

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2019

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.3194 & 3195 of 2013

1. V.P.Sridharan
2. V.P.Vijayakumar .. Petitioners in both the petitions

-VS-

1. Competent Authority and
Special District Revenue Officer
Land Acquisition-National Highways
Vellore District
Vellore 632 009
2. The Special Tahsildar
Land Acquisition
National Highways
Collectorate
Vellore 632 009
3. The Project Director
National Highways Authority of India
7E, 5th Cross, Jakkappan Nagar
Krishnagiri 635 001 .. Respondents in both the petitions

W.P.No.3194 of 2013 is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records in Rc.G6/1842/02 dated 1.11.2006 on the file of the first respondent herein and quash the same and consequently direct the respondents to re-convey the lands in Survey No.227/2B (Sub Division No.227/2B2) of an extent of 15 cents in Konavattam Village, Vellore Taluk, Vellore District.

W.P.No.3195 of 2013 is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records in NHAI/18011/23.3/KR-3/2006-PIU-K'giri/1028 dated 18.6.2012 on the file of the third respondent herein and quash the same and further direct the respondents to re-convey the lands in Survey No.227/2B (Sub Division No.227/2B2) of an extent of 15 cents in Konavattam

Village, Vellore Taluk, Vellore District.

For Petitioners:: Mr.C.Kasikumar

For Respondents:: Mr.M.Elumalai
Government Advocate
for R1 & 2
Mr.Richardson Wilson for
M/s P.Wilson Associates
for R3

ORDER

These two writ petitions have been filed by the very same petitioners challenging the correctness of the impugned order dated 1.11.2006 passed by the Competent Authority and Special District Revenue Officer, Land Acquisition-National Highways, Vellore, the first respondent herein in W.P.No.3194 of 2013 and again challenging the correctness of the impugned order dated 18.6.2012 passed by the Project Director, National Highways Authority of India, Krishnagiri, the third respondent herein in W.P.No.3195 of 2013, to quash the same with a consequential direction to the respondents to re-convey the lands in Survey No.227/2B (Sub Division No.227/2B2) having an extent of 15 cents in Konavattam Village, Vellore Taluk, Vellore District.

2. Learned counsel for the petitioners, assailing the impugned orders, has argued that when the petitioners had purchased the land in Survey No.227/2B having an extent of 6000 sq.ft., (15 cents) vacant site with superstructure at Konavattam Village, Vellore Taluk by a registered sale deed dated 3.5.93 from Mr.Syed Mohammed Sahib and his wife Mrs.Nazeer Begum, which was later on sub-divided as Survey No.227/2B2, this property was notified for acquisition purpose under the provisions of the National Highways Act, 1956 in the Daily Thanthi newspaper dated 8.8.2002. Immediately the petitioners submitted their objection to the competent authority explaining that this piece of land belonging to them may not be necessary for laying the four lane road. However, the petitioners' land along with several pieces of land were acquired for the purpose of four laning the Krishnagiri-Ranipet section of National Highway No.46 between Govindampadi to Perumugal village. As the acquisition proceedings were initiated without the consent of the petitioners, they approached the competent authority with their objections clearly mentioning that if their land is not required for laying the four lane road, the land may be re-conveyed back to them. It is also stated that the petitioners gave their consent for acquiring the land in question on condition that if

the property is not used for the purpose for which it was acquired, the land should be returned back to the owners. Since the land acquired from the petitioners was not utilised, they came to this Court with Writ Petition No.11450 of 2006 challenging the notification issued by the first respondent under the provisions of the National Highways Act, 1956 and to forbear the respondents from declaring the land of the petitioners as a Highways poramboke. This Court, by order dated 21.7.2006, considering the rival submissions, taking a view that the petitioners are not entitled to the relief sought for, dismissed the said writ petition. However, so far as the submission relating to the re-conveyance of land is concerned, this Court gave liberty to the petitioners to make a representation. Accordingly, the petitioners gave their representation dated 15.9.2006 to the first respondent requesting to re-convey the land if it is not utilised for the purpose for which it was acquired. Pursuant to the order passed by this Court, the present impugned order has been passed by the first respondent citing the following four reasons:-

- (a) Administrative set up for NH-46, Kr-3 package
- (b) Parking of essential vehicle/plant used for maintenance and upkeep
- (c) Storage/stacking yard
- (d) Geometrical considerations for sight distance to avoid a blind corner for safe movement of traffic.

3. Continuing his arguments, learned counsel for the petitioners submitted that the reasons assigned in the impugned order for rejecting the request of the petitioners for re-conveyance cannot be sustained, for the sole reason that the National Highway No.46 was already completed and they also have an office at Krishnagiri for the purpose of looking after the National Highway and all the administrative functions, parking of essential vehicles, plants, maintenance of articles etc., including storage are kept only in Krishnagiri. Moreover, for the last seven years, they have not used the acquired land for any purpose. Besides, the acquired land is situate between the service lane and the road from Vellore. In addition thereto, lot of open space is available and further the vehicles coming from the service lane can either go straight to the Highway or turn right at the fourth turn for the purpose of reaching the road. Likewise the vehicles coming from Vellore also can reach the National Highway without any difficulty. Concluding his arguments, he has stated that when the petitioners are the joint owners of the property, their request for re-conveyance can be considered, inasmuch as there is a 70 feet space available between the end of the road and the land acquired.

4. Detailed counter affidavits have been filed by the respondents. The learned counsel for the third respondent submitted that after the land belonging to the petitioners was acquired for laying the four lane road under the Prime Minister Golden Quadrilateral Project, the petitioners did not even object to the acquisition proceedings in Survey No.227/2B2 in Konavattam Village, Vellore District within the stipulated period. Since the objections ought to have been filed within 21 days, the petitioners submitted their objections only on 16.10.2002 and they were considered in accordance with Section 3-C(1) of the National Highways Act and were disallowed on 16.12.2002 by the District Revenue Officer, Vellore. Considering this aspect, this Court, by order dated 21.7.2006 in W.P.No.11450 of 2006, while dismissing the writ petition filed by the petitioners on the ground that they are not entitled to challenge the notification issued under Section 3-A(1) of the Act, taking note of the submission of the petitioners that their land is situate far away from the National Highway, gave them liberty to approach the respondents for re-conveyance of land as per law. When the representation given by the petitioners was duly considered and it was rejected by the impugned order citing the four reasons mentioned above, the contention of the petitioners that the land is not being used for the purpose it was acquired is baseless. Therefore, he submitted that the question of re-conveyance of the land does not arise at all, inasmuch as the said land is very much required for the purpose mentioned above. With regard to the payment of compensation, it is stated that the compensation amount was already deposited with the District Revenue Officer, Vellore and this was also communicated to the petitioners. But till date, the petitioners have not collected the compensation amount which is lying with the District Revenue Officer, Vellore. When the petitioners have to collect the compensation amount from the District Revenue Officer, Vellore, which is lying with him for quite a long time, the order passed by this Court dismissing the writ petition with an observation to reconsider their case, if so advised, for re-conveyance of the land, provided the respondents do not require the land for any other purpose, also has been complied with. Therefore, the writ petitions are liable to go.

5. I also find merits on the submissions made by the learned counsel for the third respondent. The reason being that when the petitioners' land having an extent of 15 cents in Survey No.227/2B2 in Konavattam village was acquired, the petitioners did not even object to the acquisition proceedings within the stipulated time of 21 days. However, this Court, in its earlier order dated 21.7.2006 passed in W.P.No.11450 of 2006, considering the plea of the petitioners that 70 feet space

is available between the end of the road and the land acquired and there is no need to keep the petitioners' land for future use, giving liberty to the petitioners to make out a representation, directed the respondents to consider the same. Pursuant to the order passed by this Court, the impugned order has been passed by the first respondent citing the following four reasons:-

- (a) Administrative set up for NH-46, Kr-3 package
- (b) Parking of essential vehicle/plant used for maintenance and upkeep
- (c) Storage/stacking yard
- (d) Geometrical considerations for sight distance to avoid a blind corner for safe movement of traffic.

6. A perusal of the above mentioned four reasons does not warrant this Court to interfere with the impugned order. Equally, when the amount of compensation in respect of the acquired land in question has been lying with the District Revenue Officer, Vellore, it is for the petitioners to go and collect the same. Hence, finding no merits whatsoever to interfere with the impugned orders, the writ petitions are dismissed. Needless to mention that if the petitioners approach the District Revenue Officer, Vellore for receiving the compensation amount, the same shall be disbursed to them forthwith. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Competent Authority and
Special District Revenue Officer
Land Acquisition-National Highways
Vellore District
Vellore 632 009

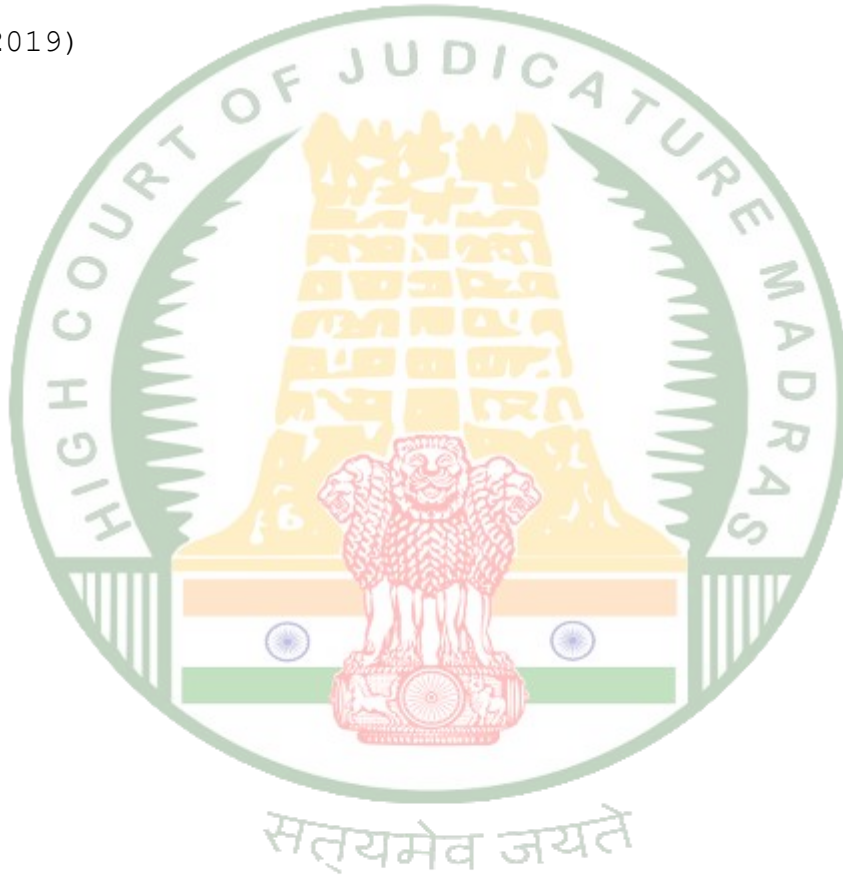
2. The Special Tahsildar
Land Acquisition
National Highways
Collectorate
Vellore 632 009

3. The Project Director
National Highways Authority of India
7E, 5th Cross, Jakkappan Nagar
Krishnagiri 635 001

+1cc to M/s P.Wilson Associates, Advocate SR.89834
+1cc to Mr.C.Kasikumar, Advocate SR.89850
+1cc to the Government Pleader SR.90710

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AD(CO)
CB(20/12/2019)



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