



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.18863 of 2018

WEB COPY

A.V.P.Murugesan @ Murugan

...Petitioner

Vs.

1) The Special District Revenue Officer/
Authorized Officer for Land Acquisition,
National Highways 45 E & 220,
Extension Scheme,
(Dindigul - Theni- Kumuli Rtoad),
Theni District,
District Collectorate Complex, Theni

2) The Special Tahsildar,
Land Acquisition,
NH 45 Ext & 220, Unit II,
Thendral Nagar, Uthamapalayam,
Theni District.

3) The Commissioner,
Gudalur Town Municipality,
Uthamapalayam Taluk,
Theni District.

4) The Project Director,
National Highways Authority of India,
Theni District.

... Respondents

* R4 is suo moto impleaded vide Court order dated 03.10.2018 in W.P. (MD) No.18863 of 2018.

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 & 2 herein to pay compensation to the petitioner in respect 779.30 sq meters of petitioner's property acquired in survey no.1419, Gudalur Village, Uthamapalayam Taluk for the purpose of extension and formation of four way track road from Dindigul to Kumuli via, Theni.

For Petitioner: Mr.M.Thirunavukkarasu

For RR 1 & 2 : Mr.M.Rajarajan,GA

For R3 : Mr.M.Karuppasamy

For R4 : Mr.C.Arulvadivel @ Sekar

O R D E R

The case of the petitioner is that his lands were acquired under the National Highways Act, 1956 and the acquisition proceedings are also over. The petitioner, now wants a portion of the land to be re-conveyed to him so that his dwelling house can be spared. In this regard, the petitioner gave a representation dated 27.07.2018. Since the same has not been considered, the present Writ Petition has been filed.

2. Heard Mr.M.Rajarajan, learned Government Advocate appearing for the first and second respondents and Mr.C.Arulvadivel @ Sekar, learned standing counsel for the fourth respondent. As rightly pointed out by the learned standing counsel appearing for the respondents, there is no provision for re-conveyance under the National Highways Act, 1956. Only if the writ petitioner can establish the legal entitlement, this Court can issue a writ of mandamus calling upon the authorities to consider his representation. If the legal entitlement itself is absent, the question of issuing a Mandamus will not arise.

3. At the same time, this Court has to give some relief to the petitioner. The petitioner's dwelling house and lands have been acquired. From the very beginning, the petitioner has been objecting to the acquisition proceedings, that is why he has not received the compensation amount also. The said amount has been deposited in the joint account under Section 3(H) of the National Highways Act, 1956.

4. Since the writ petitioner has been expressing his objection from the very beginning, this Court can safely come to a conclusion that he is not accepting the quantum of compensation also. Therefore, the only remedy open to the petitioner is to ask for the enhancement of the compensation under Section 3(G)(5) of National Highways Act, 1956. If the petitioner herein files an Appeal before the District Collector under the said provision seeking enhancement of the compensation within a period of three weeks from the date of receipt of a copy of this order, the District Collector shall entertain the same without reference to Limitation and proceed to redetermine the amount of compensation payable to the petitioner.

5. With these directions, the Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS-III)

/True Copy/



To

1) The Special District Revenue Officer/
Authorized Officer for Land Acquisition,
National Highways 45 E & 220,
Extension Scheme,
(Dindigul - Theni- Kumuli Rtoad),
Theni District,
District Collectorate Complex, Theni

2) The Special Tahsildar,
Land Acquisition,
NH 45 Ext & 220, Unit II,
Thendral Nagar, Uthamapalayam,
Theni District.

3) The Commissioner,
Gudalur Town Municipality,
Uthamapalayam Taluk,
Theni District.

4) The Project Director,
National Highways Authority of India,
Theni District.

- 1 CC TO Mr.M.KARUPPASAMY , ADVOCATE IN SR No. 94868.
- + 1 CC TO Mr.C.Arulvadivel @ Sekar, ADVOCATE IN SR No.94827.
- + 1 CC TO Mr.M.Thirunavukkarasu, ADVOCATE IN SR No.94738.
- +1 cc to Special Government Pleader, SR.No.94988.

STS

DS SKN SAR1 30 11 2018 3P 9C

Order in
W.P. (MD) No.18863 of 2018