



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2019

CORAM:

WEB COPY

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

W.P. (MD) No. 13764 of 2019
and
W.M.P. (MD) No. 10309 of 2019

Hasan Aliyar

... Petitioner

Vs.

1. The Competent Authority cum
Special District Revenue Officer,
(Land Acquisition - National Highways),
Collectorate,
Ramanathapuram.

2. The Special Tahsildar,
Madurai - Dhanuskodi NH 49 Expansion Uni - I,
Paramakudi,
Ramanathapuram District.

3. The Project Director,
National Highways Authority of India,
Subramaniapuram,
Karaikudi.

(R3 impleaded vide Court order dated 25.06.2019 in W.M.P. (MD)
No. 10622 of 2019)

... Respondents

Prayer: The petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to consider the grievance for re-alignment of the proposed expansion of the National Highways - 49, Paramakudi to Dhanuskodi at Palangulam Village, Ramanathapuram Taluk.

For Petitioner	: Mr. Pinaykash for M/s. Chetnad Legal Solutions
For Respondents	: Mr. Rajarajan, G.A. for R1 and 2 Mr. Arul Vadivel @ Sekar for R3

ORDER

The prayer in the Writ petition is for a Writ of Mandamus, directing the respondents to consider the grievance for re-alignment of the proposed expansion of the National Highways - 49 at Paramakudi to Dhanuskodi at Palangulam Village, Ramanathapuram Taluk.



2. Heard Mr. Pinaykash, learned counsel for the petitioner, Mr. M. Rajarajan, learned Government Advocate appearing for the respondents 1 & 2 and Mr. Arulvadivel @ Sekar, learned standing counsel appearing for the third respondent.

3. The petitioner's land was sought to be acquired under the National Highways Act, for highways projects and according to the learned counsel appearing for the petitioner, though there has been Government land i.e., Poramboke land very nearby, the acquisition authority, instead of having the alignment in the Government land, has made to run through the private lands, including the land of the petitioner and therefore, in this regard, the petitioner has given an objection on 10.10.2018 by registered post to the respondents, which was not at all considered and therefore, the petitioner is before this Court with the aforesaid prayer.

4. However, the learned standing counsel appearing for the third respondent would submit that notification under Section 3A dated 19.04.2018 was published on 07.05.2018. Therefore, under Section 3C(1) if there is any objection that shall be made within 21 days from the date of such publication and within such time, neither the petitioner nor any other land owners have given objection except one namely, Ibrahim, whose objection has been considered and decided by the respondents.

5. Insofar as the case of the petitioner is concerned, he has not given any objection and therefore, there has been no question of considering his objection for the purpose of deciding the re-alignment as well as the acquisition.

6. In this regard, the learned standing counsel for the third respondent would also submit that, since no objection was made within 21 days from the date of publication i.e., 07.05.2018, Section 3C enquiry was conducted on 20.06.2018 and was only one objector, that is not the petitioner and after 3C enquiry, his objection also was rejected and 3D declaration also has been made on 10.04.2019. Thereafter, 3G enquiry also had been conducted on 27.05.2019. There also, even though an opportunity was available to the petitioner, he did not chose to appear and it is either under the stage of awarding the compensation or could have been already awarded.

7. However, the learned counsel appearing for the petitioner would submit that, if at all the petitioner's objection dated 10.10.2018 is to be considered, as a belated one, not within the 21 days time, as contemplated under Section 3C(1) of the Act, at least, a chance now may be given to the petitioner to raise his objection with regard to the reasonable compensation payable to the petitioner even though the time for such enquiry under Section 3G was over. This plea the petitioner's counsel has made, only in the peculiar circumstances, where so far the award has not been passed or determined.

8. However, the learned standing counsel appearing for the third respondent submitted that, if at all any award is passed already, the plea now raised by the petitioner to consider his representation for fixing the compensation may not arise and that



can be rejected in limini.

9. I have heard the learned Government Advocate appearing for the respondents 1 and 2, also who would submit and reiterate the stand taken by the third respondent in the above said issue.

10. As has been rightly pointed by the learned standing counsel appearing for the third respondent that 21 days time was lapsed in June 2018 itself whereas, the petitioner has made the objection for realignment only on 10.10.2018, admittedly, therefore, it was belated. Hence, within the meaning of Section 3C(1), it can be construed that there was no valid objection except one person, whose objection has already been considered and therefore, the petitioner's objection dated 10.10.2018 need not be considered by the respondents. Therefore, on that score, the petitioner cannot make out any case.

11. Insofar as the present plea raised by the learned counsel for the petitioner is concerned, the petitioner can be given a chance to represent his case for fixing a reasonable compensation for the land acquired. Though, normally, this prayer could not be accepted by this Court, in view of the peculiar facts and circumstances of the case, even though the petitioner has given an objection on 10.10.2018, since the same was out of time, within the meaning of Section 3C(1) of the Act, and as of now, there is no proof to show that the award has been passed by the respondents, a chance may be given to the petitioner to put-forth his case only enabling the respondents to fix the compensation and not for any other purpose, including the purpose of realignment etc.

12. In that view of the matter, this Court is inclined to dispose of the writ petition with the following direction:

That the petitioner shall be permitted to give a representation in writing within one week from the date of receipt of a copy of this order to the respondents, especially the first respondent, who on receipt of the same, can consider the same and decide and accordingly, award can be passed, if the same has not already been passed as on today. The said exercise shall be undertaken by the first respondent, within a period of two weeks from the date of receipt of such written plea by the petitioner as indicated above.

13. It is made clear that the said plea shall only be confined with regard to the quantum of award or reasonable compensation to be passed by the authority under Section 3G of the Act and for not any other purpose. The same shall be decided as indicated above, within the time stipulated, purely on merits and in accordance with law.

14. With these directions, this Writ petition is disposed of. No costs. Consequently, connected W.M.P. is closed.

Sd/-

Assistant Registrar (CS-III)



To

1.The Competent Authority cum
Special District Revenue Officer,
(Land Acquisition - National Highways),
Collectorate,
Ramanathapuram.

2.The Special Tahsildar,
Madurai - Dhanuskodi NH 49 Expansion Uni - I,
Paramakudi,
Ramanathapuram District.

3.The Project Director,
National Highways Authority of India,
Subramaniapuram,
Karaikudi.

+1 CC to M/s.C.ARUL VADIVEL @ SEKAR, Advocate (SR-75321[F] dated
15/07/2019)

+1 CC to M/s.SPL GP (SR-75442[F] dated 16/07/2019)

W.P. (MD) No.13764 of 2019
15.07.2019

nbj
MS/06.09.2019/4P.6C