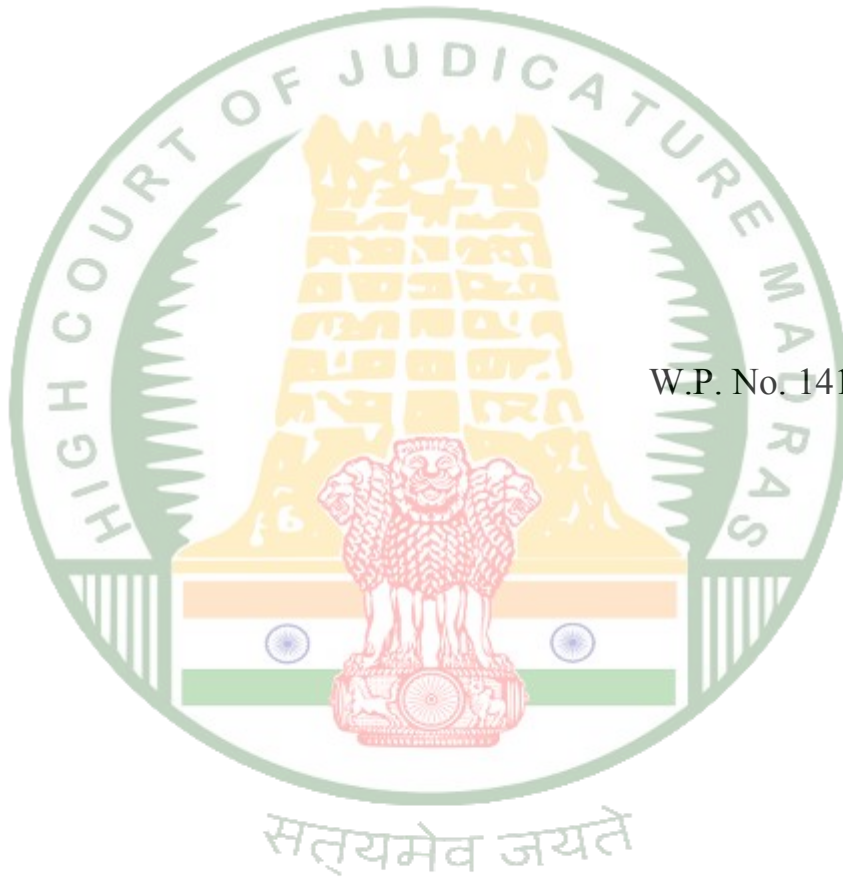


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