

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:15.02.2018

CORAM

THE HON'BLE Mr.JUSTICE N.SESHASAYEE

W.P.No.21579 of 2014

and MP.No.1 of 2014

1.S.Balakrishnan

2.K.Krishnaveni

... Petitioners

Vs.

1.National Highways Authority of India
Rep by the Deputy Manager & Project Director
Old No.28/1, New No.51/2, 50 Feet Road
Krishnaswamy Nagar, Ramanathapuram
Coimbatore - 641 018.

2.IVRCL Infrastructure and Projects Ltd.,
M22/3RT, Vijayanagar Colony
Hyderabad - 500 057.

3.The District Collector
Coimbatore District
Collectorate Building
Coimbatore - 641 018.

4.The Special District Revenue Officer
(Land Acquisition)
O/o. The National Highways (47 and 6)
No.3, Sowrimuthu Chettiar Road
Red Fields, Coimbatore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the the respondents 1 and 2 to provide safe and convenient approach way, with necessary concrete slabs on the drainage and ramp, to reach the petitioners' land comprised in S.F.No.393/2A1 (eastern portion), situated at Kaniyur Village, Sulur Taluk, Coimbatore District from the adjacent east-west NH47 Road.

For Petitioners : Mr.S.Thangavel

For Respondents : Mrs.Subhashini
for M/s.Wilson Associates [for R1]
Mr.Akhil Akbar Ali
Government Advocate [for R3 & R4]
R2 - No appearance

O R D E R

The short point involved in this case is that the part of petitioners' property in S.F.No.393/2A of Kaniyur Village, Sulur Taluk, Coimbatore District has been acquired for the benefit of the National Highways Authority by the fourth respondent under the provisions of the National Highways Act, 1956. While the petitioners have no complaint either about the acquisition or quantum of compensation paid, the only grounds now expressed by them is that their remaining property has no access from the main road.

2. In the counter affidavit filed on behalf of the first respondent, it is submitted that service road facilities would be provided as per the guidelines of the Government of India, MORTH dated 24.07.2013. Besides, it is also contended that the petitioners are not the parties to the land acquisition proceedings before the Special Revenue Divisional Officer (Land Acquisition). Coimbatore.

3. Ms.Subhashini, the learned counsel appearing for M/s.Wilson Associates made her submission consistent with the stands taken in the counter affidavit filed by the first respondent, on the point that the petitioners are not the parties to the acquisition proceedings concerned.

4. The learned counsel for the petitioners brought to the notice of the Court that property originally belonged to their ancestors and it is only after the family partition, the petitioners obtained their property.

5. It is not so much about whether the petitioners' property was actually acquired or whether the petitioners were before the Land Acquisition Authority. What is significant is, in the garb of acquisition, petitioners' right of access is being denied by the Land Acquisition Authorities, and it does not matter how many families are affected thereby and what the guidelines are issued in this regard. If an owner of the land is denied access to and from his property by such activities of the National Highways Act, it is imperative that they are provided means to access. Infringing the right of easement has a lasting effect, an adverse effect in that, as it directly infringes on the fundamental rights of mobility under Article 19 and right to property under Sec.300-A of the Constitution. Hence, the respondents concerned are directed to ensure that the petitioners are provided with necessary access to the main road in whatever way possible.

6. With the said direction, this petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

ds
To:

- 1.National Highways Authority of India
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Red Fields, Coimbatore.

+1cc to Mr.S.Thangavel, Advocate Sr.No.12112
+1cc to Mr.Wilson Associates, Sr.No.12269
+1cc to Government Pleader SR.No.12873

sm:19.3.2018

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