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W.P. No.31202 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P. No.31202 of 2024

and

W.M.P. Nos.33845 and 33844 of 2024

1.C.Venkatesan
2.C.Srinivasan
3.C.Indirani

... Petitioners

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Highways Department,
Secretariat, Chennai-600 009.

2.The Special District Revenue Officer (Land Acquisition),
Tamil Nadu Road Sector Project II,
2nd Floor, SIDCO Garment Complex (Block II),
Thiru.Vi.Ka. Industrial Estate, Guindy,
Chennai-600 032.

3.The District Collector,
District Collectorate Office,
Tiruvallur.

4.The Tahsildar,
NGO Nagar Extension,
Ponneri, Tamil Nadu-601 204.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the impugned order made by the 4th Respondent herein in his proceedings in Na.Ka.No.1527/2024/A1 dated 04.09.2024 and quash the same and consequently to forbear the Respondents herein from dispossessing the 3rd petitioner herein from the residential property situated at S.No.181/2B1A measuring 800 sq.mts. And from dispossessing the petitioners from the property situated in S.No.181/3B3A1A measuring 350 sq.mts. And S.No.181/3B3B1A measuring 300 sq.mts, Panjetty Village, Ponneri Taluk, Thiruvallur District without providing alternate house property as provided under Schedule II of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and without following due process as enumerated under Section 16 of Tamil Nadu Highways Act, 2001.

For Petitioners : Mr.P.Dinesh Kumar

For Respondents : Mr.P.Sathish
Additional Government Pleader

ORDER

The writ petition is filed challenging the notice issued by the 4th Respondent under Section 16(2) of the Tamil Nadu Highways Act, 2001.

2. It is not in dispute that the subject property belonging to the petitioners has been acquired for expansion of State Highways. It is seen from the impugned notice itself that compensation payable to the petitioners has been quantified and paid to the petitioners. Thereafter, the impugned notice has been issued by the 4th



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Respondent directing the petitioners to handover the possession of the acquired land within 15 days from the date of receipt of notice, after removing the construction belonging to the petitioners. Aggrieved by the same, the petitioners have come before this Court.

3. The learned counsel appearing for the petitioners assailed the impugned order on the following grounds:

i) Under Section 16(2) of the Tamil Nadu Highways Act, 2001, the Respondents shall give 30 days notice to the petitioners for surrendering the possession, however the impugned order mentions only 15 days.

ii) Under Section 16(3) of the Tamil Nadu Highways Act, 2001, in the event of land owner's refusal to handover the possession it is only the Collector who is empowered to take possession. The 4th Respondent herein is not entitled to exercise the power given to Collector under the statutory provisions.

4. As far as the first contention raised by the learned counsel for the petitioners is concerned, the impugned notice was issued by the 4th Respondent on 04.09.2024. Now, more than 40 days have passed from the date of notice, therefore the first submission made by the learned counsel for the petitioners that the 4th Respondent failed to give 30 days notice is not appealable to this Court.



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The Respondents have waited for more than 40 days from the date of notice enabling the petitioners to remove the construction and surrender the possession.

Therefore, even if in the impugned notice the time was mentioned as 15 days, the petitioners were allowed more than the time mentioned in the statute. Hence, no prejudice is caused to the petitioners.

5. As far as the second contention raised by the learned counsel for the petitioners is concerned, it is based on the apprehension that possession will be taken by the 4th Respondent and not by the competent authority namely the 3rd Respondent. Section 2(5) of the Tamil Nadu Highways Act, 2001, defines “Collector” as follows:

“2

(5) "Collector" means the Collector of a district and includes any officer specifically appointed by the Government to perform the functions of the Collector under this Act;”

6. A reading of the above provision would make it clear that the word “Collector” includes any officer specially appointed by the Government to perform the functions of the Collector. It is not in dispute that Government vide G.O.Ms.No.176, Highways and Minor Ports (HF-1) Department dated 11.05.2010 appointed District Revenue Officer of each district to perform the



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functions of the Collector for the purpose of Section 16(2) of the Tamil Nadu Highways Act, 2001. Therefore, it is clear that not only the 3rd Respondent, the 2nd Respondent is also entitled to exercise the power under Section 16(3) of the Tamil Nadu Highways Act, 2001.

7. The learned Additional Government Pleader who takes notice for the Respondents would submit that the power under Section 16(3) of the Tamil Nadu Highways Act, 2001 will be exercised only by the competent authority namely 2nd or 3rd Respondent. The said submission is recorded.

8. In view of the discussion made above, I do not find any merit in the writ petition and accordingly the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

21.10.2024

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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S.SOUNTHAR, J.

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To:

- 1.The Secretary, Highways Department,
Secretariat, Chennai-600 009.
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