



W.P(MD)No.16852 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16852 of 2024

and

W.M.P.(MD)Nos.14515 and 14516 of 2024

M.Sathasivam

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary to Government,
Highways and Minor Ports Department,
Secretariat, Fort St. George,
Chennai-600 009.

2.The Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai-600 005.

3.The District Revenue Officer,
Land Acquisition,
Collectorate Buildings,
Tiruchirapalli - 620 001.

4.The Chief Engineer (H),
Projects Wing,
HRS Campus,
76, Sardar Patel Road,
Guindy, Chennai-600 025.

5.The Superintending Engineer (H),
Highways Department,
Trichy Circle, Trichy.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the proceedings in LA.VI (2) 6943539/2024 dated 20.05.2024 under Section 15(1) of the Tamil Nadu Highways Act, 2001, on the file of the 2nd respondent, insofar as it pertains to lands situated in S.10 and 10/2, Block 37, Ward F of Devadhanam Village, Tiruchirapalli East and to quash the same as illegal and without jurisdiction and for consequential orders.

For Petitioner : Mr.Sharath Chandran

For Respondents : Mr.Veerakathiravan,
Addl. Advocate General,
Assisted by Mr.K.Balasubramani,
Spl. Government Pleader.

ORDER

Heard the learned counsel for the writ petitioner and the learned Additional Advocate General assisted by the learned Special Government Pleader for the respondents.

2.This is the second round of litigation. Acquisition proceedings were initiated for construction of ROB @ km 0/4 Cauvery Road in lieu of existing L.C.No.249 at Railway Km 331/700-800 in between Srirangam and Trichy Town Railway stations in Devathanam Village Ward – F, Block No.37, Tiruchirappalli East Taluk, Tiruchirappalli District. Notification under Section



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15(2) of the Tamil Nadu Highways Act, 2001 was issued on 05.07.2017.

Challenging the same, the petitioner filed W.P.(MD)No.4311 of 2018. The said writ petition was disposed of by me on 18.01.2019. I declined to accept the challenge made to the notification. However, the following observations were made:-

“9. Of course, the petitioner also contended that there are alternative lands available and that poramboke lands can very well be taken and that it is not necessary to acquire the petitioner's land. This is a matter in which, the authorities will have to take a call. I have not pronounced anything on the factual aspects of the matter. The writ petitioner has come to this Court at the stage of issuance of notice itself. The writ petitioner had also given his objections and representations. This Court expects the competent authority to consider the said objections in a proper manner while holding the enquiry.

10. It is made clear that this Court has answered the legal contentions raised by the writ petitioner alone, in the light of the decision of the Hon'ble Division Bench. Other matters have not been gone into. They are left open.”

Aggrieved by the same, the petitioner filed W.A.(MD)No.323 of 2019. The writ appeal was dismissed on 30.01.2024. Thereafter, the second respondent passed order dated 20.05.2024 overruling the objections made by the petitioner. Questioning the same, the petitioner filed W.P.(MD)No.15274 of 2024.



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3. When the said writ petition was listed for admission, the learned Additional Advocate General informed the Court that notification had already been issued under Section 15(1) of the Act and that therefore, nothing survives for further adjudication. Recording the said submission, the writ petition was closed. In this writ petition, challenge has been mounted against the notification issued under Section 15(1) of the Tamil Nadu Highways Act, 2001 on 20.05.2024.

4. The learned counsel for the petitioner raised two contentions. (a) The petitioner was not afforded the opportunity of personal hearing as envisaged under Rule 5(3) of the Highways Rules, 2003. (b) The notification issued under Section 15(1) of the Act is vitiated by non-application of mind and appears to have been passed in haste. He called upon this Court to set aside the impugned notification and grant relief as prayed for.

5. The learned Additional Advocate General for the respondents submitted that both the contentions are without merit and called upon this Court to sustain the impugned notification. He also drew my attention to the relevant observations made by the Hon'ble Division Bench in the aforesaid writ appeal



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and call upon this Court to dismiss the writ petition so as to facilitate the completion of the project.

6.I carefully considered the rival contentions and went through the materials on record. It is true that in the earlier round of litigation, I had observed that I expected the competent authority to consider the petitioner's objections in proper manner while holding the enquiry. It is seen that even on 08.08.2017, the petitioner was given the opportunity of personal hearing and he also submitted his objections. The original file has been made available before me and it is seen that the petitioner had also offered his objections. Therefore, the petitioner may not be right in his contention that he was not afforded any opportunity. Of-course there is considerable merit in the contention of the learned counsel for the petitioner that the authority who conducted the enquiry must dispose of the objections. In this case, the order was passed only on 20.05.2024. The second respondent admittedly had not heard the petitioner in person. In normal circumstances, the authority who hears the objector must give disposal to the objections. This is a basic principle of administrative law. The said strict approach may not be warranted in this case for two reasons. The objections putforth by the petitioner is common to all the apartment owners. The fact that the second respondent who disposed of the objections did not hear



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the petitioner in person has not really prejudiced the petitioner. The objections were on record and hearing in person would not have made any difference in this case. That apart, the Hon'ble Division Bench while dismissing the writ appeal had observed that the project had been stalled only in respect of 705 square meters of land that is the subject matter of the litigation as it lies in the way of road over bridge. It has also been stated that award has been passed on 31.05.2023 in respect of other persons. I, therefore reject the first contention advanced by the learned counsel for the petitioner.

7.It is true that immediately after overruling the objections of the petitioner under Section 15(3) of the Act, notification under 15(1) of the Act was passed. Merely because the order disposing of the objections and the impugned notification were issued in quick succession, that cannot be a ground for interference.

8.The petitioner's rights are sufficiently protected. The petitioner will have to be paid compensation in terms of Central Act No.30 of 2013. As per the said provisions, compensation has to be paid to the petitioner before dispossession. Thus, the petitioner will have adequate time to make alternative arrangement. It is not as if the petitioner is going to be rendered shelterless.



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9. In this view of the matter, I declined to interfere with the impugned notification and the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

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G.R.SWAMINATHAN, J.

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