

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:03.11.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.No.760 of 2019

Tamil Selvi

...Appellant/Petitioner

Vs.

- 1.Union of India,
rep. by its Secretary to Government of India,
Ministry of Shipping, Road Transport and
Highways Department,
New Delhi.
 - 2.The National Highways Authority of India,
rep. by its Project Director,
Incharge of NH 45C,
Vikravandi-Kumbakonam-Thanjavur Section,
Thanjavur District.
 - 3.The Competent Authority,
Viz., The Special District Revenue Officer (Land Acquisition),
National Highways NH 45C,
Vikravandi-Kumbakonam-Thanjavur Section,
Thanjavur.
- ...Respondents/Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 21.12.2018 made in W.P.No.7681 of 2013.

W.P.No.7681 of 2013 Prayer :-

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the entire records of the first respondent in notification S.O.No.69 (E) published in the Gazette of India extraordinary No.65 part 2, Section 3, Sub Section (ii) dated 7.1.2013 at pages 1 to 14 and consequential paper publication published in the Dailythanthi and New Indian Express on 15.2.2013 by the third respondent under Section 3-A of National Highways Act, 1956 and quash the

same in respect of lands belonging to the petitioner situate in Survey Nos.3/1A and 3/1B of Kanchanayakkanthottam Village, Thanjavur Taluk, Thanjavur District as unconstitutional, arbitrary, non-est in eye of law, and illegal and order to drop the acquisition proceedings in respect of lands belonging to the petitioner situate in Survey Nos.3/1A and 3/1B of Kanchanayakkanthottam Village, Thanjavur Taluk, Thanjavur District.

For Appellant : Mr.V.Raghavachari

For Respondents : Mr.Richardson Wilson
for M/s.P.Wilson Associates
for respondent No.2

: Mr.V.Anandha Murthy
Addl. Government Pleader
for respondent No.3

JUDGMENT

(Delivered by The Hon'ble Chief Justice)

Heard Shri V.Raghavachari, learned counsel for the appellant; Shri Richardson Wilson, learned counsel for the second respondent and Shri V.Anandha Murthy, learned Additional Government Pleader for the third respondent.

2. Learned counsel for the appellant and learned counsel for the second respondent - National Highways Authority of India have relied upon the communication dated 10.9.2020, which was in response to a compromise proposal that was mooted before this Court. The said communication dated 10.9.2020 is re-produced herein under:

"No.NHAI/PIU/Thanj/11019/35/2013/1532

Date : 10.09.2020

To
Tmt.N.Tamilselvi,
W/o. A.NavaneethaKrishna,
No.48A/69A, Santhome High Road,
Foreshore Estate,
Chennai.

Sub: Reply to the compromise proposal submitted by you in the matter of N.Tamilselvi Vs Union of India and 2 others pending in W.A.No.760 of 2019 before the Hon'ble Madras High Court - Reg.

Ref:Your compromise proposal dated 25.07.2020.

Madam,

Without prejudice to the rights and contentions of the Respondents including the NHAI & Union of India in the Writ Appeal No.760 of 2019 pending before the Hon'ble Madras High Court, in view of the compromise proposal filed by you in W.A.No.760 of 2019, we give you the following reply.

In your claim proposal, you have requested the Central Government to:

- 1) Provide sufficient space on ground to access from western side of the unacquired land to the eastern side of the unacquired land to enable the movements of tractors, lorries and easy passage for taking the water from one side to the other.
- 2) Facilitate free movement of men, materials, water and vehicles and not to construct any embankments.
- 3) Provide service road on the Western side keeping in view of the future development of the road.

The said proposal has been placed before the appropriate authority for their consideration, and I am to communicate the following decision to you:

1. Your request for construction of service road is not technically and commercially feasible and is therefore rejected.
2. In so far as your request for "providing sufficient space on ground to access from western side of the unacquired land to the

eastern side of the unacquired land to enable the movements of tractors, lorries and easy passage for taking the water from one side to the other", we can provide one additional span of 15-20 m to the Major Bridge at Km 161/030 which will facilitate access from one side of the land to the other side including the land in question, provided you withdraw the above Writ Appeal and surrender the land acquired by the Central Government which is the subject matter of the Writ Appeal on payment of compensation.

3. The other proposals are not acceptable.

You are therefore requested to inform us of your final decision in view of the above, so as to place the same before the Hon'ble Court and proceed with the hearing of the Writ Appeal in case the above proposal is not acceptable to you.

Yours faithfully,
Sd/- xxxx
(P.A.Ravichandran)
Project Director
NHAI, PIU-Thanjavur"

3. The issue, therefore, relating to acquisition of the land comes to a close with the aforesaid compromise arrived at between the parties and the appellant will therefore be under an obligation to hand over possession, which stood protected in terms of the interim order dated 1.6.2019.

4. Learned counsel for the appellant submits that he will be at liberty to claim his right of compensation in accordance with law and learned counsel for the second respondent also does not dispute this position.

5. It is informed by learned counsel for the second respondent that the enquiry in terms of Section 3G of the National Highways Act, 1956, is underway and the appellant may participate in the same in order to resolve the same. We, accordingly, direct so.

The writ appeal is, therefore, disposed of in terms of the aforesaid and the judgment of the learned Single Judge dated 21.12.2018 shall stand modified to the aforesaid extent. No costs. Consequently, C.M.P.No.6033 of 2019 is closed.

Sd/-
Assistant Registrar(CS-II)

// True Copy//

Sub Assistant Registrar

bbr

To

- 1.The Secretary to Government of India,
Union of India,
Ministry of Shipping, Road Transport and Highways Department,
New Delhi.
- 2.The Project Director,
National Highways Authority of India,
Incharge of NH 45C,
Vikravandi-Kumbakonam-Thanjavur Section,
Thanjavur District.
- 3.The Competent Authority,
Viz., The Special District Revenue Officer (Land Acquisition),
National Highways NH 45C,
Vikravandi-Kumbakonam-Thanjavur Section,
Thanjavur.

+1cc to M/s.Wilson , Advocate, SR.No.35543

सत्यमेव जयते

W.A.No.760 of 2019

MG (CO)
KKV/11/12/2020

WEB COPY