

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2021

CORAM : JUSTICE N.SESHASAYEE

W.P.No.4301 of 2021
and
WMP.Nos.4890 & 4893 of 2021

K.Nathappan ... Petitioner

Vs.

1.The Collector

Salem District

Office of the Collectorate

Salem - 636 001.

2.The Land Acquisition Officer and

District Revenue Officer

Collector's Office, Salem Collectorate

Salem Town

Salem - 636 001.

3.The Chief Engineer (General)

State Highways Department,

Chepauk, Chennai - 600 005

4.The Superintending Engineer(H)

High ways Department Projects Circle,

Near North Kovai Fly over

Mettupalayam Road,

Coimbatore 43.

5.The Divisional Engineer

Salem Division

State Highways Department

Panjanathan Street, 8th Cross

Kupta Nagar, Angammal Colony

Salem - 636 009.

... Respondents

Prayer : 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 second respondent bearing Na.Ka.No.23791/2020/B1 dated 12.10.2020 in respect of land belonging to Arulmighu Vinayagar Temple, Surapalli Village, Surapalli (P.O.), Jalakandapuram (via) Mettur Taluk, Salem District and tender Notice bearing No.09/2020-2021/Mu.Va.A/dated 27.1.2021 issued in 'online' by the fourth respondent and quash the same with consequential direction to the second respondent to act upon earlier proposal of the Highways Authority providing viable method of laying down Jalakandapuram by-pass road and forbearing the respondent to enter upon laying down boundary stone in the

land bearing survey No.378/1B, 378/1C and 174/19 belonging to Arulmighu Vinayagar Temple, Surapalli Village, Surapalli (P.O.), Jalakandapuram (Via), Mettur Taluk, Salem District.

For Petitioner : Mr.Haja Nazirudeen, Senior Advocate
assisted by Mr.T.K.Venkataraman

For Respondents: Mr.V.Anandamurthy
Additional Government Pleader
[R1 to R5]

ORDER

The petitioner herein has challenged the notification issued under Section 15(2) of the Tamil Nadu Highways Act, 2001. However, the Government came out with a final declaration under Section 15(1) of the Act on 05.02.2021. A copy of the said declaration is also made available before this Court.

2.The learned Senior Advocate appearing for the petitioner made two-fold submissions :

- (a) There is an inadequate application of mind in considering the objection of the petitioner filed under Section 15(2) of the Act, and the Government hurried to make a declaration under Section 15(1)(b), irrespective of this, even before the acquisition proceedings has assumed a shape, which even according to the Government took a final shape only on 05.02.2021.
- (b) When the declaration under Section 15(1) was made, the Government has called for a tender for the execution of the work, even as early as 27.01.2021. This will have two-fold implications :
 - (1) that the decision to go for the declaration under Section 15(1) is not based on a proper application of mind, but for legitimising the calling for the tender, made on 27.01.2021;
 - (2) calling for the very tender itself is bad in law and posing a serious threat of dispossession of the petitioner of his valuable right over the property.

3. Heard Mr.V.Anandamurthy, learned Additional Government Pleader for the respondents.

4. Inasmuch as the declaration is now made under Section 15(1) of the Tamil Nadu Highways Act, 2001, the present petition has become infructuous. The petitioner may agitate all or any of his grounds which he had now herein made, in any other proceedings if he is so desirous of challenging the intended acquisition at any time later.

5. In view of the above, nothing survives in this petition and hence, this petition stands closed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

ds

To:

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Salem 0- 636 001.
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- 5.The Divisional Engineer
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Panjanathan Street, 8th Cross
Kupta Nagar, Angammal Colony
Salem - 636 009.

+1cc to Mr.P.Haribabu, Advocate, S.R.No. 14076
+1cc to the Government Pleader, S.R.No. 14231

W.P.No.4301 of 2021

PMK(CO)
GN(29/03/2021)