

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.30971 of 2015 &
M.P.No. 1 of 2015

S.Kothandam

... PETITIONER

Vs

1. The State of Tamil Nadu
Rep. by its Secretary
Highways Department
Secretariat, Chennai-600 009.
2. The Chief Engineer (Highways)
NABARD & Rural road, Sidco Complex
Electronic Building, Guindy, Chennai-32.
3. The Divisional Engineer (Highways)
NABARD & Rural road Division
B-48 Alagesan Nagar,
Chengalpattu-603 001.
4. The Superintending Engineer (Highways)
B-48 Alagesan Nagar
NABARD & Rural road Circle
Chengalpattu-603 001.
5. Land Acquisition Officer Cum
The District Revenue Officer
Thiruvallur, Thiruvallur Dist.
6. The Collector
Thiruvallur,
Thiruvallur District.

... RESPONDENTS

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of declaration, to declare the construction of Kosappur High level bridge in the petitioner's

land comprised in S.No. 80 situated at Kosapur Village, Thiruvallur District without following the land Acquisition Proceedings as Provided under the Tamil Nadu Highways Act 2001, as void unconstitutional and illegal.

For Petitioner : Mr.K.C.Karl Marx

For Respondents : Mr.R.Rajeswaran,
Special Government Pleader

O R D E R

Heard Mr.K.C.Karl Marx, learned counsel appearing for the petitioner and Mr.R.Rajeswaran, appearing for the first respondent.

2.The petitioner has filed this Writ Petition to declare the construction of Kosappur High level bridge in his land comprised in S.No. 80, situated at Kosapur Village, Thiruvallur District without following the land Acquisition Proceedings as Provided under the Tamil Nadu Highways Act 2001, as void unconstitutional and illegal.

3.Counter affidavit filed by the fifth respondent shows that an extent of 164 sqmtr of patta land has been intruded by the Highways Department for forming the road and the Highways Department is willing to compensate the petitioner. However, till date no notification has been made in respect of the said land which have been utilised by the Highways Department for forming the road.

4.One more allegation is made by the Highways, by stating that the petitioner has encroached an extent of 190 sq.mtr of land in Survey No.70, which is a 'vandi pathai' and the petitioner has put up some tin sheets.

5.The said allegation is denied by the respondent by filing a reply affidavit. The learned Special Government Pleader produced a sketch showing the area where the petitioner's land has been utilised for forming the road and the area where there is an alleged encroachment. The proposal of the authorities is that they are will to exchange the lands. However, the said proposal cannot be thrust on the petitioner. When the petitioner's patta lands have been taken over by the Highways

Authority without resorting to land acquisition proceedings and without payment of compensation, and when the petitioner is not willing to accept a proposal for exchange and if there is a factual encroachment into the Government lands, it is for the Revenue Officials to take appropriate action and both the issues could not have a bearing on each other.

6. In the light of the above, the fifth respondent having accepted that an extent of 164 sqmtr of the petitioner's patta land has been utilised by the Highways Department for forming the road without resorting to acquisition proceedings under the provisions of the Tamil Nadu Highways Act, instead of declaring the entire proceedings as illegal and non-est, since the petitioner is willing to accept the compensation, there will be a direction to the fifth respondent to issue notice under the provisions of the Tamil Nadu Highways Act for acquisition of 164 sq.mtr of the petitioner's land, which has been utilised for forming the road and conclude the acquisition proceedings by paying compensation to the petitioner, within a period of three months from the date of receipt of a copy of this order.

The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rpa

To

1. The Secretary,
State of Tamil Nadu
Highways Department
Secretariat, Chennai-600 009.
2. The Chief Engineer (Highways)
NABARD & Rural road, Sidco Complex
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The District Revenue Officer
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6. The Collector
Thiruvallur,
Thiruvallur District.

+1cc to Mr.K.C.Karl Marx, Advocate, S.R.No.68095
+1cc to the Government Pleader, S.R.No.68294

W.P. No.30971 of 2015

SV(CO)
CA(07/01/2016)



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