



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 26.11.2018

CORAM :

WEB COPY

THE HONOURABLE **MR. JUSTICE G.R. SWAMINATHAN**

W.P(MD).No.23430 of 2018

and

W.M.P(MD).No.21268 of 2018

1.M.Soosaivanakkam

2.Christy Vanakkam

... Petitioners

Vs.

1. State of Tamil Nadu,  
Rep., by the District Collector,  
Thiruchirappalli District,  
Trichy.

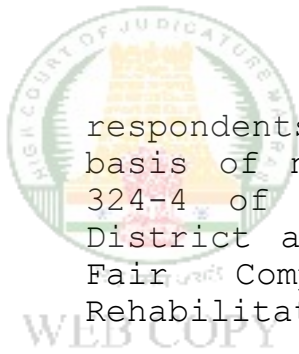
2. The Special District Revenue Officer,  
Land Acquisition, National Highways No.45,  
District Collector's Office,  
(Old Building Office Compound),  
Thiruchirappalli-620 001.

3. The Special Tahsildar,  
Land Acquisition, National Highways No.45,  
Thiruchirappalli,-Dindigul Division,  
District Collector's Office,  
(Old Building Office Compound),  
Thiruchirappalli-620 001.

4. The Project Director,  
National Highways Authority of India,  
O/o., The Project Director,  
PIU, New No.6, Old No.44, 1<sup>st</sup> Floor,  
III Main Road, Pon Nagar,  
Thiruchirappalli-620 001.

5. The Chief Engineer,  
National Highways,  
(Building Development Works)  
87/4, Shanmugam Iyer Road,  
Thillai Nagar,  
Thiruchirappalli-7.

... Respondents



respondents to return the unutilized land of the petitioner on the basis of notification dated 12.07.2007 in re-survey No.324-3B nad 324-4 of Konalai Village, Manachanallur Taluk, Thiruchirappalli District as per the provisions under Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013.

For Petitioners : Mr.S.Titus

For R1 to R3 : Mr.Aayiram K.Selvakumar  
Additional Government Pleader

For R4 : Dr.Rajagopal

### **ORDER**

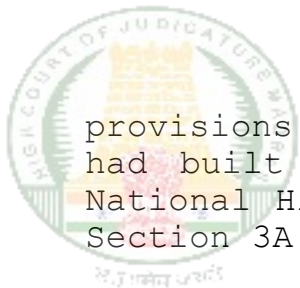
The writ petitioners' case is that their lands comprised in R.S.No. 324-3B and 324/4 of Konalai Village, Manachanallur Taluk, Thiruchirappalli District, were acquired under the provisions of National Highways Act, 1956. They contended that the acquired lands have not been put to use. Therefore, they seek return of the unutilized land. A legal notice dated 12.10.2018 was issued by the writ petitioners. Since there was no response, the present Writ Petition has been filed.

2. The learned counsel appearing for the petitioners invoked Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013). The said provision reads as under:-

"When any land acquired under this Act remains unutilised for a period of five years from the date of taking over the possession, the same shall be returned to the original owner or owners or their legal heirs, as the case may be, or to the Land Bank of the appropriate Government by reversion in the manner as may be prescribed by the appropriate Government. "

3. This Court pointed out that Section 101 of Central Act (30 of 2013) can be invoked only in the case of acquisition under the said Act. Since in this case the acquisition is not under the Central Act (30 of 2013), obviously the said provision cannot be pressed into service.

4. Realizing the implications of the expressions "acquired under this Act" occurring in Section 101, the learned counsel immediately changed tack and holding a volume of old AIR Manual claimed that there is no provision in the National Highways Act, 1956 providing for acquiring lands. He therefore contended that only Land Acquisition Act, 1894 must have been invoked. Since they have not been dispossessed till date, Section 24 of the new Act would come into play. This Court called upon the petitioners' counsel to verify if Section 3A to 3G are found in the book he was holding. The learned counsel submitted that in his book those



provisions are not included. Obviously, the petitioners' counsel had built up his entire case on the strength of the un-amended National Highways Act, 1956, which did not have the provisions from Section 3A to 3G.

5. This Court asked the petitioners' counsel whether he was aware that in the IV schedule of the Act, the National Highways Act, 1956 has been included. The petitioners' counsel pleaded total ignorance.

6. The writ petitioners seek issuance of a Writ of Mandamus. A Writ of Mandamus can be issued only if there is a legal entitlement. The writ petitioners want return of the un-utilised lands that were acquired from them under the National Highways Act, 1956. There is no provision for re-conveyance or return of un-utilised lands in the said Act. Since there is no legal right inhering in the writ petitioners, this Court cannot issue any Writ of Mandamus.

7. This Court notices that the affidavit filed in support of the writ petition has been prepared in a very hasty manner. Arguments were advanced, without even being aware of the relevant provisions. The quality of any judgment is directly proportionate to the quality of advocacy. If overruled decisions and pre-amendment statutes are cited, this Court would definitely be misled. Recently in a major case before me, arguments were advanced on the strength of a overruled decision. In the present case, the learned counsel has been under the impression that the National Highways Act, 1956 does not have the provisions for acquisition. Unless, the Court receives full and proper assistance, it would not be in a position to pass correct orders. That is why even while dismissing this Writ Petition, this Court has proposed to levy a Cost of Rs.1000/- on the counsel.

8. With the above observation, this Writ Petition stands dismissed with costs of Rs.1000/- (Rupees One Thousand only). Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The District Collector,  
Trichirappalli District,  
Trichy.



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87/4, Shanmugam Iyer Road,  
Thillai Nagar,  
Thiruchirappalli-7.

+1cc to Mr.C.ArulVadivel@Sekar, Advocate Sr.No.97143

+1cc to Mr.Dr.R.Rajagopal, Advocate Sr.No.96841

+1cc to Mr.S.Titus, Advocate Sr.No.96750

+1cc to SPL.Govt.Pleader, Sr.No.97039

+1cc to SPL.Govt.Pleader, Sr.No.97075

RMK

KM/SV/SAR1/26.12.2018/4P/11C

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and  
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