

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2017

CORAM: THE HONOURABLE Mr. JUSTICE N.SESHASAYEE

W.P.No.35205 of 2014

and M.P.No.1 of 2014

1.Minor Mariya Ignatius
Represented by his mother and
natural Guardian Mrs.Metilda Regina

2. Minor Avinash Shaji
Represented by his mother and natural Guardian
Mrs.Metilda Regina ... Petitioners

Vs

1. The Chairman
National Highways Authority of India
New Delhi.

2. The National Highways Authority of India
Represented by its
Project Director, No.7E, 5th Cross, Jakkappan Nagar,
Krishnagiri-635 001.

3. The Competent Authority and
Special District Revenue Officer (LA)
National Highways
Kancheepuram and Thiruvallur Districts,
Kancheepuram. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the
Constitution of India praying for issuance of writ of
Certiorarified Mandamus, calling for the records relating to the
notice issued by 3rd respondent in Na.Ka.4/2010/A2/NH4 dated
20.10.2014, quash the same and consequently direct the 3rd
Respondent to determine the compensation amount and pass an
award in favour of the petitioners for the land with building in
Survey No.812/1B in Sriperumbudur B Village, Sriperumbudur
Taluk, Kancheepuram District to an extent of 258 Sq.Metres.

For Petitioners : Mr.S.Rishi Bala Nithian

For Respondents 1 and 2 : No Appearance

For 3rd Respondent : Mr.A.Zakir Hussain
Government Advocate

O R D E R

The petitioners are minors, they have approached this Court challenging the notice issued by the 3rd respondent in Na.Ka.4/2010/A2/NH4 dated 20.10.2014. The affidavit filed in support of the petition itself alleged that a piece of 15 cents of land with building comprised in S.No.812/1 in Sriperumbudur B Village, Sriperumbudur Taluk, Kancheepuram District was purchased in the names of the petitioners, who are minors of a certain R.Parthasarathy and two others, under registered sale deed dated 21.12.2005. Necessary mutation has been done in the revenue records and the property purchased in the names of the petitioners was assigned as S.No.812/1B. The property purchased was a vacant land and after purchase, the parents of the petitioners obtained necessary sanction from the authorities concerned and have put up a building therein. Whiles, in April, 2014, certain field staff of the 3rd respondent came to measure the property and on enquiry, the 3rd respondent provided a copy of the notice to the parents of the petitioners in R.C.4/2010/A2/NH4, dated 27.03.2014 from which the parents of the petitioners came to know that the property of the petitioners had been notified for acquisition for widening the National Highway under Section B of the National Highways Act. In the said notice, the place intended for mentioning the name of the owner, instead of mentioning the name of the petitioners, their predecessors in title were shown. The total compensation was shown as Rs.8,51,400/-.

2. Immediately, the petitioners issued notice dated 19.07.2014 on the 3rd respondent informing about the purchase of the land in S.No.812/1B by the petitioners under the sale deed referred to above and requested the 3rd respondent to substitute the name of the petitioners instead of the name of their predecessor and also protested to the compensation amount indicated therein. Further, in the said notice, the authorities have only taken note of the vacant land but not the building therein. The 3rd respondent however did not respond to the legal notice issued by the petitioners. While so, on 20.10.2014, Vide impugned notice, again addressed to the predecessor of title to the petitioners, but served on the petitioners, they were required to surrender possession of the property. Under this circumstance, the petitioners have approached this Court with the present petition for issuing a Certiorarified Mandamus.

3. In the counter filed by the 3rd respondent, it is averred in paragraph No.8 that the petitioners were served with the impugned notice, wherein they were requested to attend the office of the 3rd respondent and produce the title deeds, encumbrance certificate for 13 years, Pan Card, Family Card, Voter I.D., and NOC from Assistant Commissioner, Land Reforms,

Villupuram for enabling payment of compensation. But, the petitioners did not give any reply to that notice, nor have they produced the documents sought instead of producing them, the petitioners have come forward with this writ petition. In paragraph No.9 of the counter it is further alleged that totally an extent of 258 Sq.mtrs of land was acquired in S.No.812/1B which covers both the lands purchased by the petitioners as well as their neighbour Tmt.P.A.Leema were included, out of this, the extent of land attributable to the petitioners is only 114 Sq.mtrs. The total extent of land purchased by the petitioners is 15 cents implies the petitioners would be entitled to have the balance of 486 Sq.mtrs or 5232 Sq.ft., of land that they had purchased.

4. Heard both sides.

5. The learned counsel for the petitioners brought to the notice of this Court that the respondents have produced a printed form in which, statements of various owners lands were recorded. On verification, the same is seen made available in the set of papers stitched in the counter, which in fitness of things the respondents ought to have filed the same in the form of typed set of papers. This document shows that the 3rd respondent knew who had appeared for enquiry, and inspite of that it is unfortunate that he has issued a notice in the name of predecessor of title of the petitioners.

6. Even if paragraph No.8 is closely perused, it required the petitioners to produce the sale deed again along with encumbrance certificate for 13 years. It puzzles the sense of reasoning of this Court to understand why the 3rd respondent needs the encumbrance certificate for 13 years when all it requires is to identify the name of the owner at the time when the notification under which proposal to acquire the land was issued and so far as the need to provide the copy of the sale deed is concerned, it again puzzle this Court as to why the 3rd respondent insisted on when had recorded the statement of the mother of the petitioner in the enquiry proceeding before passing the award. However, this is how the system functions and this Court expects the 3rd respondent and those who are similarly placed to take reasonable stand in matters such as this.

7. Having known that the petitioners represented by the mother are the owners the impugned notice issued in the name of the predecessor of the title of the petitioners is fundamentally fault. The notice dated 20.10.2014, now impugned is hereby quashed and the 3rd respondent is directed to issue a fresh notice in the name of the petitioners within four weeks from the date of receipt of a copy of this order whereupon the petitioners respond and produce necessary materials as stated in the paragraph 8 of the counter of the 3rd respondent, and the 3rd

respondent may pass appropriate orders and inform the petitioners about the same. The petitioners are entitled to personal hearing in case the 3rd respondent proposes to pass any order affecting the civil right of the petitioners.

8. This writ petition is accordingly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

ssn

To

1. The Chairman
National Highways Authority of India
New Delhi.

2. Project Director,
The National Highways Authority of India,
No.7E, 5th Cross, Jakkappan Nagar,
Krishnagiri-635 001.

3. The Competent Authority and
Special District Revenue Officer (LA)
National Highways
Kancheepuram and Thiruvallur Districts,
Kancheepuram.

+2cc to M.Ravichandiran, advocate sr.no.87214

+1cc to Government Pleader sr.no.88099

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and M.P.No.1 of 2014

co(br)
GSP(17/02/2018)

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