

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.27948 of 2018
and
WMP.No. 32517 of 2018

A. Ravi ... Petitioner

Vs.

1. The Authorised Officer
Special District Revenue Officer (LA)
National Highways No.68
Ram Nagar Road
Salem - 636 004.
 2. The Special Tahsildar (LA)
National Highways No.68
Attur Taluk
Salem District.
 3. The Project Director
National Highway Authority
of India,
D. No.212, Sri Nagar
Narsoothhypathy, Kuranguchavadi
Salem - 636 004.
- Respondents

Prayer: This Writ Petition is filed under Article 226 of Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records in Na.Ka. No. 257/2009 (N.H. No.68) dated 01.10.2013 on the file of the first respondent and quash the same and direct the respondents to pay compensation to the petitioner for the property situated in T.S. No.206, Block No.21, Ward No.B, Mullaiavadi, Attur Town, Salem District to an extent of 874 sq.mts and pass such further orders.

For Petitioner : Mr. A. Thiaga Rajan
Senior Counsel
for Mr. M. Nallathambi

For Respondents : Mr. C. Thirumaran,
Spl. Government Pleader for R1 & R2

Mr.Su. Srinivasan for R3

O R D E R

The prayer in the Writ Petition is to quash the proceedings of the 1st respondent in Na.Ka. No. 257/2009 (N.H. No.68) dated 01.10.2013 and direct the respondents to pay compensation to the petitioner for the property situated in T.S. No.206, Block No.21, Ward No.B, Mullaiavadi, Attur Town, Salem District to an extent of 874 sq.mts.

2. The learned counsel for the petitioner would submit that the petitioner is the owner of the property situated in T.S. No.206, Block No.21, Ward No.B, Mullaiavadi, Attur Town, Salem District to an extent of 6050 sq.mts. The petitioner obtained planning permission from the Deputy Director, Town and Country Planning, Salem. As per the planning permission obtained from the competent authority, the petitioner executed a gift deed in favour of the Commissioner, Attur Municipality, gifting the pathway. Whiles, the respondents department acquired the subject matter of the property, which is part of land in T.S. NO.206, by issuing notification in Daily Thanthi under Section 3A (3) of the National High Ways Act, 1956 to an extent of 3831 sq.mts. Subsequently, another notification was issued by the department acquiring an extent of 498 sq.mts., from the petitioner. Hence, a total extent of 4346 sq.mts. was acquired from the petitioner. The petitioner appeared for enquiry before the 1st respondent on 10.01.2013 and represented that he has been paid compensation only to an extent of 2974 sq.mts. and that compensation has not been paid for the remaining extent of 874 sq.mts. of land, acquired by the respondents. The 1st respondent passed the impugned order dated 12.01.2013, stating that the said property measuring an extent of 874 sq.mts is earmarked for a public purpose and therefore the petitioner is not entitled for any compensation for that extent of land. Aggrieved by the same, the writ petition is filed before this Court.

3. Mr. C. Thirumaran, learned Special Government Pleader would submit that the petitioner has been paid the compensation amount based on the records submitted before the authorities concerned. Now, the petitioner is seeking compensation for the remaining 874 sq.mts. He further submitted that the request of the petitioner was not considered mainly on the ground that the aforesaid extent of land was entrusted to the Attur Municipality by way of gift deed executed in the year 2004. Now the property is vested with the Municipality and therefore the petitioner is not entitled for any compensation. It is also brought to the notice of this Court, the decision of the Hon'ble Division Bench of this Court in W.A. No.1557 and 1558 of 2012 dated 31.03.2015, wherein in paragraph 17 it is observed as follows :-

" 17. In this case, the writ petitioners are having only limited right over the

property and therefore they are not entitled to full compensation as like as full owners of the property, but they are entitled to compensation proportionate to the rights in the approved layout. In view of the above facts and circumstances, we are of the considered view that since the property was not transferred to the local body, the local body is not at all entitled for any compensation in the approved layout set apart for public purpose. Further, in Clause 4(v) of G.O.Ms. No.141 Industries (SIPCOT-LA) Department, it is stated as follows :-

4.(v) The District Collector should also ensure that the roads, common space and OSR lands in the approved layout subjected to acquisition are gifted to the concerned local bodies. In case SIPCOT takes over, they should compensate the local bodies. "

In the facts of the abovesaid case, the layout has been approved by the Planning Authority and subsequently the petitioner has executed a gift deed in favour of the Municipality and hence it is held that the petitioner cannot seek for any compensation.

4. Since the petitioner has already executed the gift deed in favour of Attur Municipality for public purpose, namely, a pathway, the petitioner can have no legal right to seek for compensation for the gifted portion of land. This Court finds no force in the submission of the learned senior counsel appearing for the petitioner and hence is not inclined to interfere with the order passed by the 1st respondent.

5. In fine, the Writ Petition fails and the same is dismissed. Consequently, the connected Miscellaneous Petition is closed. No order as to costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

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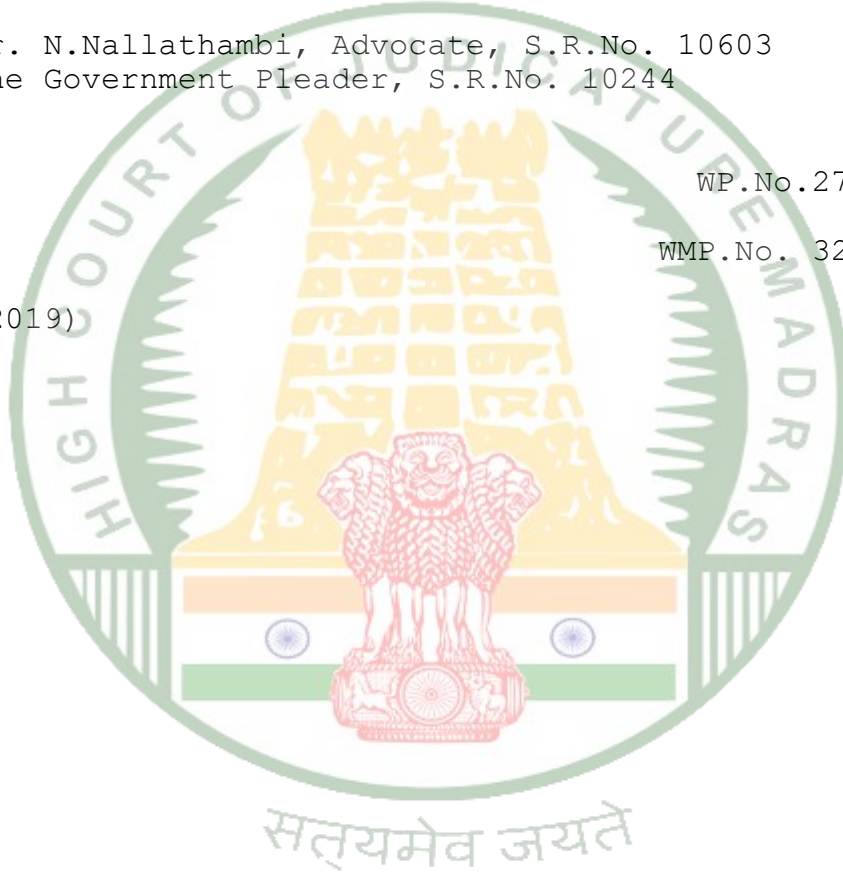
+1cc to Mr. N.Nallathambi, Advocate, S.R.No. 10603

+1cc to the Government Pleader, S.R.No. 10244

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and

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RR(CO)
GN(11/03/2019)



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