



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.28437 to 28442, 27749 & 27750 of 2012 and 5176 of 2014
and
M.P Nos. 1,1,1,1,1,1,2,2,2,2,2,2,2,2,3,3,3,3,3,3,3 & 3 of 2012
and
M.P.Nos. 2 & 3 of 2014

Saraswathy Ammal	... Petitioner W.P.No.28437 of 2012
K. Muniswamy	... Petitioner W.P.No.28438 of 2012
E. G.Kalyanasundaram	... Petitioner W.P.No.28439 of 2012
V. Vijayalakshmi	... Petitioner W.P.No.28440 of 2012
K. Dilli	... Petitioner W.P.No.28441 of 2012
E.M. Nambirajan	... Petitioner W.P.No.28442 of 2012
T. Janakiraman	... Petitioner W.P.No.27749 of 2012
S. Therasa Pushpam	... Petitioner W.P.No.27750 of 2012
R. Vetrivel	... Petitioner W.P.No.5176 of 2014

Vs

1. The Government of Tamil Nadu,
Rep by its Secretary to Government,
Highways and Minor Ports Department,
Fort St. George, Chennai - 600 009.

2. The Special Deputy Collector (L.A)
Tamil Nadu Urban Development Project-III,
Poonamallee, Chennai.

3. The District Collector,
Tiruvallur District.

4. The Divisional Engineer,
Highways Department,
Government of Tamil Nadu,
Tiruvallur District.

5. The District Revenue Officer,
Office of the District Collector,
Tiruvallur, Tiruvallur District.



6. The Special Tahsildar (LA)
Tamil Nadu Urban Development Project-III,
Poonamallee, Chennai.

7. The Assistant Divisional Engineer CMDA,
Zone -II Chennai-15.
(R7 in WP 5176 2014)

... Respondents 1 to 6 in all it Wps Except
WP 5176/2014

Prayer in W.P.No. 28437 of 2012:-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to G.O.(Ms) No.85, dated 25.05.2012, Highways and Minor Ports (HW2) by the first respondent and to quash the same in as much as it relates to the petitioner's lands comprised in S.No.509 (part), Old S.No.509A/3B, New Survey No.1064/6, situate at Ekkadu Village, Tiruvallur Taluk and District and to forebear the respondents from initiating any further proceedings without providing an opportunity to the petitioner.

Prayer in WP.No. 28438 of 2012:-

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, To call for the records pertaining to G.O.(Ms) No.85 dated 20.5.2012 Highways and Minor Ports (HW2) by the 1st respondent and to quash the same in as much as it relates to the petitioners lands comprised in than S.No.509 (Part) Old S.No.509B/8, 509/B1A and 509/B20B New Survey No.509B/8B situate at Ekkadu Village Tiruvallur Taluk Tiruvallur District and to forbear the respondents from initiating any further proceedings without providing an opportunity to the petitioner.

Prayer in WP.No. 28439 of 2012:-

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, To call for the records pertaining to G.O.(Ms) No.85 dated 20.5.2012 Highways and Minor Ports (HW2) by the 1st respondent and to quash the same in as much as it relates to the petitioners lands comprised in than S.No.509 (Part) Old S.No.1063/17 New Survey No.1063/17B situate at Ekkadu Village Tiruvallur Taluk Tiruvallur District and to forbear the respondents from initiating any further proceedings without providing an opportunity to the petitioner.



Prayer in WP.No. 28440 of 2012:-

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, To call for the records pertaining to G.O.(Ms) No.85 dated 20.5.2012 Highways and Minor Ports (HW2) by the 1st respondent and to quash the same in as much as it relates to the petitioners lands comprised in than S.No.509 (Part) Old S.No.509A/3B New Survey No.1064/7B situate at Ekkadu Village Tiruvallur Taluk Tiruvallur District and to forbear the respondents from initiating any further proceedings without providing an opportunity to the petitioner.

Prayer in WP.No. 28441 of 2012:-

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, To call for the records pertaining to G.O.(Ms) No.85 dated 20.5.2012 Highways and Minor Ports (HW2) by the 1st respondent and to quash the same in as much as it relates to the petitioners lands comprised in than S.No.509 (Part) Old S.No.1066/7 New Survey No.1066/7B situate at Ekkadu Village Tiruvallur Taluk Tiruvallur District and to forbear the respondents from initiating any further proceedings without providing an opportunity to the petitioner.

Prayer in WP.No. 28442 of 2012:-

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, To call for the records pertaining to G.O.(Ms) No.85 dated 20.5.2012 Highways and Minor Ports (HW2) by the 1st respondent and to quash the same in as much as it relates to the petitioners lands comprised in than S.No.509 (Part) Old S.No.1064/1 New Survey No.1064/1B situate at Ekkadu Village Tiruvallur Taluk Tiruvallur District and to forbear the respondents from initiating any further proceedings without providing an opportunity to the petitioner.

Prayer in WP.No. 27749 of 2012:-

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to G.O.(Ms) No.85 dt 20.6.12 Highways and Minor Ports (HW2) by the 1st respondent and to quash the same in as much as it relates to the petitioners lands comprised in Old S.No.509B/1A1 New survey No.1079/3 situate at Ekkadu Village Tiruvallur Taluk Tiruvallur District and to forebear the respondents from



initiating any further proceedings without providing an opportunity to the petitioner.

Prayer in WP.No. 27750 of 2012:-

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Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to G.O.(Ms) No.85 dt 20.6.12 Highways and Minor Ports (HW2) by the 1st respondent and to quash the same in as much as it relates to the petitioners lands comprised in Old S.No.509B/1A1 New survey No.1079/4 situate at Ekkadu Village Tiruvallur Taluk Tiruvallur District and to forebear the respondents from initiating any further proceedings without providing an opportunity to the petitioner.

Prayer in WP.No. 5176 of 2014:-

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to G.O. (Ms) No.85 dated 25.5.2012 Highways and Minor Ports (HW 2) by the 1st respondent and quash the same in as much as it relates to the petitioners lands comprised in Old Survey Nos.509B/1A1 509/B 509/B17 509/B18 509/B18A New Survey Nos.1079/2, 1079/6 1079/8B 1079/9B situated at Ekkadu Village Tiruvallur Taluk and District and to foreber the respondents from initiating any further proceedings without providing an opportunity to the petitioner.

In all W.Ps.

For Petitioners : Ms.Vidhya Devarajan
for Mr.T.K.S.Gandhi

For Respondents : Mr.M.Muthuswamy
Government Advocate

COMMON ORDER

All the petitioners challenged the acquisition proceedings initiated by the second respondent for widening to four lane and strengthening of Singaperumalkoil - Sriperumbudur - Thiruvallur - Redhills Road. The widening and strengthening was entrusted to Highways Department, and the administrative sanction was granted in G.O.Ms.No.264, Highways (HW-1) Department, dated 23.09.2004. On requisition from the Highways Department for acquisition of lands, the Government letter dated 07.01.2008, the second respondent had initiated the acquisition proceedings and issued notice under Section 15(2) of Tamil Nadu Highways Act, 2001



(Herein after called 'the Act').

2. The acquired lands to an extent of 4517 sq.mts, the said notification was duly published in Tamil Daily viz., Dinathanthi, dated 21.08.2010 and English Daily, viz., Deccan Chronicle, dated 21.08.2010 substance of the notification also published in the localities on 23.08.2010. All the petitioners were duly served with notice under Section 15(2) inviting objections, if any, for the proposed subject land. The enquiry was fixed on 07.09.2010. Some of the petitioners attended the enquiry and raised their objections stating that they approached this Court, against widening and strengthening of the above road.

3. However, all the writ petitions were dismissed by this Court and the proposal for acquisition of the lands admeasuring to an extent of 4517 sq.ft, under Section 15(1) of the Act was sent to Government for approval. After careful consideration, all the objections and grounds received from the requisition body by G.O.Ms.No.85, Highways and Minor Ports (HW-2) Department, dated 25.05.2012, order impugned in this writ petition have approved the notification under Section 15(1) of the Act and it was also published in the Tamil Nadu Government Gazette on 20.06.2012. Thereafter, notice was issued for enquiry to be conducted under Section 19(2) of the Act on 25.09.2012 and 26.09.2012.

4. At that juncture, the petitioners filed these writ petitions challenging the notification issued under Section 15 (1) of the Act on the ground that the petitioners were not heard at the time of enquiry and they were not given sufficient opportunity before passing an order under Section 15(1) of the Act. The impugned order was passed without providing an opportunity of personal hearing as contemplated under Section 15 (3) of the Act. The subject lands were classified as 'Grama Natham' having not being placed before the Government to arrive at the satisfaction prior to issuance of the notification as contemplated under Section 15(1) & 15(3) of the Act. There is already an existing alternative panchayat road with Government poromboke lands adjoining the road and as such, the land belonged to the petitioners can be excluded from the acquisition proceedings.

5. A perusal of the counter filed by the second respondent reveals that this Court disposed of the writ petition in W.P.No.7170 of 2009, observed as follows :

"It is submitted that on receipt of the LPS (Land Plan Schedule) from the Divisional Engineer (H) CMDP Division - II, West Saidapet, Chennai 15,



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in letter No.49/2009/D.O dated 04.01.2010 for acquisition of lands in Ekkadu Village, Tiruvallur, for widening to four land and strengthening of SSTR, the public notice u/s.15(2) of Tamil Nadu Highways Act 2001 (Tamil Nadu Act 34/2002) was approved on 17.08.2010 and the same was published in the Tamil Daily Dinathanthi, dated 21.08.2010, in English Daily Deccan Chronicle dated 21.08.2010. The administrative sanction for the scheme was accorded in the G.O.264/Highways (HW) Department dated 23.09.2004. 15(2) process is done only with the help of village accounts available as on date. Hence some of the pattadar name was not noticed, since their names were not entered in the available village accounts. This will be corrected at the time of enquiry of 15(1) and 19(2) as per the documents produced by the pattadar."

This Hon'ble Court, in its order, in paragraph 4 stated that 'In as much as the respondents have now notified the land for acquisition, the petitioner could very well question those proceedings on the ground that they are living in the place in question. In view of the same, the relief sought for in this petition for a direction to forbear the respondents from interfering with the peaceful possession of the land cannot be ordered. The learned Special Government Pleader has submitted that though the lands were notified for acquisition, so far no possession is taken and the said fact is also recorded".

After observing the above facts only, this Hon'ble Court has ordered to disposed of the writ petition on 25.02.2011 by giving liberty to the petitioners, to challenge the acquisition proceedings."

6. Before the publication of 15(1) notification, an enquiry under Section 15(2) was conducted and the objection petitions received from the petitioners. All the objections were forwarded to the requesting body and after careful analyzation, the notification issued under Section 15(1). Therefore, Section 15(3) of the Act doesn't meant to conduct enquiry. Therefore, after considering the objections raised by the petitioners, the grounds received from the requisitioning body, placed before the Government and the notification issued under Section 15(1) of the Act. The only ground raised by the petitioners is that they were not given an opportunity of



hearing at the time of enquiry before passing an order under Section 15(1) of the Act.

7. A perusal of the counter and records reveals that all the petitioners were duly served with notice, some of the petitioners along with land owners duly submitted their written objections. That apart, already the petitioners approached this Court and this Court specifically directed them to raise their objections at the time of enquiry. Accordingly, all the petitioners are given an opportunity of hearing and placed before the requesting body. On receipt of the grounds from the requesting body placed before the Government and the notification issued under Section 15(1) of the Act. In fact, after publication of G.O.Ms.No.15(1) in the Government Gazette, the land value has been fixed and an enquiry was conducted on 25.09.2012 and 26.09.2012. Therefore, this Court finds no infirmity or illegality in the impugned order passed under Section 15(1) of the Act and all the writ petitions are devoid of merits.

8. In the result, the writ petitions stand dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Lpp

To

1. The Secretary to Government,
Government of Tamil Nadu,
Highways and Minor Ports Department,
Fort St. George, Chennai - 600 009.
2. The Special Deputy Collector (L.A)
Tamil Nadu Urban Development Project-III,
Poonamallee, Chennai.
3. The District Collector,
Tiruvallur District.



4. The Divisional Engineer,
Highways Department,
Government of Tamil Nadu,
Tiruvallur District.

5. The District Revenue Officer,
Office of the District Collector,
Tiruvallur, Tiruvallur District.

6. The Special Tahsildar (LA)
Tamil Nadu Urban Development Project-III,
Poonamallee, Chennai.

7. The Assistant Divisional Engineer CMDA,
Zone -II Chennai-15.

+9ccs to Mr.T.K.S.Gandhi, Advocate, S.R.No. 64303, to 64311.
+1cc to the Government Pleader, S.R.No. 64385

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27750 of 2012 and 5176 of 2014 and
M.P Nos. 1,1,1,1,1,1,2,2,2,2,2,2,2,2,
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RR(CO)
CT 27/01/2022