



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.05.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

W.P(MD)No.11664 of 2018 and
W.M.P(MD)No.10616 of 2018

Revathi

... Petitioner

-vs-

1.The District Collector,
Madurai District,
Madurai.

2.The Competent Authority and
The Special District Revenue Officer (Land Acquisition),
National Highways Scheme,
Madurai District.

3.The National Highways Authority of India,
Rep. by its Project Director,
No.307, Melur Main Road,
K.K.Nagar, Madurai.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents from acquiring the petitioner's house property situated in No.8/44, Koothanpatti, Navinipatti Post, Melur Taluk, Madurai District without giving prior notice and holding an enquiry in terms of section 11 and 15 of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013.

For Petitioner

: Mr.R.Anand

For R1 & R2

: Mr.VR.Shanmuganathan,
Special Government Pleader

O R D E R

This writ petition has been filed, seeking to forbear the respondents from acquiring the petitioner's house property situated in No.8/44, Koothanpatti, Navinipatti Post, Melur Taluk, Madurai District without giving prior notice and holding an enquiry in terms of Sections 11 and 15 of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013.



dispensed with in view of nature of disposal of this case. By consent, the writ petition is taken up for final hearing at the admission stage itself.

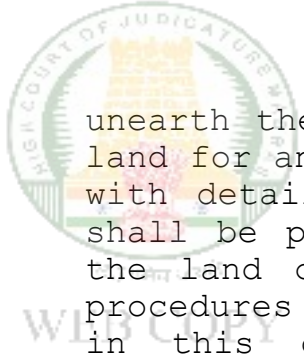
3. It is the case of the petitioner that she had purchased the house in the year 1981 and thereafter, executed a settlement deed in favour of one of his sons. In the month of May, 2018, certain Government Officials, claiming to have been working in the Highways Department, started measuring her house property and on enquiry, it was found that there was a proposal to lay a State Highways from Melur to Karaikudi, for which, her house was sought to be demolished. It is the further case of the petitioner that as per the provisions of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Settlement Act, 2013 (in short "the Act"), issuance of prior notice to the land owners before initiation of such proceedings, is mandatory. In this regard, the petitioner has submitted a representation dated 09.05.2018 to the respondents 2 & 3 for issuance of notice and conducting enquiry as per Act. Since the said representation did not evoke any response, the petitioner is before this Court, seeking for the above direction.

4. Per contra, learned Special Government Pleader appearing for the respondents 1 & 2 would submit that the laying and widening of road by the State Highways is for the utility of public at large and the same cannot be curtailed by the petitioner. The traffic flow in the particular area has become hectic and therefore, it has become imperative to lay a road by widening the existing one. However, he has fairly conceded that no prior notice has been issued to the petitioner before initiation of acquisition proceedings.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for R1 & R2. This Court also perused the materials available on record.

6. It is seen that there was a proposal to acquire the house of the petitioner for the purpose of laying / widening the road between Melur and Karaikudi. It is the grievance of the petitioner that neither prior intimation / notice has been issued nor opportunity of hearing has been afforded to her as per the provisions of law before deciding to acquire her house property. The petitioner has also referred to Sections 11 and 15 of the Act, which contemplate publication of preliminary notification, power of Officers thereupon and hearing of objections from the affected parties. Admittedly, in the given case, even a single notice has not been issued to the petitioner before earmarking her house for demolition for the purpose of laying a road. The petitioner, being shocked over the act of the respondents, had immediately approached the respondents 2 & 3 by way of submitting a representation dated 09.05.2018, which has not been considered so far.

7. A careful reading of Sections 11 and 15 of the Act would



unearth the fact that if at all the Government decide to acquire a land for any public purpose, a notification to the said effect along with details of the land to be acquired in rural and urban areas shall be published in the Official Gazette, etc., with liberty to the land owners to raise objections within sixty days. All such procedures have been omitted to be followed by the respondents 2 & 3 in this case, which will definitely vitiate the acquisition proceedings.

8. Under such circumstances, considering the facts and circumstances of the case, this writ petition is disposed of, directing the respondents, more particularly the 2nd respondent to follow the stipulations laid down under the provisions of law, namely, Sections 11 and 15 of the Act and thereafter, proceed further in the matter of acquisition in accordance with law, by considering her representation dated 09.05.2018. Till then, the respondents are directed not to take any coercive steps in respect of the property of the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To:

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The Competent Authority and
The Special District Revenue Officer (Land Acquisition),
National Highways Scheme,
Madurai District.
- 3.The Project Director,
The National Highways Authority of India,
No.307, Melur Main Road,
K.K.Nagar,
Madurai.

+1CC to Special Government Pleader in SR.No.66539.

+1CC to Mr.R.Anand Advocate in SR.No.66419.

AR

DS/SV/SAR-2 :13.07.2018: 3P/6C

<https://hcservices.ecourts.gov.in/hcservices/>

W.P (MD) No.11664 of 2018
31.05.2018