

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:17.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WA.No.739/2016
&
CMP.No.9601/2016

A.Ramaraj ... Appellant / Writ petitioner

Vs

1. The District Collector,
Namakkal.
2. The District Revenue Officer,
Namakkal.
3. The Divisional Engineer,
Highways, Namakkal. ... Respondents

Prayer:- Writ Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court in WP.No.18817/2016 dated 03.06.2016.

WP.No.18817 of 2016:- Writ petition filed under Art 226 of the constitution of India praying for a Writ of Mandamus for bearing the respondents herein from acquiring the land especially well existing in land acquisition proceedings over the SF.No.252/6 Reddipatti Village, Namakkal District, by considering the representation of the petitioner herein dated 30.04.2016.

For Appellant : Mr.R.Nalliyappan
For Respondents : Mr.A.N.Thambidurai, Spl.GP

JUDGMENT

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

The writ petitioner, aggrieved by the dismissal of the writ petition in WP.No.18817/2016, vide impugned order dated 03.06.2016, has filed the present writ appeal.

2. The request made by the appellant/writ petitioner for change of alignment to save the well from where he is drawing the water for agricultural operation, came to be rejected in the form of dismissal of the writ petition and challenging the legality of the same, has filed this Writ Appeal.

3. It is the case of the appellant/writ petitioner that he owned agricultural land ad-measuring to an extent of 3.62 $\frac{1}{4}$ acres in S.F No.252/5, 252/6 and 252/7b situated at Reddipatti Village, Namakkal District and according to him, the said agricultural land is irrigated through the well located in S.F.No.252/6. It is the claim of the appellant/writ petitioner that the said well is a common well to the appellant/writ petitioner and adjacent land owner and both are irrigating their agricultural lands. Apart from the above said well, no other well is existing to irrigate the lands and it is further stated by the appellant/writ petitioner that the respondent sought lands for formation of outer ring road and initially planned to acquire the agricultural lands in S.F.No.252/3, 252/7A, 252/7B and 252/7C and in pursuant to the same, they erected stones in the property of the appellant/writ petitioner in S.F.No.252/7B and the appellant/writ petitioner made a request to the acquiring authority to acquire the eastern corner of the land existing in SF No.252/7B so that the well can be safe and he can carry out the agricultural work. The petitioner has also pointed out that the other land owners of the property comprised in SF No.252/3, 252/7A and 252 / 7C have also no objection to establish the outer ring road over the said property and however, the respondents proposed to acquire lands where the well exist in S.F.No.252/6 and therefore, the appellant/writ petitioner has filed the writ petition.

4. The learned Judge, after going through the materials, found that the formation of outer ring road are based on expert opinion and all of a sudden, the route cannot be changed. The learned Judge, with a direction not to prevent the authorities by exercising their statutory powers of acquiring the lands for public purpose and that the representation submitted by the petitioner for change of alignment is against the public policy and citing the said reasons, has dismissed the writ petition, vide order dated 03.06.2016. The petitioner aggrieved by the same, has filed this writ appeal.

5. The learned counsel appearing for the petitioner / appellant that even as per the counter, modes of alignment have been suggested and since the agricultural operation of the petitioner is entirely depending upon the well located in Survey No.252/6, a small deviation of alignment is required and in the light of the fact that the petitioner has no objection to acquire other properties other than the said Well, there cannot

be impediment on the part of the respondent to change the alignment and therefore, prays for interference.

6. Per contra, Mr.A.N.Thambidurai, learned Special Government Pleader (appearing) has invited the attention of this Court to the counter affidavit filed by the 3rd respondent and would submit that the formation of outer ring road in the road/alignment is made based upon the expert opinion. Though the well is likely to be closed and thereby agricultural operation will be affected, it cannot be cited as a reason and the petitioner / appellant is adequately compensated in respect of well and therefore, prays for dismissal of the writ appeal.

7. This Court has carefully considered the rival submissions and also perused the materials placed before it.

8. The 3rd respondent in the counter affidavit took a stand that the Technical Committee approved the alignment and as per the procedure in place, for new highways project, normally two or three alignment has been taken for study of various aspects such as length, built up stretches, crossing of existing highways and Railways, usage of Government land, existing monuments & Temple, education institutions, nature of geography etc., by comparing merits and demerits of the alignments, the technical committee approved the best alignment with very minimal damage to the properties of the residents and minimum length so as to minimize the project cost.

9. It is also pointed out by the 3rd respondent that if the alignment is proposed by the appellant/writ petitioner is to be considered by crossing location at existing State Highways at four locations and ODR will also be shifted and will affect the existing built up stretches, education institution and others which means by avoiding a single well may leads to damages numerous buildings.

10. In the considered opinion of the Court, the alignment has been approved by the technical committee comprising of the Superintending Engineers (Highways), Construction and Maintenance, Salem, The Superintending Engineer (Highways), NABARD and Rural Roads Salem, and reached the conclusion and taken the allotment. It is settled portion of law that in cases involving technical grounds based on expert opinion this Court, in exercise of its Jurisdiction under Article 226 of the Constitution of India, may not likely to interfere with the same.

11 It is also pointed out at this juncture, for acquiring the well, the appellant/writ petitioner would have also been paid with adequate compensation. 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 to the reasons assigned by the learned Judge to reach the said conclusion and finds no merit in this writ appeal.

12 The writ appeal is dismissed with the above observations. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

1. The District Collector,
Namakkal.
2. The District Revenue Officer,
Namakkal.
3. The Divisional Engineer,
Highways, Namakkal.

+1cc to Mr.R.Nalliyappan, Advocate Sr. 50085

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WA.No.739/2016
&
CMP.No.9601/2016

KS (CO)
VR(20/09/2017)