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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

AND

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.A.No.1434 of 2019

01. S.Prem Kumar
02. Balammal
03. Gantha Mary
04. C.Dhanammal
05. Ezhumalai
06. Immanuvel
07. M.Kumar
08. Krishnakumar
09. V.Suseela
10. B.Jeeva
11. Dhanalakshmi
12. Revathi
13. Ezhumalai
14. Ravichandran
15. Ponnan

.. Appellants

-vs-

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

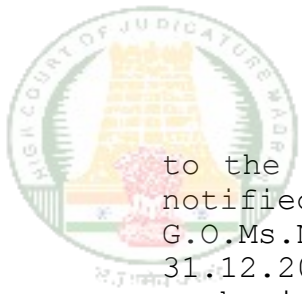
2. The District Collector
Thiruvallur District
Thiruvallur

3. The Divisional Revenue Officer
Thiruvallur District
Thiruvallur

4. The Divisional Engineer
Department of Highways
Project Division
Chennai 600 018

.. Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 26.02.2018 made in W.P.No.10697 of 2015 together with the modified order dated 1.2.2019 in Review Application No.13 of 2019 in W.P.No.10697 of 2015.



to the Government to publish the details of the acquired lands, notified in the Government Order having reference in G.O.Ms.No.251, Highways and Minor Ports (HW2) Department dated 31.12.2013. Since the District Collector, Thiruvallur mechanically passed an order without considering the valid objections made by the appellants inter alia that they have not obtained technical opinion from the concerned authority to ascertain the proposed construction of Rail Over Bridge at Level Crossing No.13 at Veppampattu is whether necessary or unnecessary, they were advised to come to this Court to quash the same.

3. A detailed counter affidavit has been filed by the Divisional Engineer (Highways), Project Division-I, Chennai taking a stand that one of the objections raised by the appellants that one end of the Rail Over Bridge at Level Crossing No.13 is interfering with the Thirunindravur lake is false, as the construction of the Rail Over Bridge has nothing to do with the interference or encroachment of the lake at any point of time. Secondly, it was also clarified in the counter affidavit that after the objections were presented by the appellants, in addition to the notices issued to the land owners and interested persons, even public enquiry was also held on 25.11.2013, as per Section 15(2) of the Act, by the District Revenue Officer of Thiruvallur District. Considering the importance of the land acquisition in the larger interest of the public, the objections were properly considered and overruled, for the simple reason that when the appellants were asking for reduction of the width of the service road from 23 meters to a suitable extent, the respondents also reduced the width of the service road to 20 meters, resultantly, answering the grievance partially in their favour, and thereafter, draft 15(1) proposals were sent to the Secretary to Government, Highways and Minor Ports Department, Chennai for approving the same under Section 15(1) of the Act and publish the same in the Gazette. After satisfying that the lands specified in the schedule have to be acquired for Highways purpose for construction of the Road Over Bridge in lieu of existing Level Crossing No.13 at Railway KM 31/12-14 in the Thirunindravur-Veppampattu Road in between Thirunindravur and Veppampattu railway stations, the Government also issued G.O.Ms.No.251, Highways and Minor Ports (H.W.2) Department dated 31.12.2013 and the same was also published in the Tamil Nadu Government Gazette Extraordinary No.8 on 26.2.2014. Since the objections raised by the appellants are unreasonable, they were overruled, citing a reason that if the Level Crossing No.13 is closed permanently, the public on 88 Veppampattu village and 89 Perumalpattu village will have to travel a long distance to reach the NH 205 once again through Level Crossing No.14 nearby, because there is no access to come to the NH-205 through Level Crossing No.12, therefore, it was



found utmost essential to construct the Rail Over Bridge in lieu of the existing Level Crossing No.13. As the respondents have almost answered the objections raised by the appellants satisfactorily, the learned single Judge refused to quash the Government Order impugned in the writ petition.

4. Learned counsel appearing for the appellants further submitted that as a factual error occurred in the order passed in the writ petition, Review Application No.13 of 2019 was filed, citing a reason that after the order passed in the main writ petition was dispatched, it was found that the observation viz., the general public had submitted petition on 5.7.2013 to reduce the width of acquisition in order to reduce the impact and the existing road width is varying from 8 meters to 12.50 meters, but based on the request, the acquisition including the existing road width was reduced from 23 meters to 20 meters, were chopped out of the order, therefore, that portion of the observation should be restored. The learned single Judge, clarifying that the land acquisition authority needs to determine the compensation in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in terms of the reduced width of the road from 23 meters to 20 meters, disposed of the same, further holding that the order does not require to be reviewed. However, challenging the main order, the present appeal has been filed.

5. Learned counsel appearing for the appellants again reiterated the stand taken before the learned single Judge that if one end of the bridge is falling into the Thirunindravur lake, a water body, under the guise of putting up a Rail Over Bridge, the said water body shall be unnecessarily encroached upon, since the said water body is the only source of water to the village.

6. But this argument does not carry any weight, for the simple reason that the counter affidavit filed by the respondents also makes it clear that no where the construction is taken into the Thirunindravur lake. Secondly, the learned single Judge also has made it clear that if at all any necessity arises, without encroaching into the water body, proper pillars should be erected and the over bridge should be completed. Thirdly, yet another apprehension made by the appellants that the width of the service road should be reduced, also has been properly considered. When the original width of the service road was proposed at 23 meters, after the objections were received from the appellants, it has been reduced to 20 meters. Therefore, we are unable to find any error in the impugned order. Accordingly, the writ appeal fails and it is dismissed. Consequently, interim order stands vacated and the C.M.P.No.9887



of 2019 is also dismissed. However, there is no order as to costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

Ss

To

1. The Secretary to Government
Department of Highways and Minor Ports
Fort St.George
Chennai 600 009
2. The District Collector
Thiruvallur District
Thiruvallur
3. The Divisional/District Revenue Officer
Thiruvallur District
Thiruvallur
4. The Divisional Engineer
Department of Highways
Project Division
Chennai 600 018

+lcc to Mr.P.Wilson Associates, Advocate, S.R.No.48170
+lcc to the Government Pleader, S.R.No. 48203

W.A.No.1434 of 2019

VG II(CO)
GN(13/10/2021)