

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 18.07.2017  
CORAM:  
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN  
AND  
THE HONOURABLE MR. JUSTICE N.SESHASAYEE  
WA.No.1468 of 2014

1. P.Thamizharasan
  2. P.Venkatesan
  3. P.Balamurugan
- ... Appellants /Petitioners

..Vs..

1. The District Collector,  
Vellore District, Vellore
  2. The Project Director  
National Highways Authority of India  
Krishnagiri
  3. The Competent Authority and  
Special District Revenue Officer  
(LA-NH 4 & 46), Vellore 9
- ... Respondents/Respondents

Prayer:- Writ Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court in W.P.No.29/2014 dated 25.08.2014.

WP.No.29/2014:Writ of Mandamus to direct the respondent to recovery the excess land acquired in survey Numbers 47,48, & 50 of Kommeswaram Village, Vaniyambadi Taluk, Vellore

For Appellant : Mr.V.Raghavachari

For Respondents : Mr.Elumalai (R1 and R3)  
Government Advocate  
Mr.S.Arulandu  
for M/s.P.Wilson Associates (R2)

JUDGMENT

[Judgment of the Court was delivered by M.SATHYANARAYANAN, J.]

The writ petitioner, aggrieved by the dismissal of the writ petition in WP.No.29/2013 dated 25.08.2014, has filed the present writ appeal.

2. The petitioners/appellants have approached the respondents 2 and 3 for de-notification/ to allow the objections filed by them under Section 3 (2) of the National High Ways Act, 1956 and since no response is forthcoming, they have filed Writ Petition in W.P.No.29 of 2014 against the respondents herein praying for issuance of a Writ of Mandamus to re-convey the excess land acquired in survey Numbers 47,48 and 50 of Kommeswaram Village, Vaniyambadi Taluk, Vellore. The said Writ Petition, after contest came to be dismissed on 25.08.2014. Challenging the legality of the same, they have filed this Writ Appeal.

3. A perusal and appreciation of the documents in the form of typed set of documents would disclose among other things that the National High Ways Development Project V contemplates 6 laning of the High ways and after clearance from the public Private Appraisal Committee, the National High ways of India, undertook the development of existing four lane at stretch of 0.000 km. to 148.30 approximately 148 km on the Krishnagiri-Walajahpet section of NH-46, Poonamallee-Walajahpet Section of NH-4 also to development of another two lane along with construction of structures like Flyovers/Vehicle Underpasses (VUPs) / Pedestrians Underpasses (PUPs) to improve the safety on Project Highways, thus totaling to 6 lane under the Design, Finance, Build, Operate and Transfer (DBFOT) basis. Accordingly, the provisions of National High Ways Act, 1956 was invoked in terms of Section 3-D(2) on the publication of the declaration under Sub Section (1).

4. The mother of the petitioners/appellants raised an objection as to the acquisition under Section 3 (2) of the said Act and the said objection was disallowed and an award was passed on 06.07.2004. In terms of publication of Notification under Sub Section (1), the land is also vested with the Central Government. The grievance expressed by the petitioners/appellants is that, even after 6 lane of National Highways Development Project is completed still the land acquired from the mother of the petitioners/appellants are not put to use and therefore there cannot be any impediment to reconvey the land to the appellants so as to enable them to carry on agricultural operations for the purpose of eking out their livelihood. Therefore, they have filed the Writ Petition for the appropriate relief.

5. The second respondent has filed a counter affidavit, contending that after the publication of Notification under Section 3-D (2) of the National High Ways Act, 1956, the land has been vested with the Central Government absolutely. They have also very categorically contended that land acquired is for genuine purposes i.e. for construction of service road and further improvements. Hence, the question of reconveyance of

land does not arise. It is also contended that the mother of the petitioners/appellants was also paid with suitable compensation along with 10% appreciation under Section 3G (2) of National Highways Act and she is also at liberty to claim higher before the Arbitrator & District Collector, Vellore and therefore prays for dismissal of the Writ Petition.

6. The learned Judge, after taking note of the rival submissions, observed that the land in question have been acquired for the formation of National High Ways and it is not in dispute that the present existing National Highway has also been widened and as per the stand of the respondents that there is no excess lands acquired and the lands acquired have already been utilised and the remaining lands will be utilised in future, the question of re-conveyance does not arise and dismissed the Writ Petition, on 25.08.2014. Challenging the legality of the same, this Writ Appeal has been filed.

7. Mr.V.Raghavachari, learned counsel appearing for the petitioner would strenuously contend that the fundamental right guaranteed under Article 21 of the Constitution of India has been violated with impunity. The specific stand taken by the petitioner is that, even after 6 laning of National Highways Development Project is completed still the land acquired from the mother of the petitioners/appellants are not put to use and therefore there cannot be any impediment to reconvey the land to the appellants so as to enable them to carry on agricultural operations for the purpose of eking out their livelihood. The learned counsel for the petitioner would also further prayed that appropriate direction may be issued to the respondents to produce the plan and the present use of the acquired land so as to enable them to take decision to re-convey of land.

8. The learned counsel for the second respondent had drawn the attention of this Court to the counter affidavit as well as the order passed by the learned Judge, dismissing the Writ Petition and would submit that having taken note of the facts in the legal aspects conclusion has rightly been reached to dismiss the writ petition and this Court under exercise of Clause 15 of the Letters Patent, may not interfere with the same.

9. It is not in dispute that the land belonging to the mother of the petitioners and also belonging to others were acquired for the purpose of 6 laning of Poonamallee-Walajahbad section and Krishnagiri to Walajahbad section and a declaration was also declared under sub-section [1] of section 3-D of National Highways Act, and the entire lands acquired, have been vested with the Central Government free from all encumbrances. It is also not in dispute that four laning of the National High Ways had already been done and the said Highways is also being expanded into 6 Lanes also. Evenafter 6 laning for making other

improvements, still the lands may be required. Moreover that in the event of natural calamity or any urgent purpose they require the lands acquired to form service road etc., and for that purpose also the land in question may be used. One cannot claim that the land acquired can be used only for the present purpose; but is required for future purpose also.

10. It is also the stand of the second respondent that for that other purposes also acquired the lands will be put to use. It is further pointed out that the mother of the petitioners did not challenge the acquisition proceedings and also not invoked the jurisdiction of arbitrator/District Collector seeking enhancement of compensation.

11. A feign attempt was made by the learned counsel appearing for the petitioners/appellants that for the purpose of deviation and alignment of the road also, land in question are not required. This Court is of the view that the decision has to be taken based on the expert opinion and this Court may not interfere with the same unless the said act is tainted with malafides or arbitrariness. The appellant did not raise any such grounds.

12. The learned Judge has taken note of the facts and the legal aspects and rightly reached the conclusion to dismiss the writ petition. This Court, on an independent application of mind to the entire materials, is of the considered view that there is no error or infirmity or reasons assigned to reach the said conclusion and finds no merits in this writ appeal.

13. In the result, The writ appeal is dismissed. No costs.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

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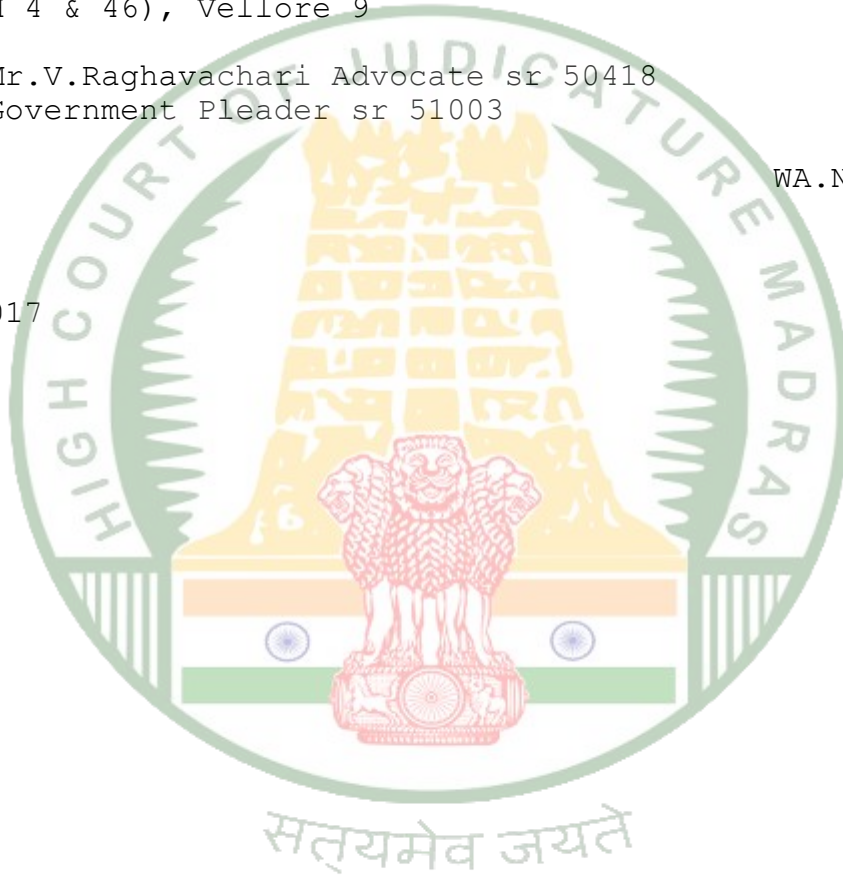
To

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2. The Project Director  
National Highways Authority of India  
Krishnagiri
3. The Competent Authority and  
Special District Revenue Officer  
(LA-NH 4 & 46), Vellore 9

+1 cc to Mr.V.Raghavachari Advocate sr 50418  
+1 cc to Government Pleader sr 51003

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