

IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATED:22.02.2017

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THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.937 of 2012 and
M.P.No.1 of 2012

C.CHELLAPPAN

[PETITIONER]

Vs

1 THE DISTRICT COLLECTOR
COLLECTORATE SALEM.

2 THE PROJECT DIRECTOR
NATIONAL HIGH WAYS 68 2ND FLOOR
V.S.A.COMPLEX 9-11 OMALUR MAIN ROAD SALEM-4.

3 THE SPECIAL TAHSILDAR (LA)
NATIONAL HIGH WAYS 68 SALEM DISTRICT.

4 THE JUNIOR ENGINEER
TAMIL NADU ELECTRICITY BOARD
KATTU VEPPILAI, PATTI POST
VAZHAPADI TALUK SALEM DISTRICT.

[RESPONDENTS]

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking a writ of mandamus Forbearing the respondents from entering into petitioner premises and moreover from demolish the petitioner house in S.No.99/3 situated at Cuddalore Main Road Kattu Veppilai patti Post Vazhapadi Taluk Salem District without following the procedure available in the National Highways Act 1956.

For Petitioner : Mr.P.Vijendran

For Respondents: Mr.S.Gunasekaran, AGP (R1&3)
Mr.P.Richardson Wilson for
M/s P.Wilson Associates for R2

R4-No appearance

O R D E R

Mr.P.Vijendran, learned counsel is present on behalf of the writ petitioner. Mr.Gunasekaran, learned Additional Government Pleader is present on behalf of the 1st & 3rd respondents. Mr.P.Richardson Wilson, learned counsel for M/s P.Wilson Associates is present on behalf of the 2nd respondent. There is no representation for the 4th respondent though they have been duly served.

2. By consent of the learned counsel for the petitioner and the learned counsel appearing on behalf of respondents 1 to 3, the main writ petition itself is taken up for disposal.

3. Matter pertains to acquisition of land for National Highways.

4. Land acquisition is under the National Highways Act, 1956 (Central Act 48 of 1956) [hereinafter referred to as "the said Act"].

5. An extent of 306 sq.mts of land comprised in Survey No.99/3 at Cuddalore Main Road, Kattu Veppilai Patti Post, Vazhapadi Taluk, Salem District was acquired. As part of such acquisition under the said Act, compensation payable for the acquired land was also awarded in accordance with Section 3G(3) of the said Act.

6. It is the case of the writ petitioner that he accepts the compensation under Section 3G(3) of the said Act. He has also received the compensation and he is not agitating the matter any further.

7. It is the case of the writ petitioner that besides 309 sq mts, which has been acquired, there is further extent of land available in the above said Survey number belonging to him. It is the further case of the writ petitioner that respondents 2 and 3 are attempting to dispossess him and acquire the remaining portion also without following the said Act.

8. The learned Additional Government Pleader appearing on behalf of the respondents 1 and 3 would say that he has no role in the matter, as the compensation has been accepted and received (Collector is the Arbitrator under the said Act).

9. With regard to 2nd respondent, Mr. Richardson Wilson, learned counsel for M/s Wilson Associates would say that they do not intend to acquire the remaining extent of land in Survey No.99/3 belonging to the petitioner. However, he adds and assures that in the event of further extent of land being required under the said Survey Number, acquisition proceedings would be initiated under the said Act and that all the provisions of the said Act would be scrupulously and strictly followed.

10. The above would put at rest the anxiety and complaint of the writ petitioner.

11. The above submission of learned counsel for the 2nd respondent is recorded.

12. In addition to the above submission, the learned counsel for the 2nd respondent would draw my attention to the counter affidavit of the 2nd respondent filed in a similar writ petition in W.P.No.869 of 2012, particularly paragraph Nos.4 & 5 therein. That part of paragraph No.4 and the entire paragraph No.5 of the said counter affidavit, which are relevant, reads as follows:

"4. The acquisition proceedings are carried out in accordance with the Special Act enacted for the said purpose. The land in Survey No.110/2(A) measuring to an extent of 18 sq.Mtrs. along with the other lands with the super-structure was acquired in terms of the provisions of the Act and suitable compensation has been awarded to the land owners including the Petitioner through cheque bearing No.890365, dated 23.02.2010. The Petitioner has already constructed the house in the acquired place of the land before publication under section 3(A) (1) notification. While paying compensation to the Petitioner, not only the land value but also the super-structure was taken into consideration. As per 3(D) notifications, 54

Sq.Mtrs. of land was published for the purpose of Acquisition. The remaining 36 Sq.Mtrs. of land was inadvertently to be notified from Survey No.110/2 A belonging to the Petitioner in the earlier notification. Therefore, it is incorrect to say that Respondents 1 to 3 have been trying to vacate the Petitioner from the newly constructed house by disconnecting electricity.

5. I submit that the contents of paras 5 and 6 of the affidavit are denied as incorrect and false. It is submitted that on the basis of the representation dated 06.01.2012 submitted by the Petitioner, the land of the Petitioner was inspected and measured. Out of 54 Sq.Mtrs of land, only 18 Sq.Mtrs of land pertaining to the Petitioner was acquired through the earlier notification. The remaining 36 Sq.Mtrs of land belonging to the Petitioner were to be acquired for the formation of National Highway No.68. It is submitted that acquisition proceedings were initiated on the basis of land plan schedule."

13. Recording the above submission of the learned counsel for the 2nd respondent, this writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

22.02.2017
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To

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