



W.P.No.4442 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2024

CORAM

THE HONOURABLE MS. JUSTICE P.T. ASHA

W.P.No.4442 of 2021
and W.M.P.No.5062 of 2021

Nalli Trust

Rep., by its Chief Financial Officer,

Mr.K.V.Balasubramanian

No.9, Nageshwaran Road,

T.Nagar,

Chennai-600017

...Petitioner

Vs.

1.The State of Tamil Nadu,

Rep., by its Secretary

Highways Department, For St. George,

Chennai- 600 009.

2.The District Revenue Officer (LA)

Krishnagiri.

3.Special Tahsildar (LA)

Hosur Town ORR Scheme,

Hosur – 635 109

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,



W.P.No.4442 of 2021

praying for issuance of Writ of Certiorarified Mandamus, directing to call for the records of 2nd and 3rd respondents in Na.Ka.No.3668/2020(R1) dated 19.01.2021 issued based on the alleged newspaper publication dated 13.03.2020, quashing the same and further directing the respondents to issue a fresh newspaper publication and notice under Section 15 of the TN Highways Act, 2001, and provide the petitioner with all necessary particulars in respect of the petitioner's land in Survey Nos.771, 773 and 774 of Mornanpalli Village, Krishnagiri District, Hosur Taluk, proposed to be acquired, and to further provide a proper opportunity of personal hearing to object to the proposed acquisition and dispose of the said objections within a stipulated time.

For Petitioner : Mr.A.Suresh

For Respondent : Mr.M.R.Gokul Krishnan
Additional Government Pleader
for R1 to R3

ORDER

This writ petition has been filed for certiorari mandamus to call for the records of the 2nd and 3rd respondent relating to their proceedings in Na.Ka.No.3668/22(R1) dated 19.01.2021 issued on the basis of paper publication dated 13.03.2022 and quash the same to direct a fresh newspaper publication under Section 15 of the Tamil Nadu High Ways Act giving the



W.P.No.4442 of 2021

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particulars of the property that is sought to be acquired and give a personal hearing to the petitioner and pass orders on merits.

2.The petitioner's lands were sought to be acquired for the purpose of construction of the outer ring road outside the town of Hosur. The acquisition was initiated under the Tamil Nadu Highways Act (hereinafter called the Act) and notice under Section 15(2) of the Act had been issued on 19.01.2021. The petitioner's grievance is that originally their name was not set out in the Section 15(2) notice concerned. However, they had received the notices from the 2nd and 3rd respondent. The petitioner would further submit that after receiving notice he had submitted objections and as per the provisions of the Act his objections has to be considered and orders passed before the Section 15 (1) notification is issued. Though he had submitted objections the same has not been considered and the learned counsel would submit that today he has received notice under Section 15 (1) of the Act from the respondents. He would submit that Section 15(1) notice is bad in law inasmuch as provisions of Section 15 (3) has not been complied with. That apart, he has also drawn the Court to the contents of the counter affidavit.

3.Heard the learned counsel on either side.



W.P.No.4442 of 2021

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4. Section 15 of the Tamil Nadu State Highways Act reads as follows:

"Section 15 (2) of the Act prescribes that before the notice under Section (1) of the Act is published the Government has to call upon the owner or any other person having interest in such land to show cause as to why land should not be acquired a public notice of the same shall also be effected.

Section 15 (3) provides that the Government after considering the objection has to pass an order under Sub Section 1 as they may deem fit. Section 1 provides that where the Government is satisfied that the land is required then they shall acquire the same after making a publication in the Government Gazette, setting aside the details of the property and the purpose of which the land is acquired."

5. In the instant case, though the petitioner has submitted the objections, the same has not been considered and by the proceedings of the Commissioner of Land Administration instructions have been issued to the 4th respondent to follow the publication of the 15 (1) of the notice in the extraordinary gazette of the Government. The provisions of Section 15 is



W.P.No.4442 of 2021

mandatory and any order of acquisition passed without following the said provisions have to be necessarily set aside. That the respondents have not considered objections is clearly evident from a reading of Clause (m) of the counter affidavit filed by the 2nd respondent. At page 12 of the said affidavit wherein it has been stated as follows:

(m) The orders will be passed under Section 15(3) of the Act after obtaining remarks from the applying body. The said process is pending and is under active consideration of this respondent.

6.This would clearly indicate that orders are yet to be passed on the 15 (2) Notice. Without considering the objections, and the remarks of the applying body the respondents have issued a 15(1) Notice hurriedly on 14.10.2024. Though the writ petition does not challenge the 15 (1) Notice, however since the 15 (1) notice had been issued, during the pendency of this writ petition without complying with the procedure contemplated under 15(2) and 15 (3) of the Tamil Nadu Highways Act, 15(1) notification is quashed.

7.It is fairly represented by the learned Government Advocate that fresh notice would be issued to the petitioner to file his objections submitted to



W.P.No.4442 of 2021

Section 15(2) notice. The respondents shall consider his objections by affording a personal hearing and pass orders and thereafter, proceed to issue the Section 15(1) notification. This exercise shall be completed within a period of three months from the date of issue of the fresh notice under Section 15(2) of the Act.

8. With the above direction, the writ petition stands disposed of. There shall be no order as to cost. Consequently, connected miscellaneous petition is closed.

11.11.2024

vsn
Index: Yes/No
Speaking: Yes/No
Neutral case citation: Yes/No

To
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Highways Department, For St. George,



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