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WP No.20318 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11-07-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.20318 of 2023

And

WMP Nos.19684, 19687 to 19689 of 2023

- 1.M.Selvakumaran
- 2.M.John Durai
- 3.S.Gnanaraj Paul Pandian
- 4.N.Malarkodi
- 5.E.Lakshmiammal
- 6.K.V.Krishnamoorthy
- 7.B.Baskaran
- 8.C.Rani
- 9.B.Murali
- 10.B.Ravi
- 11.Usha
- 12.Chitra
- 13.J.Boobalan
- 14.R.Shenbagadevi
- 15.J.Chitra
- 16.A.Kalasha
- 17.M.Snehaprabha

... Petitioners

Vs.

- 1.The Secretary to Government of Tamil Nadu,
Highways and Minor Ports Department,
Secretariat,



Chennai-600 009.

2.Divisional Engineer (Highways),
Chennai Metropolitan Development Plan (CMDP),
Division I,
Chennai-600 032.

3.Special District Revenue Officer (Land Acquisition
and Maintenance),
Highways Department,
District Collector Office,
Chennai Office,
Guindy Unit,
Chennai-600 001.

4.The Managing Director,
Chennai Metro Rail Limited,
Koyambedu,
Chennai-600 107.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the public notice issued by the third respondent under Section 15(2) of the Tamil Nadu Highways Act, 2001, in RC.683/2021/A1 dated 16.11.2021 and Na.Ka.A/683/2021, dated 12.12.2022 and consequential notice issued by the third respondent to the petitioners herein in Na.Ka.683/2021/A1, dated 01.02.2023 and quash the same as illegal, arbitrary and non est in law.

For Petitioners

: Mr.T.N.Rajagopalan for
Mr.S.V.Vijay Prashanth



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For Respondents-1 to 3 : Mr.D.Ravichander,
Special Government Pleader.

ORDER

The Public Notice dated 16.11.2021 issued by the third respondent under Section 15(2) of the Tamil Nadu Highways Act, 2001, is under challenge in the present writ petition.

2. The petitioners state that they had received the impugned notice issued by the third respondent under Section 15(2) of the Tamil Nadu Highways Act, 2001.

3. Notice has been issued without even verifying the correctness of the title and ownership of the lands sought to be acquired under the impugned notice.

4. The learned counsel appearing on behalf of the writ petitioners drew the attention of this Court with reference to the proceedings wherein the names of wrong persons are stated as owners. With this



ambiguity, the respondents cannot proceed with the land acquisition proceedings.

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5. That apart, in the year 2011, the respondents are proposed to acquire the land, issue notice and thereafter no action was taken. Now after a lapse of ten years, the impugned Public Notice has been issued in the year 2021 to acquire the same set of properties. Therefore, the respondents are not clear about the Public Project to be executed. On that ground also, the land acquisition proceedings initiated are to be acquired.

6. The learned Special Government Pleader, appearing on behalf of the respondents 1 to 3, raised an objection by stating that the writ petition has been instituted challenging the Public Notice issued on 16.11.2021 under Section 15(2) of the Tamil Nadu Highways Act, 2001.

7. The petitioners are entitled to raised their objections based on the individual notices served on them in the year 2023. Contrarily, they cannot file a writ petition at this stage merely on the ground that the respondents are not clear about their Public Project to be executed.



8. In the context of the impugned notice under Section 15(2) of the Tamil Nadu Highways Act, 2001, Section 15(2) is a pre-condition to acquire the land under Section 15(1). Section 15(1) of the Tamil Nadu Highways Act, 2001, stipulates that “if the Government are satisfied that any land is required for the purpose of any highway or for construction of bridges, culverts, causeways or other structures thereon or for any purpose incidental or ancillary thereto, in furtherance of the objects of this Act, they may acquire such land by publishing in the Tamil Nadu Government Gazette a notice specifying the description of such land and the particular purpose for which such land is required”. Sub Section (2) to Section 15 denotes notice to be issued calling upon the owner or any other person having interest in such land to show cause notice by fixing the time limit. Sub Section (3) to Section 15 contemplates that “the Government may, after considering the cause, if any, shown by the owners or other person having interest on such land, pass such an order under sub-section (1), as they may deem fit”. Thus the owners or the interested persons are provided with an opportunity to raise their objections before completion of the acquisition proceedings.



9. In the present case, Section 15(2) notice issued by the third respondent on 16.11.2021 is under challenge. After impugned notice, an enquiry is to be conducted on receipt of objections, if any, from the owners of the property or the interested persons. Therefore, the petitioners are at liberty to avail an opportunity for the purpose of placing their objections or otherwise with reference to the documents, if any.

10. Regarding the nature of Public Project, it is the policy decision of the Government and the land may be acquired even for other purposes which all are incidental or ancillary thereto. This has been clarified under Section 15(1) of the Tamil Nadu Highways Act, 2001. Therefore, the petitioners cannot expect the respondents to furnish the entire details about the Public Projects to be executed. It is for the Competent Authorities to take final decision regarding the execution part of the Public Projects.

11. Thus the present writ petition is filed challenging the very Public Notice is not entertainable, as the petitioners are at liberty to submit their objections or explanations.



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12. The learned counsel for the petitioners state that subsequent notices are issued to other persons also.

13. May that as it be. Even if the petitioners have already submitted their objections with reference to the Public Notice, they are at liberty to submit their further objections if any to the Competent Authorities, within a period of two weeks from the date of receipt of a copy of this order. In the event of filing any such petitions, the same may also be taken under Section 15(3) of the Act, for the purpose of deciding the issue.

14. With the above liberty, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

11-07-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn



To

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3. Special District Revenue Officer (Land Acquisition
and Maintenance),
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