

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2015

CORAM:

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P.No.776 of 2015
and
M.P.Nos.1 and 2 of 2015

K.R.Perumal

... Petitioner

Vs.

1. The District Collector,
Salem District, Salem.
2. The Land Acquisition Officer cum
Revenue Divisional Officer,
Salem District.
3. The Sub Collector,
Mettur, Salem District,
Salem.

... Respondents

Writ Petition filed under Article 226 of the Constitution of Indian to issue a Writ of Certiorari calling for the records pertaining to the proceedings of the second respondent in Na.Ka.No.36054-2012-B1 dated 17.08.2014 and quash the same.

For petitioner : Mr.C.D.Johnson

For respondents : Mr.V.Jayaprakash Narayanan,
Special Government Pleader

ORDER

The petitioner has approached this Court challenging the order passed by the second respondent rejecting his objection filed pursuant to the notice issued under Section 15(2) of the Tamil Nadu Highways Act, 2001.

2. An extent of 0.18.5 Hectares of land comprised in Survey No.77/4, later, sub-divided as Survey No.77/4A, belongs to the petitioner and out of the said land, the respondent acquired only 0.04.0 Hectares and out of 0.20.0 Hectares land, which belongs to the

petitioner, in Survey No.77/6, which was later sub-divided as Survey No.77/6A, the respondents acquired only 0.6.5 hectares. Similarly, in the property comprised in Survey No.77/7 which was later sub-divided as 77/7A, only an extent of 0.07.0 hectares out of 0.21.5 Hectares was acquired. The said lands were acquired only for the purpose of laying bypass road between Omalur and Sankari, in an endeavour to prevent to prevent traffic congestion at Omalur, Sankari, Thiruchengode, Paramathi Velur. Therefore, for the aforesaid purpose, the Government proposed to lay bypass road at Kurukuppatti - Tharamangalam, to an extent of 12/4 km. Apart from the petitioner's lands, some others' lands were also acquired for the aforesaid purpose.

3. Notification under Section 15(2) of the Tamil Nadu Highways Act, 2001 was issued in the leading news papers as well as to the owners vide proceedings dated 10.2.2014. Notice under Section 15(3) of the Tamil Nadu Highways Act, 2001, was issued to the objectors and a meeting was held on 22.02.2014. After considering the objections filed by the petitioner and others pursuant to the notice issued under Section 15(2) of the Act, an order was passed under Section 15 (3) of the Act rejecting the petitioner's objection as well as that of the other land owners stating that the lands were acquired for the public purpose, namely, to prevent accident and for free flow of traffic by laying bypass road.

4. The lands were acquired only for the purpose of laying highway and it is an infrastructure building effort made by the Government in the public interest. No doubt, the right of the petitioner is safeguarded by Article 300A of the Constitution of India as a constitutional right. However, when the public interest is involved, naturally, private interest has to give way for that. That was the reason why the right to hold property has been removed from fundamental rights and later it was incorporated under Article 300A of the Constitution of India.

5. This Court finds no perversity in the order passed by the respondent. All the objections of the petitioner were rightly considered and the order was justifiably passed under Section 15(3) of the Act holding that the lands are genuinely required for laying bypass road. Moreover, for the sake of the land owners, the alignment of the State Highway cannot be changed. If such claim is entertained, there will not be any finality with regard to the alignment. Moreover, the alignment has been determined by the experts. Taking into consideration the experts' opinion, such alignment has been fixed. Therefore, at the instance of the petitioner, the alignment determined cannot be changed.

6. Therefore, the Writ Petition is liable to be dismissed and accordingly, dismissed. No costs. The connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

asvm

To

1. The District Collector,
Salem District, Salem.
2. The Land Acquisition Officer cum
Revenue Divisional Officer,
Salem District.
3. The Sub Collector,
Mettur, Salem District,
Salem.

+1cc to the Government Pleader, S.R.No.39915

GP(CO)
CA(04/09/2015)

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