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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.01.2019
PRONOUNCED ON: .04.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD).No.21273 of 2018 and
W.M.P.(MD)Nos.19110 to 19112 & 21893 of 2018

1.S.Manimaran
2. M.Poongothai
3. M.Ramesh Kumar ... Petitioners

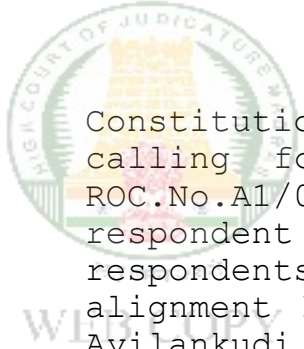
Vs.

1. The Union of India,
Rep. by the Secretary,
Department of Road Transport and Highways,
G 5 & 6, SECTOR 10,
Dwarka, New Delhi - 10.
2. The National Highways Authority of India,
Rep. by its Regional Officer,
2nd and 3rd Floor,
Vijay Krishna Plaza,
No.1, Lake Area, Melur Main Road,
Mattuthavani,
Madurai - 625 007.
3. The Deputy General Manager(Tech)
Cum Project Director,
The National Highways Authority of India,
Project Implementation Unit,
Plot No.3, Surya Towers,
2nd Floor, 1st East Street,
K.K.Nagar, Madurai - 20.
4. The Competent Authority and
Special District Revenue Officer,
Land Acquisition (NH-744A),
National Highways Authority of India,
Plot No.3, Surya Towers,
2nd Floor, 1st East Street,
K.K.Nagar, Madurai - 20.

... Respondents

<https://hcservices.ecourts.gov.in/hcservices/>

PRAYER : Writ Petition is filed under Article 226 of the



Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in ROC.No.A1/01/2018 dated 08.09.2018 on the file of the fourth respondent and quash the same as illegal and consequently direct respondents 1 to 4 to consider the petitioners claim for alternative alignment by laying the National Highway from Kayampatti Road to Ayilankudi Road within the time frame stipulated by this Court.

For Petitioners : Mr.T.Lajapathi Roy
 For R-1 : Mr.G.Rajaraman
 For R-2 & R-3 : Mr.C.Arulvadiivel @ Sekar
 For R-4 : Mr.M.Rajarajan,
 Government Advocate.

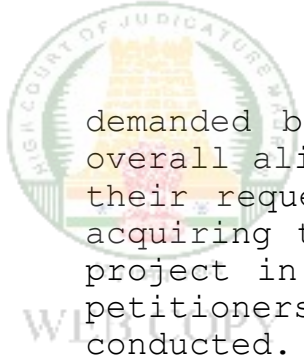
O R D E R

The Writ petitioners are owning lands in Tamaraipatti Village, Madurai District. Their lands are sought to be acquired for the purpose of building, maintenance, management and operation of NH 744A between Km0.000 and Km29.960, (Madurai Ring Road-Phase I) in Madurai District. Notification under Section 3(A)(1) of the National Highways Act was issued declaring the intention to acquire the lands for implementing the said project. The Writ petitioners' lands are also covered by the said notification. The petitioners question the impugned notification in this Writ petition.

2. The petitioners' counsel contended that the lands which sought to be acquired are wet agricultural lands. He also contended that the notification issued under Section 3(A)(1) of the Act is bereft of particulars. He assailed the notification primarily on the ground of vagueness. He also contended that the so called hearing was only an eyewash. A mechanical stereotyped order has been passed by the fourth respondent. It does not deal with the Writ petitioners' contentions at all. Yet another submission was that the authority who dealt with their contentions was not a judicial officer. Even though the awards have been passed, the petitioners have not received any compensation and that therefore, they will very much have *locus* to question the impugned proceedings.

3. I regret that I cannot accept the contentions of the learned counsel appearing for the petitioners. In the notification published under Section 3(A)(1) of the Act, survey numbers, extent, character of the land and name of the village have been mentioned. It has also been mentioned that the land plan and other details of the land covered under the notification were available and could be inspected by the interested persons at the office of the competent authority.

4. I also cannot agree with the contention that the objections of the Writ petitioners have not been properly considered. As rightly pointed out by the learned Standing counsel, the competent authority has clearly stated that if the alignment is altered as



demanded by the Writ petitioners, it would seriously disturb the overall alignment and that therefore it is not possible to accede to their request. The competent authority has emphasized the need for acquiring the petitioners' land for the purpose of implementing the project in question. The authority gave an opportunity to the Writ petitioners to participate in the enquiry. The enquiry was indeed conducted. Therefore, the contention of the petitioners' counsel that the enquiry was a farce and an empty formality will have to be rejected.

5. The contention that the petitioners' agricultural lands ought not to be acquired cannot also be accepted. This is because there is no such embargo on acquisition of agricultural lands. The petitioners' counsel placed reliance on the decision reported in (2012) 1 SCC 792 (Raghubir Singh Sehrawat V. State of Haryana). But the said decision cannot be applicable to the case on hand because the present acquisition proceedings are not under the provisions of the Land Acquisition Act, 1894. On the other hand, the impugned proceedings have been issued under the National Highways Act, 1956. The public purpose, in the present case is to form a Highway. Therefore, this case will have to be viewed differently.

6. The learned Standing counsel placed reliance on the decision of the Hon'ble Supreme Court reported in (2011) 12 SCC 69 (Union of India V. Kushala Shetty). Paragraph No.28 of the said decision reads as under:-

"28. Here, it will be apposite to mention that N.H.A.I. is a professionally managed statutory body having expertise in the field of development and maintenance of national highways. The projects involving construction of new highways and widening and development of infrastructure in the country, are entrusted to experts in the field of highways. It comprises of persons having vast knowledge and expertise in the field of highway development and maintenance. N.H.A.I. prepares and implements projects relating to development and maintenance of national highways after thorough study by experts in different fields. Detailed project reports are prepared keeping in view the relative factors including intensity of heavy vehicular traffic and larger public interest. The Courts are not at all equipped to decide upon the viability and feasibility of the particular project and whether the particular alignment would subserve the larger public interest. In such matters, the scope of judicial review is very limited. The Court can nullify the acquisition of land and, in the rarest of rare cases, the particular project, if it is found to be ex facie contrary to the mandate of law or tainted due to mala fides. In



the case in hand, neither has any violation of mandate of the 1956 Act been established nor has the charge of malice in fact been proved. Therefore, the order under challenge cannot be sustained."

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7. The contention that since the competent authority is not a judicial officer, in view of the decision of the Hon'ble Supreme Court reported in (2016) 9 SCC 791 (Lalji Bhai K.S. V. State of Gujarat), this Court will have to interfere cannot also be accepted.

8. As rightly pointed out by the learned Standing counsel appearing for N.H.A.I, the Hon'ble Supreme Court did not have the National Highways Act, 1956 in mind. The decision of the Hon'ble Supreme Court was rendered while construing the provisions of PMP (Petroleum and Minerals Pipelines (Acquisition of the right of use in land) Act, 1962. The Hon'ble Supreme Court held that the competent authority must be some one who was or who held a judicial office not lower in rank than that of a Subordinate Judge. But that was not the sole criteria. It was also mentioned that he must be some one having a legally trained mind. Admittedly, the District Revenue Officer is a legally trained person. This Court can take judicial notice of the fact that he is discharging various Quasi Judicial functions. He is the revisional authority in Patta cases. Thus, by discharging the statutory functions attached to the office of the District Revenue Office, any candidate holding that post acquires a legally trained mind.

9. I am satisfied that the authorities have scrupulously adhered to the procedure laid down in the National Highways Act. I hold that the contentions raised by the petitioners are lacking in substance. I dismiss this Writ petition. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

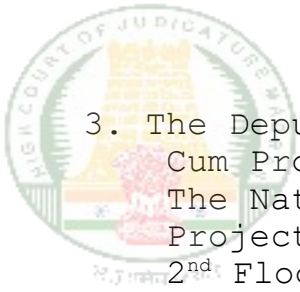
Assistant Registrar (AS)

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Sub Assistant Registrar (CS)

To

1. The Secretary,
Department of Road Transport and Highways,
G 5 & 6, SECTOR 10, Dwarka, New Delhi - 10.
2. The National Highways Authority of India,
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+1cc to Mr.T.Lajapathi Roy, Advocate, SR.No.59859

+1cc to Mr.C.Arulvadivel @ Sekar, Advocate, SR.No.59712

+1cc to Special Government Pleader, SR.No.59890

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SP/29.04.2019/5P/8C