

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.5478 of 2012
and MP Nos.2 and 3 of 2012

Aranga.Ellangovan

... Petitioner

-vs-

1. The Competent Authority and the
Special District Revenue Officer,
(L.A.N.H.NO.68)
Ram Nagar Road, Swaranapuri (2nd Gate),
Salem - 4

2. The Special Tahsildar,
Nation Highway No.68 (Division I),
Kallakurichi Thaluk,
Villupuram District.

.... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus to call for the records relating to the Notification of the 1st respondent in vide ROC No.834/09 dated 24.10.11 and subsequent communication vide Na.Ka.834/2009 dated 9.12.2011 in so far as acquiring the land situated in Survey No.200/8, 200/9, 200/10, 200/11, 215/1, 215/2, 215/3 in Prithivimangalam Village, Kallakurichi Taluk, Villupuram Distirct and consequently directing the respondents to Realign/shift the course of National Highways without disturbing the residential house based on the petitioner's representation dated 171.2012 and quash the same.

For Petitioner::

Mr.R. Syed Mustafa

For Respondents::

Mr.M. Elumlai

Government Advocate

ORDER

The petitioner has filed the writ petition seeking to issue a Writ of Certiorarified Mandamus to call for the records relating to the Notification of the 1st respondent in vide ROC

No.834/09 dated 24.10.11 and subsequent communication vide Na.Ka.834/2009 dated 9.12.2011 in so far as acquiring the land situated in Survey No.200/8, 200/9, 200/10, 200/11, 215/1, 215/2, 215/3 in Prithivimangalam Village, Kallakurichi Taluk, Villupuram District and consequently directing the respondents to Realign/shift the course of National Highways without disturbing the residential house based on the petitioner's representation dated 17.1.2012 and quash the same.

2. The case of the petitioner is that the respondents had already acquired the petitioner's land of 3.35 acres for NH 68 Salem to Ulundurpet - Bypass at Prithivimangalam Village, Kallakurichi Taluk, Villupuram District, he has not objected for the same since it is acquired for larger public interest therein. While so, National Highways is going to acquire the petitioner's lands in wet R.S.No.200/8, 200/9, 200/10, 215/1, 215/2, 215/3 of 4219 sq.metres-residential house-10,000 sq.ft building constructed in the year 1998 in the name and style of Arangan Gardens for starting Educational Institution. Objecting the second acquisition, he has given a detailed representation dated 17.01.2012 stating that he is the land owner of Survey Nos.200/8, 200/9, 200/10, 200/11, 215/1, 215/2, 215/3 of 4219 sq.metres-residential house-10,000 sq.ft building constructed in the year 1998 in the name and style of Arangan Gardens for starting Educational Institution, using for Godown Office and for essential commodities. It is the further case of the petitioner that if the said land is acquired for N.H.68 and for bypass expansion and for the T Shape cutting road(alignment) in the bypass road purpose, the petitioner has to shift the entire unit, residential house and terraced building to other places, for which, he will be incurring loss of huge amount. But the respondents have passed an Award.

3. The learned counsel for the petitioner would submit that the land, in question, has been attacked repeatedly second time by the respondents for expansion of National Highways. The respondents have already acquired the petitioner's land having extent of 3.35 acres for NH 68 Salem to Ulundurpet - Bypass at Prithivimangalam Village, Kallakurichi Taluk, Villupuram District. Therefore, repeated acquisition of the petitioner's land is unsustainable and unjustifiable.

4. The petitioner objected heavily against the second acquisition of his land by giving a detailed representation dated 29.11.2011 under Section 3C(1) of the National Highways Act stating that since earlier they acquired 3.35 acres, the respondents cannot once again acquire the petitioner's lands covered in Survey Nos.200/8, 200/9, 200/10, 200/11, 215/1, 215/2, 215/3 in Prithivimangalam Village, Kallakurichi Taluk,

Villupuram District of 4219 sq.metres-residential house-10,000 sq.ft building constructed in the year 1998 in the name and style of Arangan Gardens.

5. Ignoring the agony faced by the petitioner and the reasonable claim made to Realign/shift the course of National Highways without disturbing the residential house, the respondents passed rejection order under Section 3C(2) of the Act on 09.12.2011 and thereafter issued Official Gazette on 29.03.2012 and once again they have also passed an Award dated 10.05.2013.

6. At this stage, Mr.M.Elumalai, learned Government Advocate filed counter and stated that the writ petition has become infructuous, since the petitioner questions the Rejection Order dated 09.12.2011, not challenging the correctness of the Official Gazette published on 29.03.2012 and also the subsequent Award dated 10.05.2013, nothing survives in the writ petition.

7. The learned Government Advocate further submitted that the Award has been passed in respect of all other similarly placed persons, which has not been questioned. Now since the project is almost over except on the petitioner's land, no purpose would be served by entertaining the request of the writ petitioner by re-aligning.

8. Considering the fact that the respondents have already passed an Award in respect of other land owners, which has not been questioned, nothing survives in the writ petition. Hence the writ petition stand dismissed. The Interim stay granted by this Court shall stand vacated. Consequently, M.P Nos.2 and 3 of 2012 are closed.

Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

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To

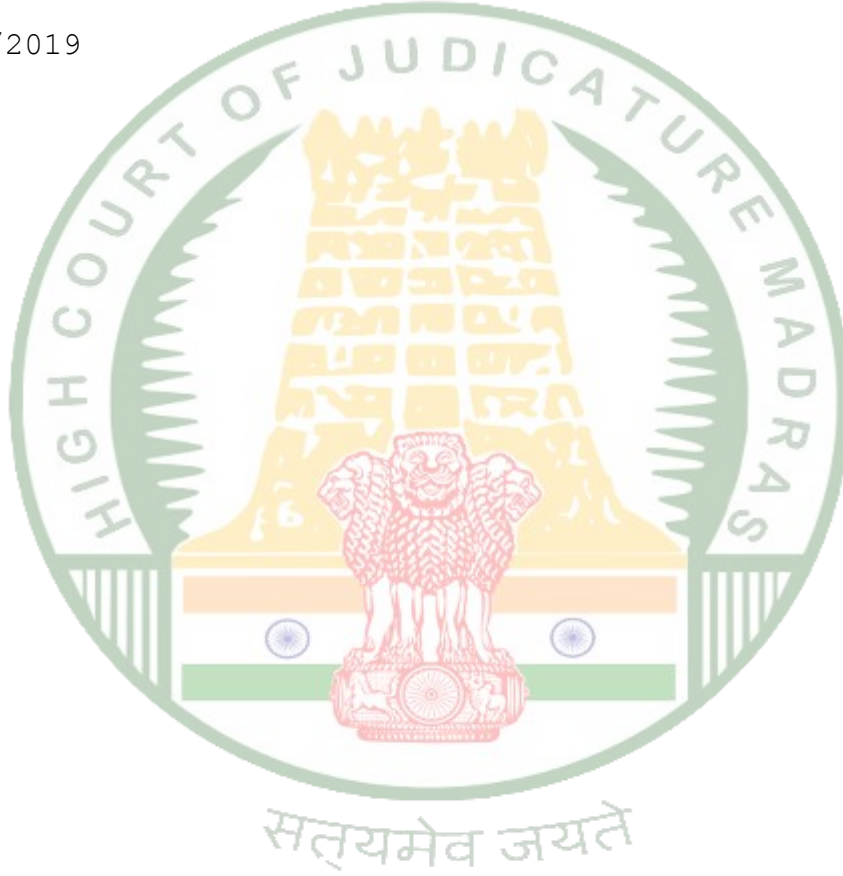
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+1cc to Mr.R.Syed Mustafa, Advocate Sr.77873
+1cc to the Government Pleader Sr.78457

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srg 04/11/2019



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