

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2020

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.25600 and 27440 of 2011
and M.P.Nos.1 and 1 of 2011

J.Rani

... Petitioner in
W.P.No.25600 of 2011

1.M.Anjaladevi
2.P.Vasantha
3.A.Anjalam
4.S.Saroja
5.S.Lakshmi
6.P.Subramani
7.A.Sathiskumar
8.G.Rajamani
9.M.Pachiyammal
10.K.Malarkodi
11.G.Sellaperumal @ Kaliperumal
12.S.Periammal
13.K.Kanakkan
14.S.Chandra
15.Jayaraman

... Petitioners in
W.P.No.27440 of 2011

1.Director of Planning,
National Highways Authority of India,
Salem - 636 004.

2.The Authorized Officer and
Special District Revenue Officer,
Land Acquisition, National Highways No.68,
Salem - 636 004.

3.Special Tahsildar,
Land Acquisition,
National Highways No.68,
Attur, Salem District.

4.District Collector,
Salem District.

5.Tahsildar,
Attur Circle,
Salem District.

6.The Deputy Superintendent of Police,
Attur Sub-Division, Salem District.

... Respondents

in

both Writ Petitions

Prayer in W.P.No.25600 of 2011: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents herein to pay adequate compensation in terms of the National Highways Act for the house site patta property of the petitioner situated in Survey No.300/5 in Plot NO.3 at Selliyampalayam, Appammasamudram Village Panchayat, Narasingapuram Post, Attur Circle, Salem District and also provide all rehabilitation benefits as per the National Rehabilitation and Resettlement Policy 2007, within a time frame.

Prayer in W.P.No.27440 of 2011: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents herein to pay adequate compensation in terms of the National Highways Act for the house site patta property of the petitioner situated in Old Survey NO.300/2 and New Survey No.300/5 in Plot NO.3 at Selliyampalayam, Appammasamudram Village Panchayat, Narasingapuram Post, Attur Circle, Salem District and also provide all rehabilitation benefits as per the National Rehabilitation and Resettlement Policy 2007, within a time frame.

For Petitioners

in both W.Ps. : M/s.G.Bala and Daisy

For Respondents

in both W.Ps.

R1 & R2 : Mr.Richardson

for M/s.P.Wilson Associates

R3 to R6 : Mr.M.Elumalai

Government Advocate

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COMMON ORDER

Heard M/s.G.Bala and Daisy, learned counsel appearing for the petitioners, Mr.Richardson, learned counsel appearing for the respondents 1 and 2 and Mr.M.Elumalai, learned Government Advocate appearing for the respondents 3 to 6.

2.The petitioners seek for a direction upon the respondents to pay compensation for the acquisition of the house sites and demolition of the super structure put up by them. It is admitted that the compensation for the superstructure has been computed and most of the petitioners have received the same. The petitioners now seek for a direction for payment of compensation for the house site which was acquired. Initially the reason for not being able to disburse the compensation was on account of the classification of the lands as the lands continued to remain as 'cart track' in the revenue records. Therefore, the third respondent by communication dated 16.06.2011 addressed the 5th respondent to effect change in classification so as to enable to compute the compensation payable to the land owners. At that juncture, the Revenue Department appears to have taken a stand that the assignment granted in favour of the petitioners way back in the year 1992 is liable to be cancelled for violation of the condition of assignment.

3.It is stated in the counter affidavit that there has been violation of the condition regarding the construction of the house in the said plot within a period of six months and if that is not done, then the land will revert back to the Government and no compensation is payable. Admittedly, till 2011 the Revenue Department nor the Department which granted free house site patta took any action against the petitioner for cancellation of assignment. No notice was issue to the petitioners rather the fact remains that wherever there was construction put up, the petitioners were paid compensation for the superstructure. Therefore, these facts will clearly show that at this distance of time, the Revenue Department which assigned the property in favour of the petitioners cannot raise a stand that the assignment was liable to be cancelled. The fact remains till date. No order of cancellation of assignment has been passed and communicated to the petitioner. Therefore, it has to be held that the order of assignment remain intact. If that is so, the petitioners having been dispossessed from the lands in question for the project of National Highways are bound to receive reasonable compensation to be computed in accordance with law. Furthermore, in the counter affidavit filed by the second respondent, more particularly, in paragraph 7, it has been admitted that the classification of the land has been changed from cart track to village site and forty house site pattas have been issued. In more than one place in the counter affidavit, the second respondent would state that the petitioners are only enjoyers of the property as they have violated the conditions of assignment.

4.As observed earlier, such a plea cannot be raised by the

second respondent for the first time by way of a counter affidavit in the writ petition filed in the year 2011 when the assignment was done in the year 1992. Therefore, it is conclusively held that the assignments granted in favour of the petitioners/assignees is valid. Consequently, they are entitled for compensation in accordance with the relevant statute.

5. In the result, the writ petitions are allowed and the fifth respondent is directed to send appropriate proposal to the respondents 2 and 3 with regard to the classification of the land indicating that the lands are village sites/house sites and based on that proposal, the respondents 2 and 3 shall compute the compensation payable to the petitioners for the lands after issuing notice to the petitioners. As mentioned above, since the petitioners have already received compensation for the superstructure, the same shall be excluded while computing the compensation payable. The above direction be complied with within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

CS(/01/2019)

cse

To

1. Director of Planning,
National Highways Authority of India,
Salem - 636 004.
2. The Authorized Officer and
Special District Revenue Officer,
Land Acquisition, National Highways No.68,
Salem - 636 004.

3.Special Tahsildar,
Land Acquisition,
National Highways No.68,
Attur, Salem District.

4.District Collector,
Salem District.

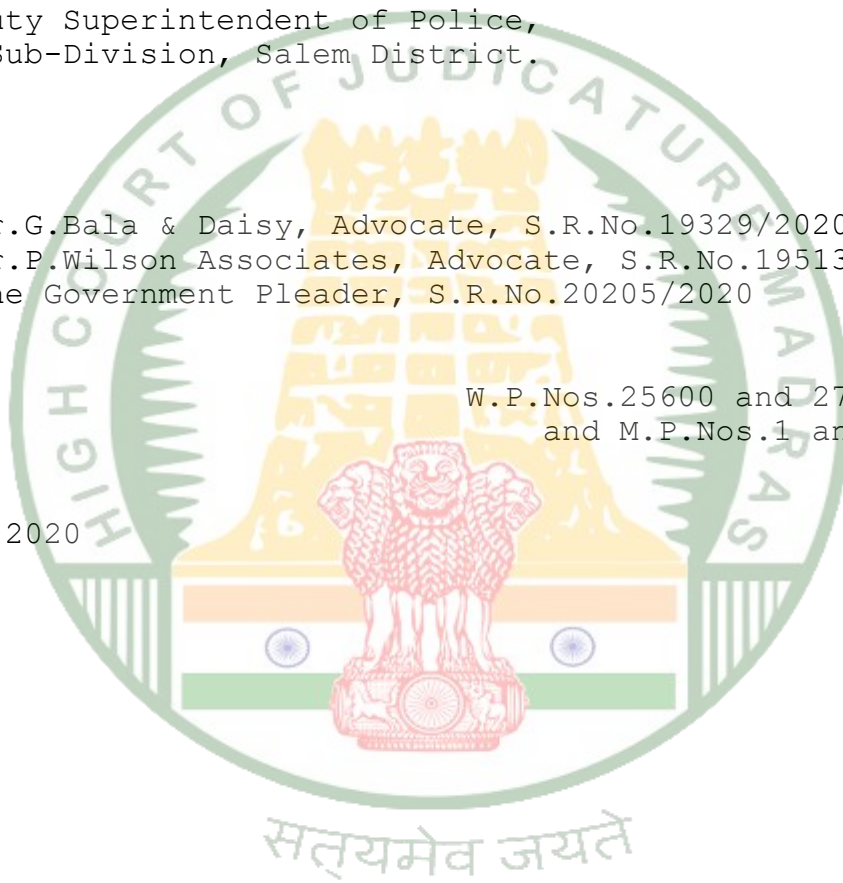
5.Tahsildar,
Attur Circle,
Salem District.

6.The Deputy Superintendent of Police,
Attur Sub-Division, Salem District.

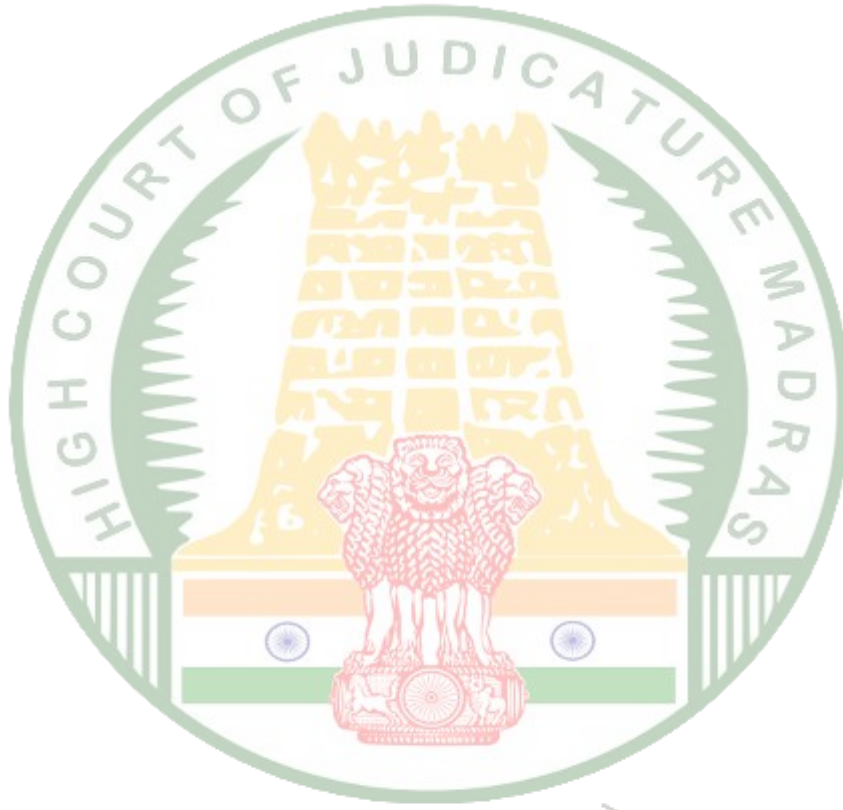
+lcc to Mr.G.Bala & Daisy, Advocate, S.R.No.19329/2020
+lcc to Mr.P.Wilson Associates, Advocate, S.R.No.19513/2020
+lcc to the Government Pleader, S.R.No.20205/2020

W.P.Nos.25600 and 27440 of 2011
and M.P.Nos.1 and 1 of 2011

GP/ (CO)
nvi/27.05.2020



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