

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 05.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE **M.VENUGOPAL**

WEB COPY

W.P.(MD)No.9220 of 2016**and****W.M.P.(MD) .Nos.7341 and 8964 of 2016**

G.Sulochana Gopal

... Petitioner

Vs.

1. The District Collector,
Theni District.
2. The Director of Town Panchayat,
Kuralagam Buildings, Chennai 600 108.
3. The Assistant Director of Town Panchayats (Scheme),
Office of the Assistant Director of Town Panchayats,
Theni.
4. The Executive Officer,
C.Pudupatty Selection Grade Town Panchayat,
Uthamapalayam Taluk, Theni District.
5. D.Tamil Rajan
(Civil Work Government Contractor),
Kuruviammalpuram,Rangasamuthiram Post,
Kovilpatty Village,Aundipatty Taluk,
Theni District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 to 4 to consider the petitioner's representation dated 09.05.2016 and pass orders on merits within a time frame.

For Petitioner : Mr.S.P.Srinivasan

For R1 to R3 : Mr.K.Guru

Additional Govt. Pleader

For R4 : Mr.Aayiram K.Selvakumar

Government Advocate

For R5 : Notice served on 27.05.2016

(Yet no appearance)

ORDER

Heard both sides.

<https://hcservices.ecourts.gov.in/hcservices/>

2. According to the Petitioner, if the road is laid in her agricultural land bearing Survey Nos.897/1 and 896 at C.Pudupatty,



Uthamapalayam Taluk, Theni District (in which she had not gifted any portion to the Government), the said road would run through her agricultural land and it would have huge impact on her agricultural activities. However, if the land which was gifted by the adjacent land owner bearing Survey No.901 with registered Document No.405 dated 21.01.2012 for laying the road is utilized, instead of her present land at Survey Nos.897/1 and 896 situated at C.Pudupatty, Uthamapalayam Taluk, Theni District, it would not hamper her agricultural activity.

3. The stand of the Petitioner is that Section 3(2) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 provides for issuance of notice by the Government calling upon the owner of the land it proposes to acquire or interested in such land to show cause as to why the land should not be acquired. Furthermore, even under the Land Acquisition Act, an objection under Section 5 is to be received against acquisition and the same to be considered.

4. At this stage, a cursory perusal of the contents of the writ affidavit filed by the Petitioner indicates that it is the plea of the Petitioner that there is violation of principles of natural justice. Added further, she was not heard before her agricultural land bearing Survey Nos.897/1 and 896 was sought to be illegally acquired for laying road by the Respondents. That apart, no notice was issued to her by the Respondents (before including her land for road laying purpose). Moreover, the Respondents, in issuing the tender notification shows scant regard for an agricultural activity and ecology. In fact, the tender notification was issued with impunity and in violation of settled procedure for acquiring private land.

5. It is to be noted that the Petitioner, significantly at para-14 of the affidavit had categorically averred that she is not against laying of road and her only objection is that the land in Survey Nos.897/1 and 896 situated at C.Pudupatty, Uthamapalayam Taluk, Theni District, where the agricultural activity is carried out would be hampered, if the road from Mangamal Salai passes through that place.

6. Further, the Petitioner had taken a stand in the writ petition that an alternative route available and there is no necessity for acquisition. As such, since the said land was already gifted to the Town Panchayat by the adjacent land owner for laying road. Besides this, if that land is utilised, then her portion of the land would remain unaffected and he can carry out her agricultural activities. Indeed, a feasibility report was not
<https://hcservices.mca.gov.in/hcservices/> issuing and sanctioning of the impugned tender notification.



7. In effect, the Petitioner's clear-cut case is that her representation dated 09.05.2016, wherein she had prayed (i) not to lay the road in her patta land which was not donated, (ii) to lay the road in the land bearing Survey No.901 which was donated for the purpose of laying the road may be considered by the respondents 1 to 4.

8. Per contra, it is the submission of the learned Additional Government Pleader and the learned Government Advocate appearing for the respondents 1 to 4 that it is an admitted fact that the Petitioner had gifted the lands in Survey Nos.900/3, 0.81.0 hectare measuring an extent of 19 cents by way of gift deed dated 05.12.2011 in favour of the State Government. Further, after acquiring the lands required to form the road, as per the G.O.Ms.No.568, Municipal Administration and Water Supply Department dated 15.09.2015, work order was sanctioned by the Assistant Director of Town Panchayat Executive Engineer proceedings in Na.Ka.No.8978/2015/Oo3 dated 04.02.2016 and total amount for the work order is fixed as Rs.72 lakhs under the Panchayat NABARD Finance Scheme 2015-16. In fact, the Fifth Respondent is the successful bidder in the tender and hence, work order was issued to her on 25.02.2016. Later, the Fifth Respondent had commenced the work after completion of all contractual formalities.

9. At this stage, on behalf of the Respondents, it is projected before this Court that neither the Fourth Respondent nor the Fifth Respondent has taken any steps to lay the road in the petitioner's land, as averred in the writ affidavit. Also that, the Petitioner had given a petition based on apprehension that the Respondents would lay the road in her lands. In reality, it is the case of the Respondents 1 to 4 that they are laying the road only in the lands which were already acquired and gifted by the concerned land owners.

10. The Learned Counsel for the Respondents 1 to 4 brings it to the notice of this Court that the Fourth Respondent had sent a reply to the Petitioner dated 03.06.2016, in which it was clearly mentioned that there would be no formation of the road in the lands in Survey Nos.897/1 and 896.

11. As far as the present case is concerned, the petitioner's objection (as seen from paragraph-14 of the writ affidavit) that the lands in Survey Nos.897/1 and 896 situated at C.Pudupatty, Uthamapalayam Taluk, Theni District, where agricultural activity is carried out would be hampered, if the road from Mangamal Salai passes through that place and instead of an alternative route available and there is no need for acquisition, since the land was already gifted to the Town Panchayat by the adjacent land owner for laying of the road.



12. In this connection, this Court very pertinently points out that the Fourth Respondent/Executive Officer of C.Pudupatty Selection Grade Town Panchayat, Uthamapalayam Taluk, Theni District, in a clear-cut terms had stated that there would be no formation of road in the lands in Survey Nos.897/1 and 896. Therefore, it appears that the Petitioner has filed the present writ petition based on a wrong premise that the Respondents 1 to 4 would lay the road in her lands. In this regard, this Court, significantly points out that the Respondents 1 to 4, at paragraph -7 of the Fourth Respondent's counter affidavit had clearly averred that 'in fact, the Respondents are laying the roads only in the lands which were already acquired and gifted by the concerned land owners.

13. In view of the foregoing and also this Court, taking note of the fact that the Fourth Respondent, in the proceedings dated 03.06.2016, had categorically mentioned in unequivocal terms that as stated by the Petitioner, in Survey Nos.897/1 and 896, the work relating to formation of Thar road would not take place, this Court comes to an inevitable and irresistible conclusion that the writ petition filed by the Petitioner is devoid of merits. Consequently, the writ petition fails.

14. In the result, the Writ Petition is dismissed leaving the parties to bear their own costs. The connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The District Collector, Theni District.
2. The Director of Town Panchayat,
Kuralagam Buildings, Chennai 600 108.
3. The Assistant Director of Town Panchayats (Scheme),
Office of the Assistant Director of Town Panchayats,
Theni.
4. The Executive Officer,
C.Pudupatty Selection Grade Town Panchayat,
Uthamapalayam Taluk, Theni District.

+1cc to Spl.Government Pleader Sr.No.35164

+1cc to Mr.S.P.Srinivasan, Advocate Sr.No.35007

akv

AA/ARK-PV/18.07.2016/4p-7c

W.P. (MD) No.9220 of 2016
05.07.2016