



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 08.11.2016

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CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P(MD) .No.8789 of 2011

Tamilselvi

.. Petitioner

vs.

1. The District Collector,
Madurai District.

2. The Competent Authority and
Special District Revenue Officer,
(Land Acquisition),
National Highways, (44 & 38),
WD04, Veluchamy Nagar,
Gangai Street, Back side of PRC Depot,
Virudhunagar.

2. The Special Tahsildar,
(Land Acquisition),
National Highways,
Madurai South,
Madurai.

3. The Project Director,
National Highways Authority of India,
83-1, SBI 1st Colony Extension, Bye Pass Road,
Madurai - 16.

4. The General Manager,
Madhucon Project Ltd.,
Camp Office at Sindhalakkarai (Post),
Ettayapuram Taluk,
Thoothukudi District - 628 904.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to consider the petitioner representation dated 28.07.2011 and consequently direct the respondents to acquire the petitioner land by lawful means and to provide adequate compensation for the illegal construction and occupation of the petitioner land measuring 1 acre 91 cents in Survey No.101/1 by the 5th respondent.



For Petitioner : Mr.V.Sankaranarayanan
For Respondents : Mr.K.Guru (for R1 to R3)
Additional Government Pleader
Mr.K.K.Senthilvelan (for R4)
No Appearance (for R5)

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ORDER

There is no representation on behalf of the petitioner and the fifth respondent. Heard Mr.K.Guru, learned Additional Government Pleader appearing for respondents 1 to 3 and Mr.K.K.Senthilvelan, learned counsel appearing for the fourth respondent.

2. This writ petition is filed seeking issuance of a writ of mandamus to direct the respondent authorities to consider the representation of the petitioner dated 28.07.2011 and consequently, direct the respondents to acquire the petitioner's land by lawful means and to provide adequate compensation for the illegal construction and occupation of the petitioner's land measuring 1 Acre 91 Cents in Survey No.101/1 by the 5th respondent.

3. The brief facts of the case are as follows: The petitioner claims to have purchased land admeasuring 2 Acres and 27 Cents in S.No.101/1 at Eliyarpatti Village, Madurai South, Madurai, under a registered sale deed dated 15.12.1993.

4. It is averred that the second respondent vide order dated 6.7.2010 acquired 935 Sq. Metres of land in Sub-division No.101/1D in S.No.101/1 for laying of four lane road in Madurai to Thoothukudi Road. Thereafter, vide another order dated 27.9.2010, the second respondent acquired 519 Sq. Metres of land in Sub-division No.101/1A in S.No.101/1 for construction of toll plaza. It is admitted that compensation was paid to the petitioner.

5. It is stated that the fifth respondent, who is collecting toll tax for the vehicles, had illegally trespassed into the remaining land of the petitioner of an extent of 1 Acre and 91 Cents and had commenced construction of an administrative building thereon. The petitioner questioning the said action made a representation to the fourth respondent on 11.11.2010, but the same did not evoke any response.

6. It is pleaded that the fourth respondent vide proceedings dated 10.01.2011 had requested the second respondent to acquire additional land for putting up administrative building, when, in fact, the fifth respondent had illegally occupied the land owned by the petitioner and had also commenced construction. The second respondent, vide proceedings dated 18.04.2011, requested the third respondent to negotiate with the petitioner regarding acquisition of the remaining extent of land. The petitioner was called for



negotiation by the third respondent and was awaiting initiation of acquisition proceedings and payment of compensation. However, as there was no further progress in the matter and the fifth respondent did not stop construction, the present writ petition is filed for the relief stated supra.

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7. In view of the non appearance of the counsel for the petitioner, this Court was constrained to look into the averments in the writ petition, apart from hearing the other side to pass the following order.

8. From the pleadings aforesaid, it is clear that the petitioner participated in the negotiation with the third respondent with regard to the proposal for acquisition of the remaining extent of land owned by her. It is not for this Court exercising jurisdiction under Article 226 of the Constitution of India to direct the authorities to acquire a particular portion of the land. This Court cannot suggest the suitability of a particular extent of land for the purpose which the authorities require and is not competent enough to decide whether the petitioner's land will be suitable for the respondents or not. It is ultimately the respondent authorities who have to decide whether the land belonging to the petitioner is required for acquisition or not.

9. Anent the plea that the petitioner's land had been illegally occupied by the fifth respondent by putting up an administrative block, it is for the petitioner to work out her remedy in the competent forum and seek damages from the fifth respondent for trespassing into her land.

10. In such view of the matter, this writ petition is dismissed. No costs. However, this order will not preclude the respondent authorities from considering the representation of the petitioner dated 28.07.2011 and passing orders one way or the other to put the quietus to the matter.

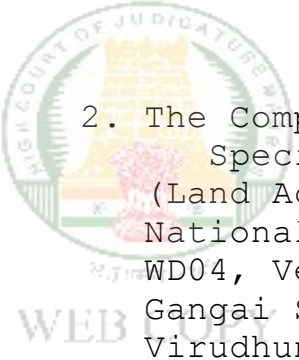
Sd/-
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

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vsa/skn
SDS/SV MMS/SAR4/19.12.2017/4P/6C

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