

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 22-02-2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.7592 OF 2014

Balaji Singh

...

Petitioner

-vs-

1.The Project Director,
National Highways,
1/54-28, Butt Road, Mount,
Chennai-16.

2.The Special District Revenue Officer (Land Acquisition),
National Highways Scheme,
Kancheepuram & Tiruvallur District,
Kancheepuram. ... Respondents

Petition under Article 226 of the Constitution of India,
praying for issuance of a writ of mandamus, to direct the
respondent to measure the property comprised in Old Survey Numbers
178, 178/2F, Ward-E, Block-11, T.S.No.15, 17/2, Irumbuliyur
Village, Tambaram Taluk, measuring 240 sq.mt., before taking
possession of the aforesaid land.

For petitioner : Mr.V.Raghavachari

For respondent 1 : Mr.Richardson
for M/s.P.Wilson Associates

For respondent 2 : Mr.R.Rajeswaran,
Spl.Govt.Pleader.

O R D E R

Petitioner has filed this Writ Petition, praying for
issuance of a writ of mandamus, to direct the respondent to
measure the property, comprised in Old Survey Numbers 178, 178/2F,
Ward-E, Block-11, T.S.No.15, 17/2, Irumbuliyur Village, Tambaram
Taluk, measuring 240 sq.mts., before taking possession of the
aforesaid land.

2. The undisputed facts are that the lands owned by the
petitioner in the said Survey Numbers were the subject matter of
acquisition proceedings for a project to be developed by National
Highways and handed over to State Highways, the project being
implemented in Tambaram and Irumbuliyur Villages.

3. The contention of the petitioner is that the extent of
the property has been wrongly noted as 165 sq.mts., whereas the
total extent is 240 sq.mts. This contention is sought to be

sustained, by referring to the Field Register, maintained by the Tambaram Municipality, and a patta, said to have been issued by the Revenue Tahsildar. However, copy of such patta has not been filed in the typed set of papers. The petitioner would state that there was a mistake in the extent of property in the patta and, therefore, he had followed up the matter with the authorities and effected alteration of patta, by showing the correct extent. Now, the petitioner seeks for compensation for the total extent of the property, which, according to him, has been fully acquired.

4. First respondent, in his counter affidavit, stated that what was required for acquisition was only 165 sq.mts., and the same has been acquired, and the petitioner cannot compel the respondent to acquire more than what is required by them.

5. It may be true, that second respondent cannot be compelled to acquire an extent more than what is required by them. However, in the instant case, there appears to be a little controversy as regards the actual extent of the property, which is comprised in those survey numbers. The petitioner's specific case is that his lands have also been acquired and there is nothing remaining or left out of acquisition, and, therefore, when the entire survey numbers have been taken over, the correct extent should be measured. In this regard, strong reliance has been placed by the petitioner on the Field Survey Register, maintained by the Tambaram Municipality, and also the patta of the subject properties, issued to the petitioner (copy not filed along with the Writ Petition).

6. From the averments made in paragraph 5 of the affidavit filed in support of the Writ Petition, it appears to be a vague averment, since the petitioner has not given any dates on which he is said to have represented to the respondents. Therefore, based on this vague averment, the respondents cannot be faulted, for not taking any action. It, thus, appears, the petitioner did not participate in the inquiry before the second respondent nor has he placed any document before the second respondent for consideration, as regards the correct extent of property. However, since the lands have been taken over, this Court is of the view, that in case the petitioner's contention is correct, he would be entitled for additional compensation, calculated at the same rate, as per the award already passed in respect of 165 sq.mts. Therefore, this Court does not wish to foreclose the petitioner's avenues.

7. Accordingly, this Writ Petition is disposed of, directing the petitioner to submit a representation to the second respondent, enclosing all records, and the second respondent, on receipt of the such representation, shall issue a notice of inquiry, directing the petitioner to appear in person with original documents, verify the same, and if found correct, pass necessary orders for payment of compensation at the rate already fixed in the award, dated 08.01.2014, for the remaining extent, if any. The above direction shall be complied with by the second respondent within a period of eight weeks from the date the representation is submitted. The second respondent is also directed to issue notice to the first respondent and pass

appropriate orders after affording an opportunity of being heard to both the petitioner and the first respondent. No costs. Consequently, the connected M.P.No.1 of 2014 is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

- 1.The Project Director,
National Highways,
1/54-28, Butt Road, Mount,
Chennai-16.
- 2.The Special District Revenue Officer (Land Acquisition),
National Highways Scheme,
Kancheepuram & Tiruvallur District,
Kancheepuram.

- 1 cc to M/s.P. Wilson Associates, Sr. 10982
1 cc to Government Pleader, Sr. 11067

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