

In the High Court of Judicature at Madras

Dated : 22.12.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mr.Justice K.RAVICHANDRABAABU

Writ Petition No.32835 of 2017 & WMP.Nos.36183 & 36184 of 2017

G.Narayanan ...Petitioner

Vs

- 1.The Secretary to Government,
Revenue Department, Fort.St.George,
Chennai-9.
- 2.The National Highways Authority of
India (Ministry of Road, Transport &
Highways), Office of the Project
Director P.I.U., No.26, I Floor,
VGP Nagar West, Vazhuhareddy
Post, Villupuram-605401.
- 3.The Competent Authority & Special
District Revenue Officer (LA),
National Highways 45A, Nagapattinam.
- 4.The Special Tahsildar (LA), National
Highways (NH45A), 53B, VNS Nagar,
Thenpathi, Kaivilancherry, Sirkazhi,
Nagapattinam District. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the 3rd respondent's proceedings in Na.Ka.No.23/NH45A/2016 dated 04.9.2017, quash the same and further direct the respondents to acquire alternative pathway to form four way lane of National Highway 45A in Nagapattinam District by avoiding Survey No.208B of Sembadaniruppu Village and Survey No.120 of Allivilaham Village, which are classified as tank and only water source for those villages for drinking and irrigation purposes.

For Petitioner	: Mr.S.Sundaresan
For Respondents 1, 3 & 4	: Mr.T.N.Rajagopalan, GP
For Respondent-2	: Mr.Richardson Wilson

Order of the Court was made by T.S.SIVAGNANAM,J

Heard all the parties.

2. The petitioner has filed this writ petition, styled as a public interest litigation, challenging the proceedings of the third respondent dated 04.9.2017.

3. It is seen that the impugned proceedings were addressed to one Mr.T.Pandian and one Mr.R.Gajendran, advocate and not to the petitioner herein. It appears that the present writ petition is an indirect challenge to the land acquisition proceedings for the purpose of laying four lane the highway (NH 45A) in Villupuram, Puducherry, Cuddalore and Nagapattinam Section.

4. The petitioner's case is that if the four laning is to be done, the water bodies, which are the important sources for drinking water and irrigation in the nearby villages and in particular, in Sembadaniruppu, Nangoor and Kathiruppu villages, will be affected. Apart from that, the petitioner is concerned about a tank, a library building, one water tank, one ICDS (paulvadi) building and the office of the Village Administrative Officer in Sembadaniruppu village and a primary health centre and a overhead tank in Kathiruppu village. It is submitted that the four laning, as proposed, may be changed and that the same may be done without affecting these structures.

5. In order to ascertain the correct facts, when the case came up for admission on 21.12.2017, we directed notice to be served on the learned Standing Counsel for the National Highways Authority of India. On instructions, it is pointed out that a letter dated 28.7.2017 was sent by the Project Director, National Highways Authority of India, to the fourth respondent clearly stating that the proposal is only in the draft stage and is yet to be approved and that the final alignment will be done after considering all the factors by avoiding damages to irrigation sources, water bodies, etc. In so far the primary health centre building and the overhead tank at Kathiruppu Village is concerned, the Project Director stated that there is no acquisition of structure at present.

6. Based on the said communication dated 28.7.2017, the third respondent addressed to Mr.T.Pandian stating that the question of excluding the land from acquisition proceedings is not feasible. Admittedly, the land owners have not challenged the present proceedings and the challenge is by way of a public interest litigation. Therefore, at best, the petitioner can focus on the public issues and ensure that while a road is laid, water bodies are not affected and public buildings are not affected.

7. The learned Government Pleader, on instructions, submits that in respect of one tank, out of the total extent of 1.27 hectares, an extent of 804 sq.meters has been proposed to be acquired and in respect of another tank, the extent of which is 70 ares, about 40,000 sq.ft. is proposed to be acquired.

8. However, all these appear to be only in the draft stage and are yet to attain finality. As the writ petition has been filed challenging the communication sent by the third respondent to private individuals with regard to acquisition of lands involving water bodies and public buildings, the respondents shall definitely ensure that adequate care is taken, as far as possible, while final alignment is taken up for consideration.

9. With the above observation, the writ petition is disposed of. No costs. Consequently, the connected WMPs are closed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government, Revenue Department,
Fort.St.George, Ch-9.

2.The National Highways Authority of India (Ministry of Road,
Transport &Highways), Office of the Project Director P.I.U.,
No.26, I Floor, VGP Nagar West, Vazhudhareddy Post, Villupuram-
605401.

3.The Competent Authority & Special District Revenue Officer
(LA), National Highways 45A, Nagapattinam.

4.The Special Tahsildar (LA), National Highways (NH45A), 53B,
VNS Nagar, Thenpathi, Kaivilancherry, Sirkazhi,
Nagapattinam District.

+ 1 cc to M/s. P. Wilson Associates, Sr.92211
+ 1 cc to Government Pleader Sr.91975
+ 1 cc to Mr. S. Sundaresan, Advocate Sr.91886
+ 1 cc to Ms. S.R. Sumathy, Advocate SR.95

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of 2017

CS-IV

EU(23/01/2018)