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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.21168 OF 2021

AND

W.M.P.NO.22455 OF 2021

M/s.Almas Enterprises
Represented by its Proprietor,
Mr.S.Syed Ibrahim,
S/o.late.Mr.Sukkur,
No.142/5, Pollachi Main Road,
Aathupalam, Kurichi Pirivu,
Coimbatore - 641023.

... Petitioner

-Vs-

1. The Secretary to Government,
Highways Department,
Fort St.George,
Chennai - 600009.
2. The District Collector,
Collector's Office,
Coimbatore - 641018.
3. The Land Acquisition Officer- cum-
The District Revenue Officer,
Collector Office,
Coimbatore - 641018.
4. The Divisional Engineer,
State Highway Development Authority,
Highways Colony,
Trichy Road,
Coimbatore-641045.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records in connection with impugned notice dated 13.10.2020 issued by the third respondent and quash the same.



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For Petitioner : Mr.T.Arul
For Respondents : Mr.M.Muthusamy
Government Advocate.

ORDER

This Writ Petition has been filed for the issuance of Writ of Certiorari, to call for the records in connection with impugned notice dated 13.10.2020 issued by the third respondent and quash the same.

2. Heard Mr.T.Arul, learned counsel appearing for the petitioner and Mr.M.Muthusamy, learned Government Advocate appearing for the respondents.

3. The case of the petitioner is that the petitioner owned land comprised in S.F.No.142/5 in Patta No.2571, Pollachi Main Road, Aathupalam, Kurichi Pirivu, Coimbatore. While being so, the land acquisition notification was published in Tamil News Daily on 09.10.2020 under Section 15(2) of the Tamil Nadu Highways Act, 2001 read with Tamil Nadu Land Acquisition (Revival of operation, Amendment and Validation) Act of 2019. The said notification is under challenge in this writ petition.

4. The learned counsel for the petitioner would submit that the first respondent has not issued a separate and individual notification to the petitioner in respect of the proposed acquired land. The third respondent has issued a general impugned notice, dated 13.10.2020 to all the land owners in respect of the land comprised in Survey No.142/5, ad-measuring 551.0 sq.metres.

5. Therefore, the third respondent had not violated the fundamental procedure as contemplated under the Tamil Nadu Highways Act, 2001. So far, the third respondent has not passed any award for compensation. In spite of the objections raised by the petitioner, the third respondent had marked a part of the land without considering the objections.

6. The fourth respondent filed counter and revealed that the Government of Tamil Nadu, accorded sanction to the work of Extension of Flyover from Ukkadam-Athupalam Junction up to Oppannakara street, Coimbatore by the G.O.No.163 Highways and Minor Ports Department, dated 19.12.2019 including the petitioner's land. The alignment of the said project has been approved by the alignment committee on 17.12.2018. The flyover consists of 2 dedicated arms i.e one to Pollachi side and



another for Palakkad side for upward/downward movement of traffic and on Athupalam side and 2 arms one for Oppanakara street and another for Trichy road on Ukkadam side. Further revealed that the provisions of the Act is strictly adhered to the objections within 30 days of publication of the notice received from the competent authority and have been considered. The petitioner raised objections that the entire land have become useless once acquisition is completed in respect of the part of the land.

7. After serving the notice, the enquiry was conducted on 10.11.2020. The petitioner further alleged that the individual notice has not been served as contemplated under Section 15(2) of the Tamil Nadu Highways Act, 2001 in two Regional Newspapers. This has been accepted by the petitioner in his affidavit as such no individual notice is mandatory. In respect of all the interested persons of the subject land, were duly served notice and as such there is no violation of rules or regulations. That apart, the petitioner's property of Godown cum shop to an extent of 42.25 sq.metres involved in the present project. The building valuation has been proposed and the land valuation is also under process. Therefore, the allegation of the compensation has not been finalized is premature. Therefore, by issuance of notification under Section 15(2) of the Tamil Nadu Highways Act, 2001 did not cause any prejudice to the petitioner, since, the petitioner appeared for enquiry and submitted his objections.

8. Therefore, this Court finds no infirmity or illegality in the notice issued by the third respondent and the writ petition is devoid of merits and is liable to be dismissed. However, the third respondent is directed to determine the compensation, within a period of four weeks from the date of receipt of a copy of this order.

9. In view of the above, this writ petition stands dismissed. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Highways Department,
Fort St.George,
Chennai - 600009.
2. The District Collector,
Collector's Office,
Coimbatore - 641018.
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State Highway Development Authority,
Highways Colony,
Trichy Road,
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+lcc to the Government Pleader, S.R.No.69064

W.P.No.21168 of 2021

SR(CO)
RLP(07/01/2022)