



W.P.No.15636 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.15636 of 2023

and

W.M.P.Nos.15126, 15127 & 15128 of 2023

Sundaramurthy

... Petitioner

Vs.

The State rep. by

1. The District Collector,
O/o. District Collector,
Tirupattur District.
2. The District Revenue Officer
Cum Land Acquisition Officer,
Tirupattur District.
3. The Chief Engineer (Project)
No.76, Sardarpatel Road,
Guindy, Chennai - 600 025.
4. The Divisional Engineer,
O/o High Way Authority,
4th West Cross Street,
Gandhi Nagar,
Vellore - 632 006.
5. The Assistant Divisional Engineer,
O/o. High Way Authority,
4th West Cross Street,
Gandhi Nagar,
Vellore - 632 006.



W.P.No.15636 of 2023

6. Tahsildar
O/o. Tahsildar Office,
Vaniyambadi,
Tirupattur District - 635 601.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned award dated 10.05.2022 bearing Na.Ka.T1/12063/2013 passed by the 2nd respondent which was served to the petitioner on 28.08.2022 and to quash the same as illegal for not following the procedure enumerated under section 15 of the Tamil Nadu Highways Act 2001 and consequently direct the respondents 3 and 5 not to disturb peaceful possession of the house premises of the petitioner situated at Survey No.26/6A2, 26/7A2, 26/4 and 26/5 in Valayambattu Village, Vaniyambadi - 635751.

For Petitioner : Mr.R.Thirumoorthy

For Respondents :
(for R1 to R.6) : Mr.T.Arunkumar, AGP

ORDER

The final award dated 10.05.2022 issued by the District Revenue Officer cum Land Acquisition Officer Tirupathur District is under challenge in the present writ petition.



W.P.No.15636 of 2023

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2.The writ petitioner states that he is residing in Survey No.26/7 A2, consisting his residence and 4 commercial shops. The subject property originally belonged to the father of the writ petitioner who died on 04.10.2012 as intestate. After the demise of the mother of the petitioner, the legal heirs are enjoying the subject property.

3.The learned counsel appearing on behalf of the petitioner mainly contended that without following the procedures and without issuing any notice to the petitioner, the building constructed by the petitioner is under demolition by the respondents. Thus, the petitioner is constrained to move the present writ petition.

4.It is contended by the petitioner that the procedures as contemplated were not followed nor adequate compensation has been granted to the writ petitioner. Thus, the actions of the respondents are illegal and to be scrapped.

5.The learned Additional Government Pleader objected the said contentions based on the counter affidavit filed by the second respondent wherein it is stated that the contention of the petitioner is incorrect. Prior to



W.P.No.15636 of 2023

publishing a show cause notice under Section 15(2) of the Tamil Nadu Highways Act, 2002, the Tahsildar and the Revenue Divisional Officer, Veniyambadi, inspected the field which were acquired. During their field inspection, the field was vacant having 8 live coconut trees and 17 dead coconut trees in survey no.26/6A2, 15 live coconut trees in survey no.26/7A2, 6 live coconut trees and 7 dead coconut trees in survey no.26/4, 14 live coconut trees, 1 dead coconut tree and 1 neem plant in survey no.26/5. The petitioner having known, wilfully suppressed the material facts and has constructed the house and obtained electricity connection only on 20.05.2020 which is illegal.

6.The land belongs to the Government after acquisition and without getting any building plan approval or proper permission from the authorities, the petitioner constructed the house in the government land.

7.With reference to the allegations of the non-issuance of notice to the petitioner, the respondents have stated that the competent authorities after publishing notification under Section 15(1) of the Act, moved to the next step by preparing land valuation for enquiry under Section 19(2) of the Act and summoned the land owners to appear before the competent



W.P.No.15636 of 2023

authority to obtain concurrence on 08.08.2017 at 11.00 A.M. But the petitioner along with some other land owners refused to receive the summon served. The Tahsildar, Vaniyambadi, addressed District Collector, Vellore, vide Letter No:R.C.B1/3661/2010/Dt:07.08.2017 in this regard.

8.The contentions of the petitioner is that he had no knowledge about the entire acquisition proceedings are factually incorrect. The petitioner had absolute knowledge about the acquisition proceedings. Moreover, the petitioner failed to participate in the enquiry conducted under Section 15(2) of the Act and raised his objection for acquisition. Furthermore, the petitioner, refused to sign the summon issued for 19(2) enquiry dated: 24.07.2017. Later, the petitioner had signed and received summon for 19(5) and 19(7) enquiry, Date: 28.08.2020, appeared for enquiry before the land acquisition officer by signing the attendance ledger bearing survey no.26/6A2, 26/7A2, 26/4.

9.The learned Additional Government Pleader brought to the Notice of this Court that the brother of the writ petitioner filed WP.No.38255 of 2015 and 23863 of 2016 and this Court dismissed the writ petitions on 29.09.2021 by making following observations:-



WEB COPY



W.P.No.15636 of 2023

“9. In fact, on 18.12.2014, the Revenue Divisional Officer, Tirupattur has also inspected the subject land and the land owners have not raised any objections. After the said field inspection, the respondents issued notification under Section 15(2) of the Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34 of 2002), intimating about the Road Over Bridge project to the land owners for raising their objections within a period of thirty days. Again on 27.08.2015, the respondents issued show cause notice under Section 15(2) of the Tamil Nadu Highways Act, raising the objections of the respective land owners. However, the land owners did not raise any objection up to two years and only on 22.09.2015, raised their objections. On 25.09.2015, enquiry was conducted by the first respondent, in which, the land owners were appeared and raised their objections only with regard to the higher compensation. No owners have raised any objections for acquisition of land. In fact, the petitioners failed to appear before the enquiry and did not raise any objections. Only on representation received by the general public to provide the Road Over Bridge at this location, and also on request made by the Railways to provide Road Over Bridge, the Government considered their request carefully and accorded to Administration Sanction in G.O.Ms.No. 200/Highways and Minor



W.P.No.15636 of 2023

Ports/(HQ2) Department, dated 07.12.2011.”

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10.Perusal of the Affidavit filed by the petitioner as well as the Counter affidavit filed by the respondents would reveal that the procedures as contemplated under the Land Acquisition Act has been followed. That apart, the Bridge is under construction and the learned Additional Government Pleader furnished the photographs which would reveal that it is an overbridge constructed for the benefit of the public at large and such infrastructural bridges under construction, for the benefit of the public at large, cannot be stalled unnecessarily in a writ proceeding as it would cause prejudice to the public interest.

11.If at all, any grievance exist in respect of the grant of compensation or enhancement of the compensation, the petitioner has to approach the competent authorities by following the procedures as contemplated under the provisions of the Act.

12.It is brought to the Notice of this Court that the said building in the acquired land had already been demolished and that being the factum, the petitioner is not entitled for any relief as such sought for in the present



W.P.No.15636 of 2023

writ petition and in respect of the compensation or enhancement of compensation, the petitioner is at liberty to approach the competent authorities.

13. With these observations, the writ petition stands **dismissed**. No costs. Consequently, connected miscellaneous petitions are closed.

(sha)
Index : Yes
Speaking Order
Neutral Citation : Yes

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W.P.No.15636 of 2023

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S.M.SUBRAMANIAM. J.,

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