

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2020

CORAM: THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

W.P.No.10578 of 2020
and WMP.No.12853 of 2020

V.S.Ramakrishnan

... Petitioner

Vs.

- 1.The Project Director
National Highway-4
Poonamallee - Walajah
Tambaram, Near National Theatre
Chennai - 600 045.
 - 2.The Special District Revenue Officer (Land Acquisition)
National Highway Land Acquisition Scheme
Office of the Sub Collector
Collectorate Campus
Kancheepuram.
- Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to furnish the details of land acquisition, together with the sketch showing the alignment, if any that has been undertaken for road widening purposes in the property being an extent of 2 acres 61 cents in Survey No.3/1B, Keelambi Village, Kancheepuram Taluk.

For Petitioner : M/s.Rank Associates

For Respondents : Mr.Su.Srinivasan
Standing Counsel for R1

Mr.D.Raja
Special Government Pleader for R2

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus directing the respondent to provide the details of land acquisition to him, on the ground that in the property belonging to the petitioner, a portion was encroached by the respondents for laying of the road, without even following the process of acquisition as per law.

2. The grievance of the petitioner is that the respondent had dug out from the road boundary to an extent of 1km., under the pretext of road widening. According to the petitioner, it was done in the land belonging to the petitioner. Therefore, the petitioner was left with no alternate, except filing this writ petition.

3. After notice to the respondents, this writ petition was taken up for hearing. Mr.Su.Srinivasan, learned Standing Counsel appearing on behalf of the first respondent has circulated a letter of the National Highways Authority of India, Project Implementation Unit-Kancheepuram, dated 26.08.2020.

4. For proper appreciation, the entire letter is extracted hereunder :

"NHAI/11036/15/2019/PIU-Kanchee/2425

26th August 2020

Sub.: NHA-PIU-Kancheepuram - Kancheepuram Taluk and District - Kelambi Village - S.No.3/1B - W.P.No.10578 of 2020 filed by Shri.V.S.Ramakrishnan in the High Court of Judicature - Sequence of events in the given writ petition - Apprising the High Court of Madras and for getting the writ petition dismissed at the admission state itself requested - Regarding

Ref.: 1. Email Message dated: 12.08.2020 received from

Shri.Su.Srinivasan, Advocate with copy of affidavit filed in W.P.No.10578 of 2020.

2. Approval dated : 18.08.2020 accorded by the Regional Officer, NHAI Chennai.

3. Letter No.28/2020 dated : 24.08.2020 received the Competent Authority & Special District Revenue Officer (LA-NH) Kancheepuram.

4. This office Lr.NoNHAI/11036/15/2019/PI-Kanchee/ dated 25.08.2020 addressed to the Competent Authority & Special District Revenue Officer, Kancheepuram

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It is stated that Shri V.S.Ramakrishnan has filed W.P.No.10578 of 2020 in High Court of Madras with a prayer to pass an order of injunction restraining the respondents from undertaking any road laying work in the property being an extent of 2 acres 61 cents in S.No.3/1B, Keelambi Village, Kancheepuram Taluk,

pending disposal of the writ petition. It has also been prayed for a direction to the respondents to furnish the details of land acquisition together with the sketch showing the alignment, if any that has been undertaken for road widening purposes, in the property being an extent of 2 acres 61 cents in S.No.3/1B Keelambi Village, Kancheepuram Taluk. It is learnt that the hearing in this writ petition is likely to be taken up on 28.08.2020.

2) In this connection, it is stated that notice was received from the counsel of the writ petitioner herein on 20.01.2020 in the given issue. The CALA Kancheepuram, was requested in this office letter No.NHAI/11036/15/2019/PIU-Kanchee/338 Dated 03.02.2020 to offer remarks on the issues raised in the said notice along with sketch of land under reference duly colour washing the acquired portion and the status of land acquisition. The Special DRO (LA-NH) Kancheepuram has sent a report with remarks on the captioned subject vide the reference 3rd cited.

3) It is stated that the intention of the Government of India to acquire the lands in Survey No.4/2 etc., in Kilambi Village to an extent of 29800 sq.mtrs. was published under section 3A(1) of National Highways Act, 1956 vide Gazette No.354 dated 15.04.2002. The substance of the Notification under section 3A(1) was published in "Dinathanthi (Tamil) and The Hindu (English)" dated 27.05.2002, the two local newspapers under section 3A(3) of the National Highways Act. The subject lands in new Survey No.3/1B measuring an extent of 250 square meters, (New Survey No.3/6) at Keezhambi Village was included in the said notification.

4) It is stated that notification under section 3D(1) was published by the Government of India vide Gazette of India No.343 (Extra-ordinary issue) dated 09.04.2003 covering an extent of 28423 sq.mtrs. In consequence, public notices under section 3G(3) and (4) of the National Highways Act, 1956 was also published in two local newspapers on 08.06.2003 in Dinamani (Tamil) and The New Sunday Express (English) inviting claims from all persons interested. Enquiry to determine compensation under section 3G(3) & (4) of the said Act was conducted on 23.06.2003 & 26.12.2003.

5) It is stated that Shri Kannan & 5 others appeared for enquiry and deposed in respect of the subject land in Survey No.3/6 to an extent of 250 sq.mtrs. in Keezhambi Village. Award was passed in Rc.No.50014/2001/NH4 Unit II dated 19.01.2004 determining compensation for the lands under reference

and an amount of Rs.4,950/- was paid to the claimants as compensation.

6) It is further stated that notification under section 3A(1) of National Highways Act, 1956 for acquiring additional lands in Survey Number 3/1B etc., to an extent of 19891 sq mts in Keezhambi Village was published by the Government of India vide Gazette No.1114 dated 29.12.2004. The substance of the said Notification was published in "Dinamani" (Tamil) and The New Indian Express (English)" dated 28.01.2005. The lands in new Survey No.3/1B measuring an extent of 16 square meters, (New Survey No.3/6) at Keezhambi Village is part and parcel of the notified additional lands.

7) It is stated that notification under section 3D(1) for an extent of 18223 sq. mtrs of additional lands was published by the Government of India in the Gazette of India No.1284 (Extra-ordinary issue) dated 09.12.2005. In consequence, substance of the notification was published in Dinamani (Tamil) on 11.01.2006 and another in The New Indian Express (English) on 10.01.2006 inviting claims from all persons interested in the lands acquired. After conducting enquiry under section 3G(3) & 4 of NH Act, 1956, Award was passed in Rc.No.50014/2001/NH4 Unit II dated 03.03.2006 and the compensation was determined.

8) It is stated that the writ petitioner has purchased an extent of 2.61 acres of land under document No.1162 dated : 01.06.2006 from Smt.Rajamaheswari and got the patta transferred in his name. It is stated that it was found on inspection that in addition to an extent of 266 Sq. Mtrs. already acquired, the work on levelling the additional area of 1379 Sq.Mtrs. in S.No.3/1B was carried out for widening of NH-4. The work on laying road etc. has been stopped forthwith consequent on realizing the fact that the lands levelled are not part of acquired lands.

9) It is further added that the Competent Authority and Special District Revenue Officer (LA-NH) Kancheepuram has been requested to send proposals to acquire the land to an extent of 1379 sq mts. in S.No.3/1B in Keezhambi Village and belonging to the writ petitioner through private negotiations as per the guidelines of Ministry of Road Transport and Highways in No.NH-11011/30/2016/LA Dated : 15.03.2016. The proposals on receipt from the CALA, Kancheepuram will be got approved by the Competent Authority of NHAI and further action initiated to complete the acquisition proceedings in respect of the land covered by the writ

petition.

10) It is requested that the Hon'ble High Court of Madras may kindly be apprised of the sequence of events and to get the writ petition dismissed at the admission stage itself.

11) The report of the CALA, Kancheepuram vide the reference 3rd cited and copy of letter sent to CALA, Kancheepuram with a request to send the proposals for acquiring the lands covered by the writ petition sent vide the reference 4th cited are enclosed."

5. It is clear from the above letter that the entire work had been stopped after realizing that the lands levelled are not part of the acquired lands. The respondents realized that they were unwittingly getting into the property of the petitioner, even without acquiring the same and therefore, the work had been stopped. The respondents have given an undertaking that they will not encroach upon the property of the petitioner, without entering into a private negotiation with the petitioner or by undertaking the process of acquisition.

6. The letter dated 26.08.2020 of the National Highways Authority of India and the undertaking given by the first respondent are hereby recorded and the writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

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To:

1.The Project Director
National Highway-4
Poonamallee - Walajah
Tambaram, Near National Theatre
Chennai - 600 045.

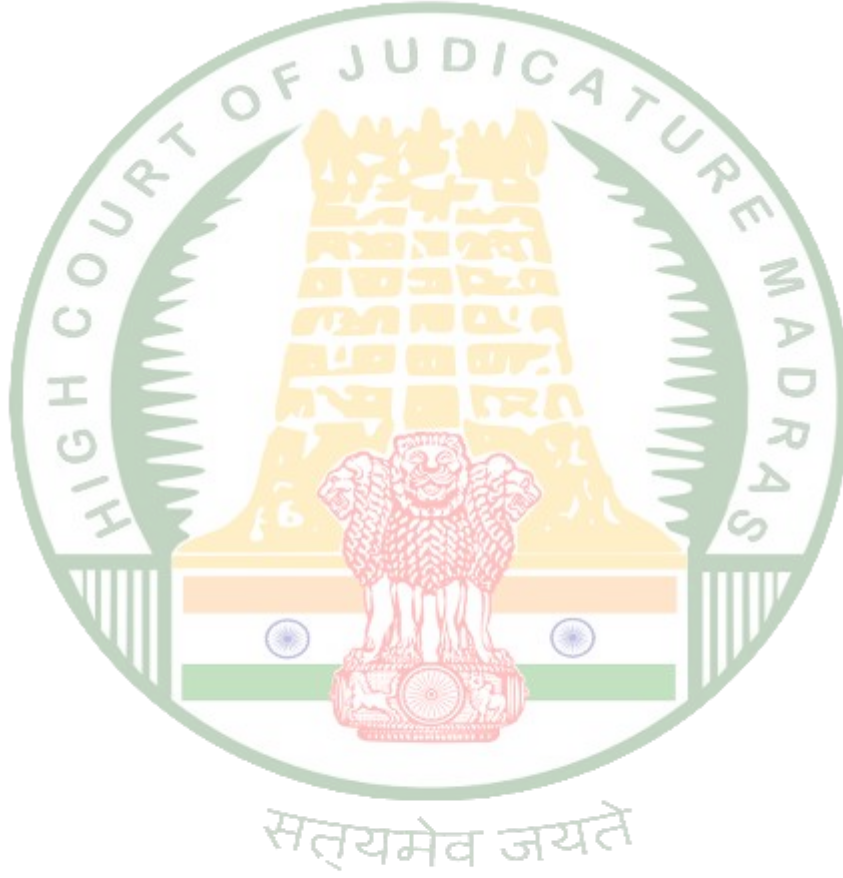
2.The Special District Revenue Officer (Land Acquisition)
National Highway Land Acquisition Scheme
Office of the Sub Collector
Collectorate Campus
Kancheepuram.

+1cc to M/s.Rank Associates, Advocate SR.No.28191

+1cc to Government Pleader SR.No.28326

W.P.No.10578 of 2020

KJ(CO)
GMY(23/09/2020)



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