

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.02.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.6497 of 2013
and M.P.No. 1 of 2013

Naseemunisa

...Petitioner

-vs-

1. Government of India,
Represented by its Secretary,
Ministry of Road Transport and National Highways,
New Delhi.
2. The District Collector,
Office of the Collectorate,
Vellore District.
3. The Special Thasildar, (L.A.),
Land Acquisition,
Office of the Collectorate,
4th Floor, Vellore - 9.
4. The Project Director,
The National Highways Authority of India,
Office of the NHAI, No.7E, 5th Cross,
Jakkanpan Nagar,
Krishnagiri - 635 001.

... Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to resurvey the survey Nos. 325/7B and 325/8B to the correct extent of 30 meters from the centre of NH 46 as required for the right of way for 6 laning of Krishnagir - Walajahpet in NH 46 in the state of Tamil Nadu, Vellore District - Pallikonda Village and notify the correct and extent in the Government Gazette.

For Petitioner	:	Mr. Vedavallikumar
For Respondents	:	R1- No appearance
		Mr.M. Elumalai
		Government Advocate[R1 & R2]
		Mr. Richardson Wilson
		for M/s. Wilson Associates [R4]

ORDER

Heard Mr.Vedavallikumar, learned counsel for petitioner, Mr.M. Elumalai, learned Government Advocate for 2nd and 3rd respondents and Mr. Richardson Wilson for M/s.Wilson Associates, learned counsel for 4th respondent.

2. With consent of learned counsel on either side, the writ petition itself is taken up for final disposal.

3. This writ petition is filed to direct the respondents to resurvey the survey Nos.325/7B and 325/8B to the correct extent of 30 meters from the centre of NH 46 as required for the right of way for 6 laning of Krishnagir - Walajahpet in NH 46 in the state of Tamil Nadu, Vellore District - Pallikonda Village and notify the correct and extent in the Government Gazette.

4. Undoubtedly, the prayer sought for in the writ petition is not granted because the petitioner has indirectly attempted to challenge the Land Acquisition Act under the National Highways Act, which has attained finality and the lands have been acquired and utilised for the National Highways/NH46. The learned counsel for the petitioner asserts that vast land has been taken away and the petitioner is an age old lady and survives without any family support and has no source of income. Since the matter involves a civil dispute, the question of fact is that the Court cannot venture into the same in a petition under Article 226 of Constitution of India. Equally, it needs to be pointed out that the petitioner cannot indirectly challenge the land acquisition proceedings by way of a writ petition with a prayer as sought for herein.

5. In fact, the 4th respondent had given a reply to the petitioner on 10.07.2012 pointing out that the structure is located at 23.5 meters from the Centre line at Km.97/360 to Km.97/370 on RHS of NH-46 and the proposed Right of way requirement for six laning at the above location fixed at 30 meters and therefore, the 4th respondent has made it clear that the land is mandatorily required for the project. As pointed out earlier, the petitioner has not challenged the Land Acquisition proceedings. Therefore, the petitioner cannot interfere with the requirement of the National Highway nor the proposed width of the Right of Way. However, the petitioner has given representations to the 3rd respondent on 23.07.2012 and 19.02.2013 stating that an excess extent of 4 meters has been utilised.

6. Though the copy of the alleged representations have been filed, there is nothing to indicate that the representations were served on the 3rd respondent. In any event, the 4th respondent is also involved in the matter and therefore, the writ petition stands disposed of by giving liberty to the petitioner to submit a fresh representation to the 3rd respondent and it shall be considered by the 3rd respondent on merits and in accordance with law. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

mp

To

1. The Secretary,
Ministry of Road Transport and National Highways,
New Delhi.
2. The District Collector,
Office of the Collectorate,
Vellore District.
3. The Special Thasildar, (L.A.),
Land Acquisition,
Office of the Collectorate,
4th Floor, Vellore - 9.
4. The Project Director,
The National Highways Authority of India,
Office of the NHAI, No.7E, 5th Cross,
Jakkanpan Nagar,
Krishnagiri - 635 001.

+1cc to M/s.Wilson Associates, Advocate, SR.No.8967.
+1cc to Government Pleader, SR.No.10000

W.P.No.6497 of 2013
and M.P.No.1 of 2013

MG(CO)
CSR: 02.03.2020