

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.11.2020

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

WP.No.15873 of 2020
and WMP Nos. 19787 & 19790 of 2020

A.Sharmila

..Petitioner

Vs

- 1 Government of Tamil Nadu,
Rep by its Principal Secretary,
Highways and Minor Ports Department,
Fort St.George, Secretariate, Chennai-9.
- 2 Project Director (FAC),
Chennai to Kanyakumari Industrial Corridor
Project (CKIC), CKICP Complex, KRS Campus,
76, Sardar Patel Road, Guindy, Chennai-25.
- 3 Divisional Engineer,
Highways Department Chennai to Kanyakumari
Industrial Corridor Project (CKIC),
Vaigai Nagar, Nedunchalai Nagar, Salem-5.

..Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for records pertaining to the Order dated 31.08.2020 bearing Ref No.Na. Kaditha.En 776/2020/A2 / date 31.08.2020 and quash the same and directing the respondents to construct Highways as per the old plan i.e, through Panja Karadu to Velagoundanur.

For Petitioner : R.Rajesh Kumar

For Respondents: Mr.S.R.Rajagopal

Additional Advocate General

Mr.V.Anandamurthi

Additional Government Pleader

ORDER

On consent given by either side, the main Writ Petition itself has been taken up for final hearing.

2.This Writ Petition has been filed challenging the impugned proceedings of the 3rd respondent dated 31.08.2020.

3.The case of the petitioner is that the officials belonging to the 3rd respondent/Highways Department started conducting survey of the lands belonging to the petitioner and also the adjacent lands during June 2020. The petitioner enquired about the said survey and he was informed that the survey is being conducted in order to put together a plan for expansion of the Chennai to Kanyakumari Industrial Corridor project. The petitioner seems to have made a representation on 01.07.2020 giving his opinion on the availability of porambokku lands that can be acquired by leaving alone the private lands. This representation made by the petitioner resulted in the 3rd respondent rejecting the suggestion made by the petitioner through the impugned proceedings dated 31.08.2020.

4. In the considered view of this Court, the 3rd respondent need not have undertaken this exercise at all. The 3rd respondent could have merely informed the petitioner that only a survey is being conducted and as and when proceedings are initiated for acquisition under the relevant enactment, the petitioner will be put on notice and at that point of time the petitioner can always give his objections.

5.Heard Mr.R.Rajesh Kumar, learned counsel for the petitioner and Mr.S.R.Rajagopal, Additional Advocate General assisted by Mr.V.Anandamurthi, learned Additional Government Pleader appearing on behalf of the respondents.

6.The learned Additional Advocate General submitted that presently there is a proposal to widen Omalur-Sankari-Tiruchengode-Paramathy Road from a two lane into a four lane road. The learned Additional Advocate General further submitted that the project director is now in the process of consultation in order to assist in the implementation of the acquisition proceedings. The learned Additional Advocate General further submitted that presently the land survey is being conducted and the respondents are preparing the plan schedule. Only after the completion of this survey, the same will be informed to the competent authority and thereafter the proceedings will be initiated under Tamil Nadu Highways Act 2001. The learned Additional Advocate General therefore submitted that the present writ petition is premature and it has been filed more on the ground of apprehension without any material.

7.The learned counsel for the petitioner submitted that the respondents even without undertaking the acquisition proceedings under the Highways Act, ought not to have rejected the suggestion made by the petitioner and the same shows their predetermined status of mind.

8.This Court has carefully considered the submissions made on the either side and the materials available on record.

9.The submissions of the learned Additional Advocate General and the written instructions circulated to this Court clearly reveals the fact that there is only a preliminary land survey that is going on presently in order to enable the Highways Department to come up with a concrete plan and submit the same before the competent authority to enable the authority to commence the process of land acquisition under the Tamil Nadu Highways Act 2001. As stated supra, the 3rd respondent need not have reacted for the representation made by the petitioner and it would have been enough if the petitioner was informed that only preliminary survey is being undertaken. The 3rd respondent could have told the petitioner that as and when the notification is issued under the Act, the petitioner can always submit his objections and the same will be considered in accordance with law. The 3rd respondent unnecessarily brought on himself this present writ petitioner by passing an order which was not at all required in the facts of the present case.

10.In view of the above discussion, the order passed by the 3rd respondent on 31.08.2020 does not in any way take away in right over the subject property. In other words, the petitioner cannot be held to be a person aggrieved by the order passed by the 3rd respondent. The real cause of action will commence only after the notification is issued by the competent authority under the Tamil Nadu Highways Act and that to if and when the property of the petitioner is also made a subject matter of acquisition. The preliminary survey conducted by the officials belong to the 3rd respondent cannot be prevented by this Court and it is very much essential for the purpose of coming up with the final plan before the notification is issued under the relevant enactment.

11.This Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS VII)

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LPP

Sub Assistant Registrar

To

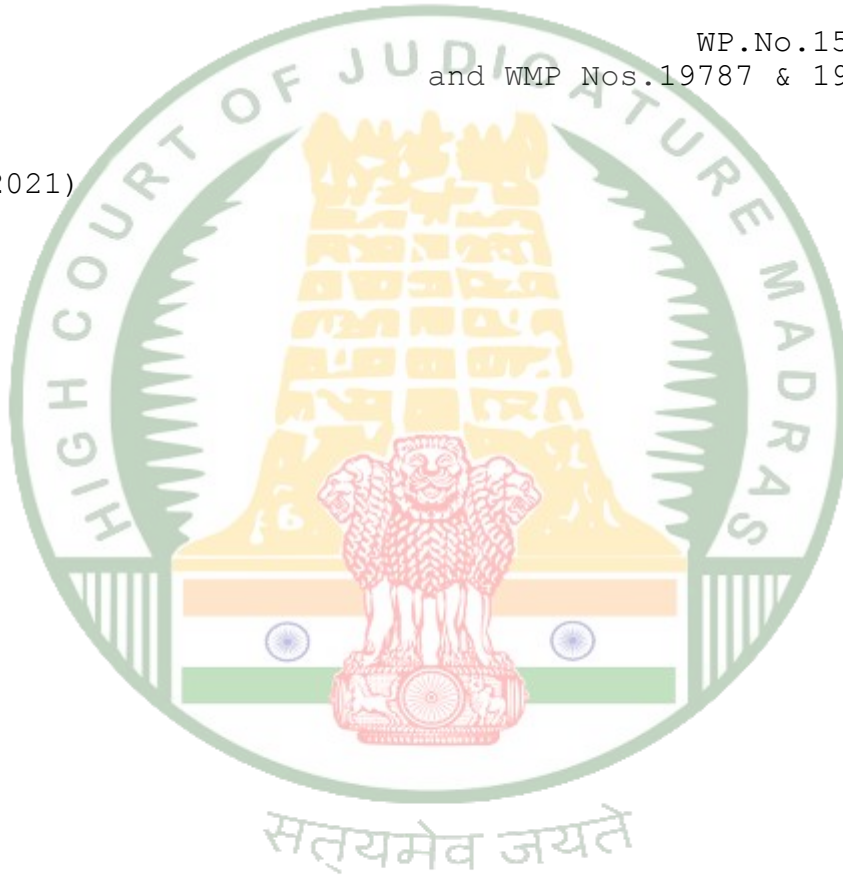
1 The Principal Secretary,
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+1cc to Mr.R.Rajesh Kumar, Advocate, S.R.No.36638

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mp (CO)
rv (22/01/2021)



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