

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.8114 of 2017

and

W.M.P.No.37117 of 2017

K.Shanmugasundaram

... Petitioner

Vs

1. State of Tamil Nadu
Represented by its Secretary to Government,
State Highways Department,
Fort St.George,Chennai-600 009.
2. The District Collector,
Coimbatore, Coimbatore District.
3. The Tahsildar,
Mettupalayam Taluk,
Coimbatore District.
4. The Chief Bridge Engineer,
Southern Railway, Chennai-600 033.
5. The Chief Engineer,
National Highways,
Chepauk, Chennai-600 005.
6. The Chief Engineer,
State Highways,Chennai-600 015.
7. The Superintending Engineer,
Highways Department,
Projects Circle,
Coimbatore-641 043.
8. The Divisional Engineer,
Highways,
Near North Kovai Over Bridge,
Mettupalayam Road,
Coimbatore-641 043.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents herein to take all appropriate steps to acquire the required lands including that of the petitioner, paying the compensation to the respective land owners as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for laying the service road with a width of not less than 7 Meters on both sides of the Road Over Bridge now under construction at Kilometer 373/6 at Karamadai near Coimbatore of Nagapattinam-Gudalur-Mysore in lieu of existing level crossing No.10 at Railway at Km.25/6-7 in between Periyanaickenpalayam and Karamadai Railway Stations on NH-67 Extension based on the petitioner's representation dated 09.02.2017 within a time frame fixed by this Court.

For Petitioner : Mr.S.Sathia Chandran

For Respondents : Mr.Akhil Akbar Ali
Government Advocate

O R D E R

This petition is filed by the petitioner for a mandamus to direct the respondents to take necessary steps to acquire the land under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. The petitioner owns a piece of land in S.F.No.70/2A in Karamadai Village, Mettupalayam Taluk, Coimbatore. While so, the respondents begun constructing the railway over bridge between Periyanaickenpalayam and Karamadai Railway Stations and also the service roads on either side of the bridge, and that the land of the petitioner was sought to be used for the purpose without resorting to a proper acquisition as per law. The roads are yet to be laid. But it is covered part of the petitioner's acquired property and the petitioner came to know the information gathered under Right To Information Act. It is in this circumstance, the petitioner has approached this Court for directing the authorities to initiate acquisition proceedings in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013).

3. In the counter, it is indicated the proceedings under Tamil Nadu Highways Act, 2001 would be initiated. However, in the additional typed set of papers filed by the petitioner, a copy of the notice dated 19.07.2017 issued under Section 15 of

the Tamil Nadu Highways Act, 2001, is seen enclosed. This implies that the authorities have already commenced the proceedings to acquire the land. Surprisingly, they have issued notice under Tamil Nadu Highways Act, 2001 which now stands repealed by Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Therefore, 8th respondent is directed to issue a fresh notice in terms of the law now in force within four weeks from the date of receipt of a copy of this order.

4. The learned counsel for the petitioner submitted that the petitioner has filed his objection wherein he has also indicated in the eventuality of the land will be acquired challenging the compensation will be paid under the new Act. This objection has been considered by the Land Acquisition Authority and wherein he has stated that the land is going to be acquired and the compensation would be paid in terms of the Central Act 30/2013. The learned counsel also stated that the design for the service road appears to indicate that the petitioner would be denied the access from his unacquired property. The land acquisition authority shall consider this aspect and ensure that the on going process of laying service roads does not deny the petitioner his right of access, and thereby avoid granting the petitioner any opportunity to approach this Court again for a relief on this head and burden this Court with unnecessarily a litigation.

5. With the above direction/observations, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ssn

To

1. State of Tamil Nadu
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Fort St.George,Chennai-600 009.
2. The District Collector,
Coimbatore, Coimbatore District.

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8. The Divisional Engineer,
Highways,
Near North Kovai Over Bridge,
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+1cc to Mr.S.Sathia Chandran, Advocate, S.R.No.3749

W.P.No.8114 of 2017
and
W.M.P.No.37117 of 2017

VGII (CO)
CS/31.01.18

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