

xvcIN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2017

CORAM

THE HONOURABLE Mr.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.26466 of 2017

P.S.Moorthy

.. Petitioner

Vs.

1.The Authorized Officer/
District Revenue Officer
National Highways - 47
Collectorate, Erode.

2.The Project Director and Manager (Tech)
National Highways Authority of India,
Widening Highways Scheme
N.S.212 - D31, Sri Nagar Colony
Narasothipatti, Salem.

3.The Tahsildar
Perundurai Taluk
Perundurai, Erode District.

4.Shanmugasundaram

.. Respondents

Prayer : Writ Petition filed under Section 226 of Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 3 to remove the encroachment made by the fourth respondent in the highways pathway situated at S.Nos.160/15A2 and 160/16A1B totally 593 sq.mtrs., Thiruvachi Village, Perundurai Taluk, Erode District.

For Petitioner : Ms.L.Karthiga
for Mr.C.Prakasam

For Respondents : Mrs.M.E.Rani Selvam
Additional Government Pleader [R1 & R3]
Mrs.S.R.Sumathy [R2]

O R D E R

[Order of the Court was made by M.SATHYANARAYANAN,J.]

By consent the writ petition is taken up for final disposal.

2. Mrs.E.Rani Selvam, learned Additional Government Pleader

accepts notice on behalf of the respondents 1 and 3 and Mrs.S.R.Sumathy, learned counsel accepts notice on behalf of the second respondent.

3. The petitioner, in the affidavit filed in support of the writ petition, would aver among other things that he is the owner of the patta land comprised in Survey Nos.141/1A2 and 141/2A2 of Thiruvachi Village, Perundurai Taluk, Erode District and that a part of his land was acquired by the second respondent for the purpose of widening the National Highways Road. According to the petitioner, his land is situated adjacent to the National Highways Road and after acquirement of his lands by the National Highways Authority, he has been denied access to his land and so was also to his neighbouring lands.

4. The petitioner, in this regard, submitted several representations to the National Highways Authority, praying for access in the form of pathway to reach his land and since no response is forthcoming, he filed W.P.No.30083 of 2008 along with the other land owners. The earlier writ petition filed by the petitioner as well as by the other land owners were disposed of by a Single Bench of this Court, vide order dated 16.12.2009, permitting the petitioners therein to submit their representations, with a further direction to the second respondent in those writ petitions to give a disposal within a stipulated time, upon receipt of their representations.

5. The learned counsel appearing for the petitioner would submit that the first respondent, vide impugned Award No.91/2010 dated 06.09.2010, sanctioned the compensation to the land owners for the lands acquired by the Authority, admeasuring to an total extent of 5188 sq.mtrs. comprised in thirteen survey numbers and it includes a portion of the land that belonged to the fourth respondent and was also paid the compensation amount of Rs.1,11,343/-. According to the petitioner, as per the award, the land of the fourth respondent was acquired upon payment of entire compensation by the National Highways Authority, only on the premise that the said portion of land of the fourth respondent would be used for easy access through, to the land of the petitioner as well as to the lands of the neighbouring land owners.

But the fact remains that the fourth respondent, from whom a portion of land was acquired, continued to be in his possession and thereby denied access to the lands of the petitioner and other land owners and hence, the petitioner came forward to file this present writ petition praying for appropriate orders.

6. This Court heard the submission of the learned counsel appearing on behalf of the petitioner.

7. Though the petitioner had prayed for a larger relief,

this Court in the light of the above facts and circumstances, permits the petitioner to submit one more representation to the respondents 1 to 3, along with a copy of this order, as well as the copies of his earlier representations and also enclosing relevant and necessary documents to substantiate his claim, within a period of two weeks from the date of receipt of a copy of this order and the respondents 1 to 3, upon receipt of the same, shall put the fourth respondent on notice and dispose of the representation of the petitioner on merits and in accordance with law, within a period of eight weeks thereafter and communicate the decision taken, to the petitioner as well as the fourth respondent.

8. The writ petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ds
To:

- 1.The Authorized Officer/
District Revenue Officer
National Highways - 47
Collectorate, Erode.
- 2.The Project Director and Manager (Tech)
National Highways Authority of India,
Widening Highways Scheme
N.S.212 - D31, Sri Nagar Colony
Narasothipatti, Salem.
- 3.The Tahsildar
Perundurai Taluk
Perundurai, Erode District.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.73074
+1cc to Ms.S.R.Sumathy, Advocate, S.R.No.72710
+1cc to the Government Pleader, S.R.No.73355

W.P.No.26466 of 2017

GN(27/10/2017)