

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.09.2019

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Writ Petition No.28223 of 2019

K.Raju

.. Petitioner

/versus/

1.Competent Authority and
Special District Revenue Officer,
Highways Nos.7,46 & 47(LA),
At Krishngiri.

2.Project Director(NHAI),
Door No.213-3/D 3-1, Sri Nagar Colony,
Narasothipatti,
Salem 636 004.

3.Chairman(NHAI),
G5-6, Sector Dwaraka,
New Delhi 110 075.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to either allot an alternative site in S.No.56 equivalent to the encroached area of 280 sq.mts or to demolish the superstructure constructed in the illegally encroached area of 280 sq.mts.

For Petitioner :Mr.P.B.Sampath Kumar

For Respondents :Mr.D.Raja, AGP for R1 to R3

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O R D E R

By consent, the writ petition is taken up for final disposal at the admission stage itself.

2. Heard Mr.P.B.Sampath Kumar, learned counsel appearing for the petitioner and Mr.D.Raja, learned Additional Government

Pleader, who takes notice for respondents 1 to 3.

3. The allegation of the petitioner is that under the National Highways Act, only 1070 sq.mts of his land in S.No.55/3A was sought to be acquired, but the excess of 280 sq.mts of land has been encroached upon by the respondents. Hence, he gave a representation to the respondents to measure his land and either pay compensation for the excess land occupied by them or to hand over the land held in excess. In response to his representation dated 12.12.2018, the District Revenue Officer has issued proceedings stating that in S.No.55/3A, only 1070 sq.mts of land has been acquired and in S.No.55/3B, 352 sq.mts of land has been taken possession. Except this, no land in excess in S.No.55/3A has been acquired. For the acquired extent of land the petitioner has been paid the compensation and therefore, there is no necessity to pay any more compensation or hand over any portion of the land. The petitioner herein in response to this communication dated 03.01.2019 has sent a letter dated 11.01.2019 stating that on comparing the FM sketch for the land bearing S.No.55/3A, the land held in excess by the respondents could be easily seen and he has also indicated that the field may be measured. If the field is measured, he can establish the excess land held by the respondents.

4. In continuation of the above representation, the petitioner has filed the present writ petition seeking Mandamus directing the respondents to either allot an alternative site in S.No.56 equivalent to the encroached area of 280 sq.mts or to demolish the superstructure constructed in the illegally encroached area of 280 sq.mts.

5. It is fact disputed by the petitioner and the respondents regarding the actual extent acquired. Through Mandamus the disputed fact cannot be settled. If the petitioner is of the impression that the respondents have acquired more land than what subjected to the acquisition proceedings, he can seek the assistance of the revenue authorities to measure the land and identify the excess, if any. Therefore, this writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.Competent Authority and
Special District Revenue Officer,
Highways Nos.7,46 & 47(LA),
At Krishngiri.

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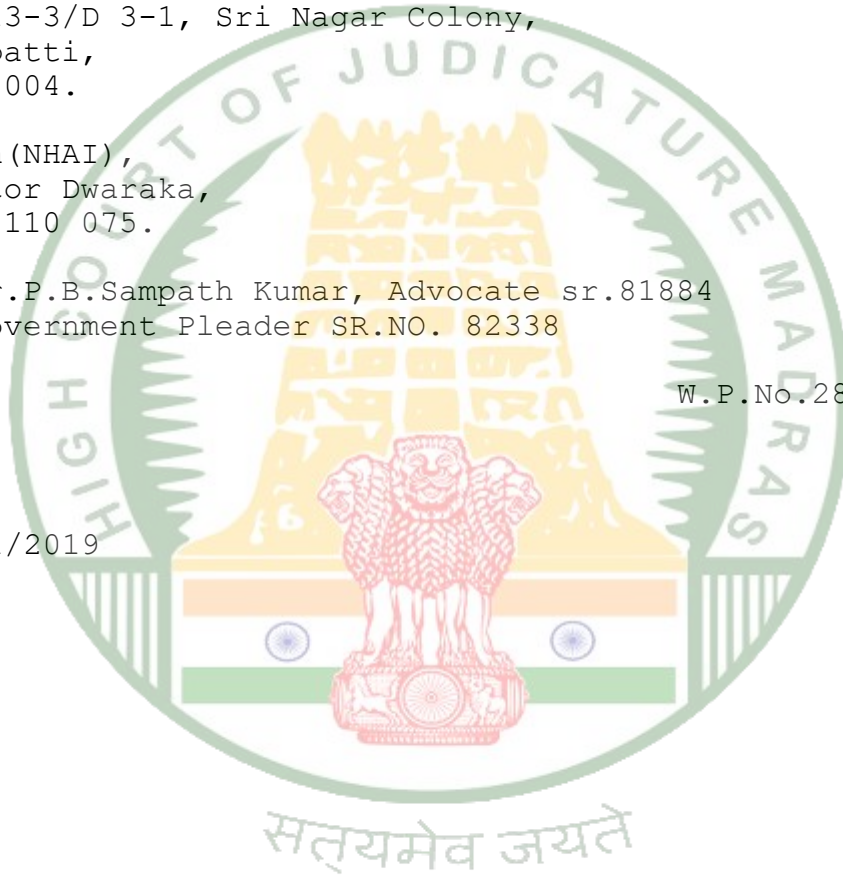
3.Chairman(NHAI),
G5-6, Sector Dwaraka,
New Delhi 110 075.

+1cc to Mr.P.B.Sampath Kumar, Advocate sr.81884
+1cc to Government Pleader SR.NO. 82338

W.P.No.28223 of 2019

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nr 05/11/2019



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