

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2017

CORAM

THE HON'BLE Mr.JUSTICE HULUVADI G.RAMESH
And
THE HON'BLE MR JUSTICE RMT.TEEKAA RAMAN

W.A.Nos.1568 & 1569 of 2015

- 1.The Project Director, (NH-47)
National Highways Authority of India,
No.9/9A, Kothari Layout,
4th Cross Street,
B.R.Nagar, Opp.Coimbatore Stock Exchange,
Trichy Road,
Coimbatore-641 005 ... 1st Appellant in
W.A.No.1568 of 2015
- 2.The DGM (T) & Project Director, (NH-47)
National Highways Authority of India,
No.9/9A, Kothari Layout,
4th Cross Street,
B.R.Nagar, Opp.Coimbatore Stock Exchange,
Trichy Road,
Coimbatore-641 005 ... 1st appellant in
W.A.No.1569 of 2015
- 2.The Chief General Manager, (T) & RO,
National Highways Authority of India,
Regional Officer, Chennai. ... 2nd Appellant in
both the W.As.

vs.

- 1.C.Natarajan
- 2.The Competent Authority and
Special District Revenue Officer,
(Land Acquisition) (NH-47 and 67)
Door No.3, Savaimuthu Chettiyar Street,
Red Fields, Coimbatore-45 Respondents in
W.A.No.1568 of 2015

1.K.R.Palanisamy
2.E.Kalaiselvi
3.Union of India
Ministry of Road Transport and Highways,
New Delhi.

4.The Chief General Manager, (Tech),
National Highways Authority of India,
Plot No.G-5 & 6, Sector-10,
Dwaraka, New Delhi-110 075

5.The Competent Authority and
special District Revenue Officer,
(Land Acquisition) (NH-47 and 67),
Door No.3, Savaimuthu Chettiyar Street,
Red Fields, Coimbatore-45 ... Respondents in
W.P.No.1569 of 2015

Writ Appeals preferred under Clause 15 of the Letters Patent
against the order dated 23.01.2015 made in W.P.Nos.7372 and
12621 of 2014.

WP.No.7372/14:Petition filed under Article 226 of the
Constitution of India praying this Hon'ble Court to issue a Writ
of Certiorarified Mandamus to call for the records on the file
of the 1st respondent proceedings in ROC 2/2010 (A1) dated
4.10.2010 and quash the same as illegal incompetent and
unconstitutional and further forbear the respondents from
seeking to put up a truck terminal in S.NO. 226 1A2 226/102
226/3D 226/1C2 Srinagar Kanniyur Village Karumathampatti
Coimbatore District.

WP.No.12621/14:Petition filed under Article 226 of the
Constitution of India praying this Hon'ble Court to issue a
Writ of Certiorarified Mandamus Calling for the records of the
impugned order of the 4th respondent in Reference No. 96/2010/A1
dated 31.05.2010 and impugned notification issued by the 1st
respondent herein in S.O.1696(E) dated 19.07.2010 and quash the
same in so far as seeking to put up truck lay bay in S.F.
No.220/1B Giddampalayam Village, Sulur Taluk Coimbatore District
and consequently direct the respondents to have Truck Lay Bay in
Survey No.471 which is belonging to the respondents.

For Appellants

:Mr.P.Wilson,Sr.counsel
M/s.Wilson Associates

For Respondents

:Mr.V.Raghavachari for R1
in WA 1568/15 & R1 & R2
in WA.1569/15
Ms.A.Srijayathi,G.P.for R2
in WA.1568/15, R5 in
WA 1569/15
Mr.Su.Srinivasan for
R3 in WA 1569/15

COMMON JUDGMENT

(Judgment of the Court was delivered by HULUVADI G.RAMESH,J)

The first respondent in W.A.No.1568 of 2015 and respondents 1 and 2 in W.A.No.1569 of 2015 have filed the writ petitions, objecting to the proposed acquisition of land and building by the authorities concerned for the purpose of widening the National Highway 47.

2. It is stated that even though the issues have been concluded at various levels, without taking into consideration the subsequent developments in the matter, the Competent Authority and Special District Revenue Officer (Land Acquisition), all of a sudden, threatened that the road would be laid, demolishing the existing building. At that stage, the writ petitioners/owners of the proposed acquired property, have approached this Court seeking to quash the proceedings of the competent authority, dated 4.10.2010, and to forbear the authorities concerned from acquiring their properties.

3. The learned single Judge, considering the arguments advanced on either side quashed the proceedings of the Competent Authority and discharged the writ petitioners' lands comprised in Survey No.220/1B, Guddampalayam Village, Sulur Taluk, Coimbatore District and Survey No.226/1A2, 226/102, 226/1C2, Srinage, Kanniyur Village, Karumathampatti, Coimbatore District, respectively, from the land acquisition proceedings. Challenging the said orders, the National Highways Authority has come up before this Bench, by way of the above writ appeals.

4. The learned Senior counsel appearing for the appellants submitted that the writ petitioners/land owners have challenged the 3(G)(3) award notice alone and challenge was restricted to put truck terminal in S.No.226, Sri Nagar, Kannaiyur Village and no prayer was made in respect of the main carriage way or service lane. There was also no challenge to the 3D declaration and subsequent award passed by the authority. Already 3A and 3C(2) orders have attained finality. But the

learned single Judge has granted the relief of quashing 3-G(3) award enquiry notification dated 4.10.2010 and discharged the entire lands belonging to the writ petitioners from acquisition, which includes the lands acquired for the purpose of main carriage way, service road and truck lay bye. Therefore, the learned Senior Counsel prays for setting aside the order of the learned single Judge and for allowing the writ appeals.

5. The learned counsel for the writ petitioners/land owners submitted that the learned single Judge, taking into consideration all all the relevant facts; the subsequent developments in the matter; the hardship that would be caused to the writ petitioners/land owners if their lands are acquired and after through analysis of the survey report, has rightly passed the order discharging the writ petitioners' lands from the acquisition proceedings. While passing such order, the learned single Judge has also taken note of the availability of the nearby poramboke land for the said purpose and hence, the order passed by the learned single Judge does not call for any interference.

6. Heard the learned Senior counsel appearing for the appellants and the learned counsel appearing for the respondents and also perused the records carefully.

7. It appears that the acquisition of lands was objected to by the writ petitioners/land owners on several grounds. It is also seen that the National Highways has not invaded into the compound wall of the factory premises of the land owner concerned. Taking note of all the above facts, we are of the view that there is no impediment for the National Highways in acquiring the lands for the public purpose. It is also stated that an award has already been passed in that regard and compensation has also been paid to several land owners, except the writ petitioners, as they refused to receive the compensation. It is made clear that while taking possession of the lands in question, the compound wall of the writ petitioner concerned shall be excluded. So far as payment of compensation is concerned, it shall be paid in proportion to the extent of land that has been acquired. The property in question to the extent of compound wall of the factory premises is concerned, the same shall be protected. It is also made clear that the acquisition will not come in the way of the existing factory premises and the compound is located beyond the marking of the boundary by the land acquisition officer. It is also made clear that in respect of any further claim with regard to the settlement of amount, the same shall be worked out elsewhere, in the manner known to law.

8. The writ appeals are ordered accordingly. No costs.

-s/d-
Assistant Registrar(CSIV)

True Copy

Sub-Assistant Registrar

msk

To

1.The Competent Authority and
Special District Revenue Officer,
(Land Acquisition) (NH-47 and 67)
Door No.3, Savaimuthu Chettiyar Street,
Red Fields, Coimbatore-45

2.Ministry of Road Transport and Highways,
Union of India
New Delhi.

3.The Chief General Manager, (Tech),
National Highways Authority of India,
Plot No.G-5 & 6, Sector-10,
Dwaraka, New Delhi-110 075

+2 ccs to Mr.V.Raghavachari Advocate sr 25202, 25203

+1 cc to the Government Pleader sr 25666

+1 cc to Mr.P.Wilson Advocate sr 25169

सत्यमेव जयते

W.A.Nos.1568 & 1569 of 2015

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