



W.A.(MD).No.868 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.11.2023

CORAM

**THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM  
AND  
THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD).No.868 of 2019  
and  
C.M.P.(MD).No.7666 of 2019

K.Chellapandian

.. Appellant/Petitioner

Vs.

1.The Government of India,  
Represented by its Secretary,  
Ministry of Road, Transport and Highways,  
Transport Bhavan,  
No.1, Parliament Street,  
New Delhi.

2.The District Collector,  
Madurai District,  
Madurai.

3.The Competent Authority Cum  
District Revenue Officer,  
Land Acquisitions (NH),  
Madurai District.

4.The National Highway Authority of India,  
G5 and 6, Sector-10, Dwarka,  
New Delhi-110 075.

...Respondents/Respondents



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**PRAYER:** Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 05.02.2019 in W.P.(MD).No.19548 of 2018 on the file of this Court.

For Appellant : Mr.Ajmal Khan  
Senior Counsel  
for M/s.Ajmal Associates

For Respondents : Mr.K.Govindarajan,  
Deputy Solicitor General of India for R-1

Mr.T.Amjad Khan  
Government Advocate for R-2 & R-3

Mr.Gokul Abimanyu  
for Mr.C.Arul Vadivel @ Sekar for R-4

### **JUDGMENT**

**(Judgment of the Court was delivered by V.LAKSHMINARAYANAN,J.)**

The present Writ Appeal arises against the order dated 05.02.2019 passed in W.P.(MD).No.19548 of 2018.

2. For the sake of convenience, the parties are referred to as their ranks in the Writ Petition.



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3. The writ petitioner is the owner of 8 cents of land situated in Survey No.65/1A of Manthikulam Village, Madurai North Taluk, Madurai District. The respondent National Highways Authority of India (hereinafter referred to as 'NHAI'), issued a notification under Section 3A of the National Highways Act. The purpose of the notification was for acquisition of lands situated in 0 Km to 29.96 Km in the District of Madurai. It is required for the building, maintenance, management and operation of roads. The notification was issued on 17.04.2018. Persons interested in the land were given 21 days' time to object to the notification.

4. On the basis of the said notification, the petitioner submitted his objection stating as follows:

(i) The land runs through Karuvanur Kanmai and as the water from this Kanmai is necessary for many cattle growers and peacocks, which uses the habitat, the proposed road will endanger the species and also take away the livelihood of cattle growers.

(ii) The petitioner had planted several trees and plants.

(iii) Being a senior citizen, the acquisition will uproot him and displacement will cause him serious prejudice as he is suffering from



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ailments and make his family and the animals, which are dependant on him,  
as refugees.

(iv) He also suggested two alternate modes, in which the road could  
be laid.

5. The objection of the writ petitioner was considered by the  
Competent Authority cum District Revenue Officer, namely, the third  
respondent and it was rejected by a speaking order dated 24.05.2018.

6. Challenging the notification issued on 17.04.2018 and the order of  
the third respondent dated 24.05.2018 and the subsequent notification  
issued on 22.06.2018, the Writ Petition had been filed.

7. The learned Single Judge received a counter from the respondents  
and by an order dated 05.02.2019, he dismissed the same. Hence, the  
present Writ Appeal has been filed.

8. Heard Mr.Ajmal Khan, learned Senior Counsel for the appellant,  
Mr.K.Govindarajan, learned Deputy Solicitor General of India appearing for



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the first respondent, Mr.T.Amjad Khan, learned Government Advocate appearing for the respondents 2 and 3 and Mr.Gokul Abimanyu, learned counsel for the fourth respondent.

9. Mr.Ajmal Khan would invite our attention to Section 3A(2) of the National Highways Act and would submit that every notification issued under Section 3A(1) should give a brief description of the land. According to him, the notification that was issued on 17.04.2018 and published on 19.04.2018 does not give the said details. He would strongly urge that the notification merely states as follows:

| Sno | State      | Name of the District | Name of the Sub District Taluk / Mandal | Name of the Village | Survey / Plot Number | Type of Land | Nature of Land | Area (in Hectare) |
|-----|------------|----------------------|-----------------------------------------|---------------------|----------------------|--------------|----------------|-------------------|
| 693 | TAMIL NADU | MADURAI              | Madurai North                           | Manthikulam         | 65                   | Private ()   | Wet (WET)      | 0.7175            |

and would state that this is deficient.

10. He would state that Survey No.65 is a vast extent containing several subdivisions owned by several persons. The notification does not state as to which subdivision is sought to be acquired and therefore, it does



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not satisfy the requirements of Section 3A(1). He would rely upon the judgment of the Supreme Court in the case of ***Competent Authority Vs. Barangore Jute Factory and others reported in (2005) 13 SCC 477***. He would state that the Supreme Court in the said judgment had held that since the detailed description of the property had not been given, it falls foul of the statutory requirement of brief description of land and therefore, the non-compliance renders the notification invalid. In other words, his argument would be that the notification is vague and therefore, it is liable to be quashed.

11. The second point, he would urge is that the impugned order in the Writ Petition does not deal with objections of the petitioner. The impugned order passed by the third respondent dated 24.05.2018 does not deal with the petitioner's objection that he had given and therefore, the judgment of this Court in ***R.Natarajan and 10 others Vs. The Union of India reported in 2010 (6) CTC 337*** applies. He would consequently pray for the Writ Appeal to be allowed and a writ of Certiorari to be granted.



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12. Per Contra, the learned counsel for the respondents would submit that the notification is not vague and that it satisfies the requirements of Section 3A(2) of the Act. He would state that the petitioner, having given an objection, was well aware of the fact that his lands were being acquired and therefore, he is not prejudiced. Apart from that, he would invite our attention to the following words in the notification:

*“The land plans and other details to the land to be acquired under their notification are available and can be inspected by the interested person at the aforesaid office of the Competent Authority”*

13. In response to the same, Mr.Ajmal Khan, learned Senior Counsel would draw our attention to the additional typed set of papers filed by him and would state that the proposed project plan, which the petitioner had obtained under the Right to Information Act, does not run over his property. However, the notification has been issued for acquisition of his property. Hence, the learned Senior Counsel would plead that the argument of the learned counsel for the respondents does not deserve any consideration and it has to be rejected.



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14. Dealing with the first submission of the learned Senior Counsel

for the appellant, we have to see the purpose of the brief description of the notification under Section 3A of the National Highways Act. The notification gives a brief description in order to enable any person interested in the land to give his objections within 21 days' time from the date of publication. Therefore, if a person is aware that his land is being acquired, the argument of brief description not being a description, as he wants it to be, will have to fail. This is because a person whose land is acquired has the knowledge that his land is being acquired and consequently, will give an objection under Section 3(C) of the Act. This is satisfied in the present case, because the publication was made on 19.04.2018 and in response to the same, the petitioner has specifically stated in his objection as follows:

*“I came across a notification for acquisition of my.  
house in the newspaper.”*

This statement shows that the petitioner was very well aware that his property is going to be acquired under the said notification.

15. Further, the objection also takes the following stand:

*“Further no details of the exact measurement of my  
land to be acquiesced and the subdivision number of the*



*resurvey number are unavailable till now. So I am compelled to give my objection without the least idea of how much of my land is being acquired.”*

16. It is here, we have to take note of the notification issued on 17.04.2018. As pointed out by the learned counsel for the respondents, it specifically states that the plans and other details are available in the office of the Competent Authority Cum District Revenue Officer. When a notification gives the brief description and for the details of the acquisition, the very notification states that a party can approach the third respondent and obtain the same, the plea of vagueness has to fail. This is clear from the judgment relied upon by the learned Senior Counsel for the appellant in the case of ***Competent Authority v. Barangore Jute Factory, (2005) 13 SCC 477***. It reads:

*“6. While dealing with the question of brief description of land in the acquisition notifications, reference was made to some judgments of this Court where acquisition notifications under Section 4 of the Land Acquisition Act had come up for consideration on account of challenge being levelled on the ground of vagueness of the notifications. In most of these cases, plan of the area under acquisition was made part of*



the notifications to show that the requirement of description of land was met. This leads us to inquire whether there was any site plan forming part of the impugned notification.

7. The availability of a plan would have made all the difference. If there is a plan, the area under acquisition becomes identifiable immediately. The question whether the impugned notification meets the requirement of brief description of land under Section 3-A(2) goes to the root of the matter. The High Court rightly observed: "... It is just not possible to proceed to determine the necessity of acquisition of a particular plot of land without preparation of a proper plan." The appendix to the impugned notification shows that in many cases small parts of larger chunks of land have been notified for acquisition. This is not possible without preparing a plan. But where is the plan? The notification in question makes no reference to any plan. Our attention was drawn to averments in pleadings by the writ petitioners and replies thereto of the acquiring authority. The writ petitioners have pleaded that there was no plan. Replies are vague and by way of rolled-up answers. There is no specific reply. It is obvious that there was no plan and, therefore, none was referred to in the pleadings nor anything was produced before the Court at the hearing. Learned counsel for the competent authority tried to submit before us that there was a plan at the time of issue of the notification and the writ petitioners ought to have



*inspected it, if they so desired. He further submitted that the plan was produced before the High Court. We find that both these submissions are not sustainable as they are not correct. **A reference to the impugned notification shows that there is no mention of any plan.** Without this how can anybody know that there was a plan which could be inspected and inspected where? We are inclined to accept that there was no plan accompanying the impugned notification. During the course of hearing we were shown a plan which we are unable to link with the impugned notification. This was a 1996 PWD plan. PWD is a department of the State Government. The impugned notification is by the Central Government. NHAI is established under a Central Act. The competent authority under Section 3 of the Act is appointed by the Central Government. Therefore, this State Government plan of 1996 (the impugned notification is of 1998) is of no assistance. The impugned judgment of the High Court emphasises the need for a plan. It is clear from the judgment of the High Court that no plan was produced before it. The absence of any reference to a plan in the impugned notification and in fact non-availability of any plan linked to the notification, fortifies the argument that the description of the land under acquisition in the impugned notification fails to meet the legal requirement of a brief description of the land which renders the notification invalid.”*



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17. In the case before the Supreme Court, no plan was available. This is clear from the judgment itself in the paragraphs extracted above. However, in the case on hand, the plans were available in the office of the third respondent.

18. The argument of Mr.Ajmal Khan, to the effect that the petitioner went to the office of the District Collector and to the office of the NHAI, but did not find any plan, does not appeal to us. This is for the simple reason that the office of the Competent Authority, the third respondent, is not the office of the District Collector, but a separate and distinct office. If the plans were not available with the Competent Authority, then it would have been mattered to be probed into. However, the Competent Authority had the plans available and this is clear from the fact that the petitioner himself has produced the proposed plan, that was drawn up by the NHAI along with the consultants. If a person knocks at the wrong door and he does not get the plans, the NHAI is not to blame and the petitioner would have to blame only himself.

19. In the light of the following facts,

(i) the notification specifying Survey No.65,



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(ii) the plans being available with the office of the Competent Authority and

(iii) the reply of the petitioner admitting to the fact that his property is going to be acquired,

we are of the clear opinion that the property of the writ petitioner was specifically identified and understood by him as being the subject matter of acquisition, it complies with the requirement of Section 3A(2) of the Act. Apart from that, since the petitioner is aware that his property is being acquired and he objected to same within the time limit given for such objection, no prejudice had been caused to him.

20. Now, we move to the second point urged by Mr.Ajmal Khan. According to him, the rejection of the petitioner's objection does not contain any reasons and therefore, the judgment in *R.Natarajan's* case (cited supra) directly applies to this case. The objection of the petitioner was rejected in the following terms:

□மதுரை தேசிய நெடுஞ்சாலை செயலாக்க  
திட்ட இயக்குநரின் கடிதத்தில் மதுரை புறவழிச்சாலை  
அமைக்கும் பொருட்டு, விரிவான ஆய்வு மேற்கொள்ளப்பட்டு,  
அதன் பின்னர் சாலை அமைப்பின் ஒழுங்காமை (alignment)



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முடிவு செய்யப்பட்டுள்ளது எனவும், இந்த ஒழுங்காமைகளை தீரென்று ஓரிடத்தில் மாற்றம் செய்ய இயலாது எனவும், அவ்வாறு மாற்றம் செய்தால் சின்னமநாயக்கன்பட்டி கிராமம் (NH.44) முதல் தாமரைப்பட்டி கிராமம் (NH.38) வரையிலும், தாமரைப்பட்டி கிராமம் முதல் எலியார்பத்தி கிராமம் (NH.38) மற்றும் எலியார்பத்தி கிராமம் முதல் திரளி கிராமம் (NH.744) வரையிலும் தொடர்ச்சியாகச் செல்லும் ஒழுங்காமை (alignment) முற்றிலும் மாறுபடும் என்பதால் ஒழுங்காமைகளை மாற்ற இயலாது எனத் தெரிவித்துள்ளார்.

இந்நிலையில், மதுரை தேசிய நெடுஞ்சாலை செயலாக்க திட்ட இயக்குநரின் தொழில் நுட்ப ரீதியிலான அறிக்கையில் தெரிவித்துள்ளபடி, மதுரை சுற்றுச்சாலை அமைக்கும் பணி தொடர்பாக விரிவான தள ஆய்வு மேற்கொள்ளப்பட்டு, அதனடிப்படையிலேயே திட்டம் தயார் செய்யப்பட்டுள்ளது என்பதும், சாலை அமைக்கும் வழியினை தீரென ஓரிடத்தில் மாற்றம் செய்ய இயலாது என்பதும், அவ்வாறு மாற்றம் செய்ய நடவடிக்கை மேற்கொண்டால் வாடிப்பட்டி வட்டம், தாதம்பட்டி கிராமத்திலிருந்து திருமங்கலம் வட்டம் திரளி கிராமம் வரை சுற்றுச்சாலை அமைக்கும் ஒழுங்காமை (alignment) முற்றிலும் மாறுபடும் என்பதும் தெளிவாகிறது.

எனவே, மதுரை சுற்றுச்சாலை அமைக்கும் பொருட்டு, வாடிப்பட்டி வட்டம், மந்திகுளம் கிராமம், புலஎண்.65/1A-ல் கண்ட கட்டிடம் மதுரை சுற்றுச்சாலை அமைக்கும் பொருட்டு கையகம் செய்ய வேண்டியது அவசியமாகிறது என்பதால்



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விண்ணப்பதாரரின்

கோரிக்கையை

நிராகரித்து

ஆணையிடப்படுகிறது.□

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21. As pointed out, the objections of the petitioner mainly consisted of acquisition of the kanmais (water body) and the damage that will be caused to wildlife birds, flora and fauna in the said place. He had therefore proposed for re-alignment.

22. A perusal of the impugned order of the third respondent dated 24.05.2018 makes it clear that the Competent Authority had applied his mind and had come to the conclusion that if the proposal of the petitioner is accepted, then it would require whole scale re-alignment of the entire project. This, when compared to the judgment in *K.Natarajan's* case, makes a sea of difference. In the case relied upon by Mr.Ajmal Khan, the authority had not considered the objection in detail and had given only a general response. It was in those circumstances, this Court came to a conclusion that a general response to a specific objection does not satisfy the requirements of Section 3(C) of the Act. In the case on hand, the objections of the petitioner have been considered in detail and rejected.



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Hence, we are not in a position to apply the said judgment to the facts of the present case.

23. We have to add here that the present project is an approved Bharatmala Madurai Ring-road Scheme that had been proposed and being implemented across the country. It is an infrastructure project of national importance. Once the Court is satisfied that the statutory requirements of the National Highways Act have been complied with and a declaration has been issued in accordance with law, it would not be proper for a Court sitting under Article 226 of the Constitution of India to interfere with the same. Both the points raised by the learned Senior Counsel for the appellant failing, we are not in a position to come to the rescue of the writ petitioner.

24. Accordingly, the Writ Appeal stands dismissed and the order of the learned Single Judge in W.P.(MD).No.19548 of 2018 dated 05.02.2019 stands confirmed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

**(S.M.S.,J.) (V.L.N.,J.)**  
**24.11.2023**



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NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
Lm

To

- 1.The Secretary,  
The Government of India,  
Ministry of Road, Transport and Highways,  
Transport Bhavan,  
No.1, Parliament Street,  
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- 2.The District Collector,  
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**and**  
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