



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.11.2018

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THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

W.P(MD) .No.19641 of 2018
and W.M.P.(MD) .No.17421 of 2018

Meenal

.. Petitioner

Vs.

1.The Project Director,
National Highway Authority of India,
Madurai.

2.The Competent Authority (Land Acquisition) Cum-
District Revenue Officer,
(Land Acquisition, National Highways)
Madurai, Madurai District.

.. Respondents

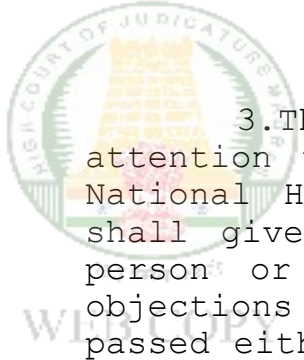
PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records relating to the order passed by the 2nd respondent in his proceedings dated 19.06.2018 made in Na.Ka.No.B3/4489/2018 and quash the same as illegal and consequently direct the 2nd respondent to consider the petitioners representation dated 21.05.2018 by providing an opportunity of being heard to raise her objections within a period that may be stipulated by this court.

For Petitioner : Mr.R.Gandhi

For Respondents : Mr.C.Arulvadivel @ Sekar
Standing Counsel for R1
Mr.M.Rajarajan,
Government Advocate for R2

ORDER

The petitioner's property is the matter of acquisition under National Highways Act, 1956. Notification under Section 3-A(1) of National Highways Act, 1956 was issued on 15.02.2018. It was published on 23.02.2018. The petitioner herein filed her objections on 21.05.2018. The same was rejected on 19.06.2018 by the second respondent. The said order is challenged in this writ petition.



3. The learned counsel appearing for the petitioner drew my attention to the statutory mandate set out under Section 3-C(2) of National Highways Act, which states that the competent authority shall give the objector an opportunity or being heard either in person or by legal practitioner. Only after hearing the said objections and after making such further enquiry, order is to be passed either allowing or disallowing the objections. His specific contention is that in this case, no such personal hearing was afforded. He, therefore, wanted this Court to set aside the impugned order.

4. I am unable to agree with the said contentions of the petitioner's counsel. As rightly pointed out by the learned counsel appearing for the first respondent, even though such requirement is set out in Section 3-C(2) of the Act, objection in the present case was not received within 21 days from the date of publication of the notification. As rightly pointed out, the notification was published in a Daily on 23.02.2018. Therefore, the objections should have been lodged within a period of 21 days thereafter. In the present case, the objections were hopelessly time barred. In fact the authority was not even obliged to look into such objections which were received out of time. Therefore, when the authority was not even obliged to consider such objections, the fact that the authority came to consider, cannot put the authority in a worse position.

5. That apart, certain subsequent developments had taken place. This writ petition was filed on 10.09.2018. In the meanwhile, notification under Section 3-D(1) of the Act was published on 05.04.2018 and after enquiry, it was concluded on 24.08.2018. In view of the obstruction made by the petitioner, the award amount could not be finalised with regard to the building. It is, thus, clear that the award enquiry itself got concluded even before filing of the present writ petition.

6. The learned standing counsel appearing for the first respondent brought to my notice the decision reported in (2007) 7 MLJ 1021 in the case of Shri Andal Alagar Kalyana Mandapam Private Limited, rep. by its Managing Director Ms.V.Premalatha, Chennai and Others Vs. Union of India, rep. by its Secretary, Ministry of Shipping, Road Transport and Highways, Department of Road Transport and Highways, New Delhi and Others. It was held in the said decision that no writ petition can be entertained after the award is passed. Of course, in the present case, even though the award has been passed as a whole covering all the acquisition cases, the building value is yet to be finalised as far as the petitioner is concerned. But, that is only because of the obstruction caused by the petitioner herself. The petitioner cannot take advantage of her own wrong. As already pointed out all the acquisition steps have already got concluded. The writ petition itself was filed only on 10.09.2018. Therefore, the writ petition can be said to be hit by ~~laches~~ also. In this view, this Court finds no reason to interfere with the impugned order.



7. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-III)

To

1. The Project Director,
National Highway Authority of India,
Madurai.

2. The Competent Authority (Land Acquisition) Cum-
District Revenue Officer,
(Land Acquisition, National Highways)
Madurai, Madurai District.

+1CC to Mr. R. Gandhi, Advocate, SR.No. 94899

+1CC to Mr. C. Arulvadivel @ Sekar, Advocate, SR.No. 94824

+1CC to the Special Government Pleader SR.No. 94960

W.P (MD) .No. 19641 of 2018
12.11.2018

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ES/PM/SAR 3/13.12.2018/3P/6C