



W.P.(MD)No.17976 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.17976 of 2020
and
W,M.P.(MD).No.14978 of 2020

V.Subburam

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Highways & Minor Port,
Fort St.George,
Chennai-600 009.
- 2.The Collector,
Virudhunagar,
Virudhuanagar District.
- 3.The District Revenue Officer (L.A),
Collector Office,
Kumarasamy Nagar,
Virudhunagar-626 002.
- 4.The Tahsildar (LA),
Outer Ring Road,
Sivakasi,
Virudhunagar District.



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5.The Divisional Engineer (Projects),
Highways Department,
Virudhunagar District.

6.A.M.S.G.Asokan ... Respondents
(Respondent No.6 impleaded vide order of this Court dated 07.09.2023 in
W.M.P.(MD).No.16369 of 2023 in W.P.(MD).No.17976 of 2020)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order vide proceedings Na.Ka.D1/140/34/2014, dated 23.10.2019 passed by the third respondent and quash the same as illegal and consequently direct the third respondent to forward the petitioner's written objection to the Government as stated under Rule 5 (4) of Tamil Nadu Highways Rules, 2003

For Petitioner : Mr.B.Jeyakumar

For R-1 to R-5 : Ms.D.Farjana Ghoushia,
Special Government Pleader

For R-6 : Mr.N.Dilip Kumar

ORDER

This Writ Petition has been filed challenging the proceedings of the third respondent in Na.Ka.D1/140/34/2014, dated 23.10.2019 and for a direction to the third respondent to forward the objections given by the petitioner to the Government under Rule 5 (4) of the Tamil Nadu Highways Rules, 2003.



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2. The case of the petitioner is that the State Highways Department proposed to form an outer ring road at Sivakasi. The fourth respondent issued an enquiry notice through proceedings dated 07.09.2020 under Section 15 (2) of the Tamil Nadu Highways Act, 2001 (hereinafter referred to as “the Act”). The petitioner made his written objections dated 22.09.2020 with the third respondent and had given reasons as to why the land that was proposed to be acquired should be released from the acquisition. The third respondent through impugned proceedings dated 23.10.2020 rejected the objections made by the petitioner and aggrieved by the same, the present Writ Petition has been filed before this Court.

3. Heard the learned counsel on either side.

4. The main ground that was urged by the learned counsel appearing for the petitioner is that the impugned proceedings of the third respondent suffers from lack of jurisdiction and that the third respondent on receipt of the objections should have forwarded the same to the Government in order to enable the Government to take a final decision.



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5. The issue involved in this Writ Petition is squarely covered by the earlier order passed by the Principal Seat of this Court in the case of ***M.Lenin Kumar and Others Vs. State of Tamil Nadu, represented by the Additional Chief Secretary, Highways and Minor Ports Department and Others*** reported in ***2020 SCC Online Madras 4789***. The relevant portions are extracted hereunder:

“10. This Court has repeatedly held that the 2 nd respondent can only conduct an enquiry by receiving the objections of the land owners and the views of the Department and the entire records must be submitted thereafter to the Government. On such submission, it is for the Government to take an independent decision. The 2 nd respondent cannot pass any order rejecting the objections and it will be beyond the power and jurisdiction of the 2 nd respondent to do so. In spite of repeated orders passed by this Court, the mistake keeps recurring in every case and it is found in many cases that the authority conducting an enquiry under Section 15(3) of the Act r/w Rule 5(3) of the Rules keeps passing orders rejecting the objections. Every time, this is interfered by this



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Court and the authority do not seem to rectify their mistakes.

11. The only authority who can consider and accept or reject the objections is the Government. The Government is the acquiring body and therefore the Act is vesting such a power only on the Government and no one else will have the power to pass such an order rejecting the objections. The first issue is answered accordingly.”

6. It is clear from the above that the District Revenue Officer does not have the authority to deal with the objections raised by the land owner and reject the same and on receipt of such objections, the District Revenue Officer has to forward the same to the Government and it is the Government which has to pass final orders either by accepting or rejecting the objections raised by the land owners.

7. In view of the above, the impugned proceedings of the third respondent in Na.Ka.D1/140/34/2014, dated 23.10.2019, is hereby quashed. There shall be a direction to the third respondent to submit the



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report before the Government and the Government shall thereafter independently apply its mind and pass orders in accordance with Section 15(3) of the Act read with Rule 5(4) of the Rules thereunder. This exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

8. In the result, this Writ Petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

30.11.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
tsg
To

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