

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE V.DHANAPALAN
AND
THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

W.A.No.1597 of 2014

&

M.P.No.1 of 2014

Messrs.Hyundai Motor India Limited,
Represented by M.Sagadevan,
Senior Manager-Legal,
Plot No.H-1, SIPCOT Industrial Estate,
Irrungattukottai, Sriperumbudur,
Kancheepuram-602 117.

...Appellant

Vs.

1. The Secretary,
Ministry of Road Transport and Highways,
Government of India,
New Delhi-110 001.
2. The National Highways Authority of India-
under National Highways Act,
G-5 & 6, Sector-10, Dwarka,
New Delhi-110 075.
3. Project Implementation Unit,
National Highways Authority of India,
Krishnagiri, Tamil Nadu-635 109.
4. Competent Authority and
Special District Revenue Officer (LA),
National Highways Authority of India,
Kancheepuram and Tiruvallur District,
Kancheepuram Collectorate,
Kancheepuram.

...Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 14.10.2014 made in W.P.No.3170 of 2013 on the file of this Court.

W.P.No. 3170 of 2013:

Writ Petition filed under Section 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent relating to the impugned Notification in S.O.No.2180(E), Ministry of Road Transport and Highways, dated 21.09.2011 under Section 3-A (1) of the National Highways Act, 1956 and quash the said impugned Notification in respect of the petitioner's land in Survey No.105/1A1 (Pt) measuring 532 sq.mt., Survey No.105/8B1(Pt) measuring 174 sq.mt., Survey No.106/1A1 (Pt) measuring 181 sq.mt and Survey No.106/4A1(Pt) measuring 423 sq.mt. at Irrungattukkottai Village, Sriperumbudur Taluk, Kancheepuram District and to direct respondents 1 to 4 to exclude the said lands from acquisition proceeding.

For appellant : Mr.A.R.Karunakaran
for M/s.IPN Associates

For respondents : Mr.K.Ravindranath, SCGSC for R-1
Mr.P.Wilson, Senior Counsel for
M/s.Wilson Associates for RR-2 & 3
Mr.R.Rajeswaran, Spl.G.P. for R-4

JUDGMENT

(The Judgment of the Court was delivered by V.Dhanapalan,J)

Heard Mr.A.R.Karunakaran, learned counsel appearing for M/s.IPN Associates, for the appellant, Mr.K.Ravindranath, learned SCGSC appearing for the first respondent, Mr.P.Wilson, learned Senior Counsel appearing for the respondents 2 and 3 and Mr.R.Rajeswaran, learned Special Government Pleader appearing for the fourth respondent.

2. The challenge in this Writ Appeal filed by the writ petitioner is to the order dated 14.10.2014 passed by the learned single Judge in W.P.No.3170 of 2013, wherein, as to the question of quashing of the Notification in S.O.No.2180(E), Ministry of Road Transport and Highways, dated 21.09.2011 under Section 3-A(1) of the National

Highways Act, 1956 in respect of the writ petitioner's land in S.No.105/1A1 (Pt) measuring 532 Sq.Mt., S.No.105/8B1(Pt) measuring 174 Sq.Mt., S.No.106/1A1 (Pt) measuring 181 Sq.Mt. and S.No.106/4A1 (Pt) measuring 423 Sq.Mt. at Irrungattukottai Village, Sriperumbudur Taluk, Kancheepuram District and also seeking for a direction to the respondents 1 to 4 to exclude the said lands from acquisition proceedings, the learned single Judge, after taking note of the material information available on record and also looking into the legal position, has dismissed the Writ Petition, taking into consideration the averments made in the counter affidavit filed by the fourth respondent-competent authority, as stated by the learned single Judge in paragraph 4 of the impugned order.

3. Upon hearing the learned counsel appearing for the parties on their grievance and the importance of the Project in question, on 06.01.2015, this Court passed the following order:

"Heard Mr.A.R.Karunakaran for M/s.IPN Associates, learned counsel for the appellant, Mr.K.Ravindranath, learned SCGSC appearing for the first respondent, Mr.P.Wilson, learned Senior Counsel for M/s.Wilson Associates, appearing for the second and third respondents and Mr.R.Rajeswaran, learned Special Government Pleader appearing for the fourth respondent.

2. It is informed that the acquisitioning body has gone to the stage of Award enquiry as stipulated under Section 3-G of the National Highways Act and at this stage, the appellant has challenged the Notification under Section 3-A of the said Act. The main grievance of the appellant as focussed by the learned counsel is that the selective approach made by the authorities in acquiring the land in question, is to be taken note of and that there was an order by this Court in this Writ Appeal on 18.12.2014 to give a copy of the survey plan in respect of the survey conducted on 09.12.2014.

3. The learned counsel appearing for the respondents submitted that it is open for the appellant-Company to approach the competent authority for any information, instead, the appellant is before this Court urging every aspect of the matter.

4. Since the acquisition is for public purpose, the appellant being a motor Company having project unit in the area in question and having certain grievance, the same has to be looked into by furnishing appropriate report/plan by the competent authority.

5. Hence, the learned Special Government Pleader appearing for the fourth respondent is directed to inform the fourth respondent-competent authority to be present in the Court on 19.01.2015 with necessary files along with the survey report/plan and also the land plan schedule relating to the land in acquisition.

6. Post the Writ Appeal on 19.01.2015. The interim order of stay of dispossession alone, already granted on 03.12.2014, is extended till then."

4. Subsequently, on 19.01.2015, this Court passed the following order:

"The concerned Special District Revenue Officer (Land Acquisition), the competent authority has appeared before this Court in the Afternoon session and apologised for not being present in the Morning session.

Therefore, for compliance of the order dated 06.01.2015, as to the production of the Surveyor's Report and necessary plan, learned counsel for the appellant requests time.

At his request, list this matter on 28.01.2015.

Interim order already granted by this Court is extended till then."

5. Pursuant thereto, the officer, namely the fourth respondent, in the presence of the officials of the appellant, inspected the place in question and found that the lands in question are contiguous and are approximately 6 meters away from their compound wall. This has been clarified in the counter affidavit filed by the fourth respondent, dated 13.02.2015, as follows:

".. .. As ordered by the Honourable High Court, inspected the land on 4.2.2015 at about 2.30 p.m. During the inspection, Sriperumbudur Taluk staff Thiru.M.Nedunchezian, Taluk Deputy Inspector of Survey, Thiru.B.Palani, Firka Surveyor, Thiru.R.Dhinakaran, Firka Revenue Surveyor, Selvi.P.Saranya, Village Administrative Officer, Irungattukottai, Tmt.M.Anis Fathima, Village Administrative Officer, Thandalam Village, Thiru.R.Varadharajan, Sub Inspector of Survey, National Highways, Kanchipuram and the Representatives of the appellant M/s.Hyundai Motor India Ltd., Thiru.M.Sagadevan, Assistant General Manager, Legal and Secretarial and Thiru.R.Chandran, Senior Manager, General Affairs were present.

The Land acquired for six laning of NH4 in Irungattukottai Village in S.No.105/1A1B, area 532 Sq.Mts., S.No.105/8B1B, area 163 Sq.Mts., S.No.106/1A1B, area 181 Sq.Mts., S.No.106/4A1B, area 349 Sq.Mts., were identified and shown to the representatives of the appellant and obtained their acknowledgement. These lands are contiguous and are approximately 6 metres away from their compound wall. . . . "

6. For clarifying the matter regarding the structure valuation noted in the notice issued to the appellant under Section 3-E of the National Highways Act, the matter stood for hearing today and today, the fourth respondent has filed additional counter affidavit stating as follows:

" ... During the hearing in W.A.No.1597/2014 filed by Tvl.Hyundai Motor India Ltd., SIPCOT Industrial Estate, Irungattukottai, Sriperumbudur Taluk, Kanchipuram District on 18.02.2015, the Hon'ble High Court, Madras has directed to clarify the structure valuation noted in the notice issued to the appellant u/s 3E of National Highways Act, 1956. I submit that in the award passed for the lands acquired for six laning of NH-4 in Irungattukottai Village, Sriperumbudur Taluk, valuation for two structures have been added with the land value in S.No.106/1A1B and 106/4A1B by mistake as detailed below:

Sl. No.	New S.No.	Extent acquire d in S.Mtr.	Land Value	10% Appreciat ion	Structu re Value	Total compensat ion
1	105 / 1A1B	532	715875	71588	Nil	787463
2	105 / 8B1B	163	219338	21934	Nil	241272
3	106 / 1A1B	181	243559	24356	61403	329318
4	106 / 4A1B	349	469625	46963	862689	1379277

It is further submitted that the above structures are not existing in S.Nos.106/1A1B and 106/4A1B as stated above and also in other two survey numbers acquired for six

laning of NH-4. As the structure value has been included wrongly it will be deleted and if the appellant produce the documentary evidences to prove their ownership of the lands acquired, action will be taken to pay the compensation for the lands immediately."

7. From the above additional counter affidavit, it could be seen that the structures are not existing in S.Nos.106/1A1B and 106/4A1B and also in the other two survey numbers acquired for six laning of NH-4 and as the structure value has been included wrongly, it will be deleted and if the appellant produces the documentary evidence to prove their ownership of the lands acquired, action would be taken to pay the compensation for the lands immediately.

8. In the light of the above stated position, as the lands in question acquired for public purpose are not in existence in the structures and the grievance of the appellant/writ petitioner is no more in existence to consider, it is open for the parties to work out their remedy in accordance with law, if anything survives for consideration of their respective claims, and if there is anything for the appellant to claim compensation, and if they have any legal right over the same, it is for the appellant to claim the same and action shall be taken by the fourth respondent for payment of necessary compensation in accordance with law. The Writ Appeal is disposed of accordingly. No costs. The Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

cs

Copy to

1. The Secretary,
Ministry of Road Transport and Highways,
Government of India,
New Delhi-110 001.

2. The National Highways Authority of India-
under National Highways Act,
G-5 & 6, Sector-10, Dwarka,
New Delhi-110 075.

3. Project Implementation Unit,
National Highways Authority of India,
Krishnagiri, Tamil Nadu-635 109.

4. Competent Authority and
Special District Revenue Officer (LA),
National Highways Authority of India,
Kancheepuram and Tiruvallur District,
Kancheepuram Collectorate,
Kancheepuram.

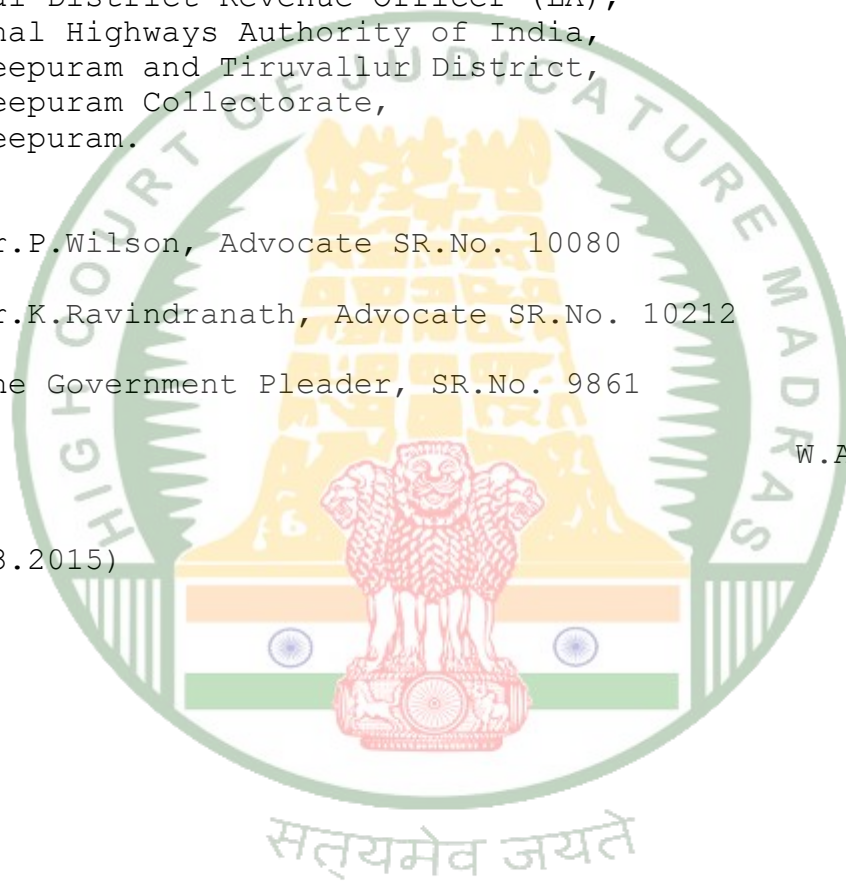
1 CC to Mr.P.Wilson, Advocate SR.No. 10080

1 CC to Mr.K.Ravindranath, Advocate SR.No. 10212

1 CC to the Government Pleader, SR.No. 9861

W.A.No.1597 of 2014

SV (CO)
PSI (30.03.2015)



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