

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.6085 of 2017

1. P.Arunkumar
2. P.Rajesh Kumar

3. M/s.P.Ramachandriah Son & Co.
Represented by its Partner Mr.P.Arunkumar
No.1/871, Plot No.28,
Venkateswara Nagar Main Road,
Somu Nagar, Medavakkam,
Chennai - 600 100. ..Petitioners

Vs.

1. The Principal Secretary to Government
Highways and Minor Ports Department
Secretariat, Fort St. George
Chennai - 600 009.
2. The Chief Engineer
Construction and Maintenance Wing,
Highways Department,
Chepauk,
Chennai - 600 005.
3. The Chief General Manager (Tech) & Regional Officer
National Highways Authority of India
SRI Tower - 3rd Floor, DP - 34
(SP) Industrial Estate, Guindy,
Chennai - 600 032.
4. The Competent Authority & Special
District Revenue Officer
Land Acquisition
National Highways
Kancheepuram & Thiruvallaur District,
Kancheepuram - 631 501 ..Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus, directing the respondents to initiate and complete the acquisition proceedings in respect of land-locked lands measuring 59 Sq.Mtrs or 635 sq.ft., in T.S.No.2/3 and 535.91.H2 sq.mtrs or 5768 sq.ft., in T.S.No.41/1, Block 43 of Koyambedu Village, Chennai and to pay the legal compensation to the petitioners.

For Petitioner : Ms.Shivakumar

For RR1, 2 & 4 : Mr.S.DIWAKAR,
Special Government Pleader
M/s.S.R.Sumathi
For R3.

O R D E R

The grievance of the petitioner appears to be over the small extent land, which got itself locked from the larger extent acquired and thus becomes impossible of being utilized. Therefore, the petitioner has made representations asking the respondents to acquire it as well along with the lands acquired already.

2.In the counter affidavit filed by the fourth respondent, it has been stated as follows :

Para:10 It is submitted that as per the directions of the Hon'ble High Court, Madras in W.P.No.15031 of 2008, the petitioners submitted a detailed representation to this respondent. This respondent taken action on the representation, conducted enquiry, inspected the site in question and recommended the acquisition of uneconomical lands to the National Highways Authority of India. The draft 3A (1) proposals has been sent to the Project Director, NHAI, Chennai on 23.12.2010 and additional particulars has requested by them also sent by our letter dated: 09.03.2013. The remainder letters dated: 22.05.2013, 30.09.2013, 29.05.2014, 30.06.2014, 20.11.2014, 13.07.2015 also sent by our office. The NHAI has to pass appropriate orders on the pending proposal sent by this respondent.

3. Therefore, the fourth respondent, who also represents 1 and 2, states that it is for the first and second respondents to take a call.

4. However, in the counter affidavit filed by the third respondent, the following stand has been taken:

10. I humbly state that on perusal of the same, the Chief General Manager (Tech), Regional Office, Chennai vide his letter No.NHAI/11018/1/09/RO/Chennai/1254 dated 04.04.2014 addressed to the Principal Secretary to Government, Highways and Minor Ports Department, Secretariat, Fort St. George, Chennai - 9, stating the following:

"In this regard, it is stated that the project of "Improvement of Access to Golden Quadrilateral Corridor by construction of Free Flow Facilities along NH-4, NH-45 and NH-205 within Chennai City" was implemented as a special project, funded by the ministry of Road, Transport and Highways. Consequent to the completion of the project, all these structures, viz. Grade Separators at Kathipara, Koyambedu and Padi Junctions and Flyover in front of Chennai Airport were handed over to the Government of Tamil Nadu and maintenance of the same is being done by the Highways Department at present."

"As the above structures were handed over to the Highways Department and the owner of the land has given major part of his land for construction of the Grade Separator at Koyambedu Junction, it is requested to recommend to the Secretary, Housing and Urban Development Department and Member Secretary, CMDA to accord necessary permission to have access to their land from the slip road and for construction of structure by the land owner in the left out land, duly relaxing the set back rules for granting planning permission so as to mitigate the hardship being faced by the land owners to some extent."

11. I humbly state that the Chief Engineer, Construction and Maintenance Wing, Highways Department, Chepauk, Chennai - 600 005 vide letter No.05720 /Contracts-2/2014 dated 29.04.2014 addressed to the Chief General Manager (Tech), Regional Office, NHAI stated as follows:

"Now the Chief General Manager (Tech) & Regional Officer, has stated that the grade separator was handed over to State Highways Department and owner of the land has given a major part of the land to the project. Considering this, Chief General Manager (Tech) & Regional Officer has requested to accord access from slip road and to grant planning permission relaxing set back rules."

"Since the grade separator was handed over to State Highways Department, the possibility of permitting slip road is being explored at our side. A report has been called for from the field officers in this regard. On receipt of the same, a decision will be taken up."

12. I humbly state that as stated supra and above, it is submitted that the entire Koyambedu Grade Separator was handed over to State Highways Department, after completion of the project as per requirement by NHAI, any additional requirement of land or consideration of the request of petitioner has to be addressed to the Chief Engineer, Highways Department, Chennai, who is the 2nd respondent with regard to the acquisition of uneconomical lands.

5. From the records, it appears, especially, if one goes through the communication of the second respondent made to the Chief General Manager and Regional Officer of the third respondent dated 29.04.2014, it is clear that it is respondents 1, 2 and 4, who can take a decision. The following is the relevant paragraph of the aforesaid communication:

3. Since the grade separator was handed over to State Highways Department, the possibility of permitting slip road is being explored at our side. A report has been called for from the field officers in this regard. On receipt of the same, a decision will be taken up.

6. In such view of the matter, a direction is issued to the first and second respondents to take a decision on the proposed acquisition of the unutilized land, which is land locked, which has not been put into any acquisition proceedings till now, as to whether the same can be acquired or not, within a period of twelve weeks from the date of receipt of a copy of this order and thereafter, inform the same to the petitioner.

With the above observation and direction, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar (CS V)

//True Copy//

Sub Assistant Registrar

At

To

1. The Principal Secretary to Government
Highways and Minor Ports Department
Secretariat, Fort St. George
Chennai - 600 009.
2. The Chief Engineer
Construction and Maintenance Wing,
Highways Department,
Chepauk,
Chennai - 600 005.
3. The Chief General Manager (Tech) & Regional Officer
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4. The Competent Authority & Special
District Revenue Officer
Land Acquisition
National Highways
Kancheepuram & Thiruvallur District,
Kancheepuram - 631 501

+1 cc to M/s.S.R.Sumathy Advocate sr 43883
+1 cc to M/s.Shivakumar Advocate sr 44142
+1 cc to Government Pleader sr 44172

W.P.No.6085 of 2017

nri(co)
aa05/07/2017

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