



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P.(MD)No.6924 of 2020

and

WMP (MD)Nos.6349 and 7832 of 2020

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M.Senthilnadhan

... Petitioner

Vs.

1.The District Collector,
Karur District,
Karur.

2.The Joint Director,
Land Survey and Records Department,
Collectrate Campus,
Karur District, Karur.

3.The Sub Collector,
Kulithalai Taluk,
Karur District.

4.The Special Tahsildar (Land Acquisition),
Karur - Trichy National High Way No.67,
Taluk Office Campus,
Karur, Karur District.

5.The Assistant Executive Engineer,
National High Way Department,
Kulithalai, Karur District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, restraining the 5th respondent from constructing Drainage Water Canal and Rain Water Canal in the Petitioner's land bearing Survey Number 26A/3 situated at K.Pettai Revenue Village, Kulithalai Taluk, Karur District more than already acquired 40 square meter.

For Petitioner	: Mr.R.Murugappan
For R1 to R4	: Mr.M.Raja Rajan Government Advocate
For R5	: Mr.C.Arul Vadivel @ Sekar Standing Counsel

ORDER

This Writ Petition is filed to restrain the fifth respondent from constructing Drainage Water Canal and Rain Water Canal in the petitioner's land bearing Survey Number 26A/3 situated at K.Pettai Revenue Village, Kulithalai Taluk, Karur District, more than already



acquired 40 square meter.

2. Heard Mr.R.Murugappan, learned counsel appearing for the petitioner and Mr.M.Rajarajan, learned Government Advocate appearing for the respondents 1 to 4.

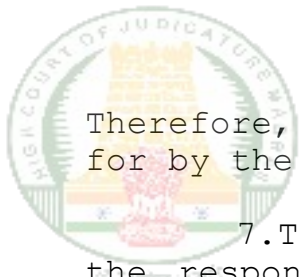
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3. According to the petitioner, the land in S.No.26A/3 measuring an extent of 0.25 cent situated at K.Pettai Revenue Village, Kulithalai Taluk, Karur District, belongs to the petitioner, by way of a registered sale deed dated 23.02.2009. The fourth and fifth respondents acquired 40 square meter from the petitioner's land for Trichy to Karur National Highway-67 and the petitioner has also received compensation from the authority.

4. The grievance of the petitioner is that the fifth respondent is now attempting to encroach more than the acquired land in the petitioner's land to construct the Drainage Water Canal and Rain Water Canal. Therefore, the petitioner made a representation, dated 01.06.2020 to the respondents.

5. The learned counsel appearing for the petitioner submitted that the fifth respondent has no authority to encroach upon the land in S.No.26A/3 measuring an extent of 0.25 cent situated at K.Pettai Revenue Village, Kulithalai Taluk, Karur District, without any acquisition proceedings for the aforesaid land, which is not even acquired by the department. Hence, the petitioner is before this Court.

6. Mr.C.Arul Vadivel @ Sekar, learned Standing Counsel appearing for the fifth respondent filed a counter affidavit, wherein in paragraph No.8 it has been stated that the writ petitioner has filed a suit in O.S.No.19 of 2020 before the learned District Munsif, Kulithalai, for permanent injunction, against the District Collector, Karur, Project Director, NHAI, PIU, Karur and the Special Tahsildar (LA) NH67, Kulithalai, as a party in the aforesaid suit. In the said suit the same allegations which has been stated in the present writ petition has been averred. In the aforesaid suit, the petitioner has filed a interlocutory application for interim injunction. But, the trial Court has not granted any interim order and the said suit is pending and posted for further hearing on 24.07.2020. Without disclosing the pendency of the said suit, the petitioner has filed the present writ petition before this Court seeking the same prayer. Secondly, in paragraph Nos.13 to 16, in the counter affidavit, it has been stated that the NHAI did not attempt to encroach more land except what has been acquired by them for the formation of road and denied the allegation made by the petitioner. Further, it has been stated that an extent of 40 Sq.mt was acquired by the Competent Authority in S.No.26/A3 of K.Pettai Village, Kulithalai Taluk for 2/4 laning of NH67, in the year 2010 and the petitioner has received the compensation for the same.



Therefore, there is no substance to entertain the relief as sought for by the petitioner.

7.The issues arose in the present writ petition is whether the respondent is trying to interfere with the petitioner's land which was not acquired by the department.

8.The Counter affidavit filed by the fifth respondent clearly states that the NAHI has proposed to construct the Drainage Water Canal and Rain Water Canal only in the acquired land and there is no proposal to construct Drainage Water Canal and Rain Water Canal in the land of the petitioner and the respondents have not attempted to encroach more land except the land that was already acquired by the Department for formation of Road. Therefore, the entire allegation made in the present writ petition is false.

9.On the other hand, the petitioner has made a representation dated 02.12.2019 to the fifth respondent to restrain them from constructing the Drainage Water Canal and Rain Water Canal in the aforesaid land. Apart from that, the petitioner has filed a suit in O.S.No.19 of 2020 for permanent injunction before the trial Court and the petitioner is not disclosing the said fact in the present writ petition. If the petitioner has any grievance, he has to seek remedy only before the appropriate civil Court. This Court cannot go into the disputed facts in Article 226 of the Constitution of India. Therefore, the contention of the petitioner is liable to be rejected.

10.With the above observation, this Writ Petition stands dismissed. There is no order as to costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl Side)

// True Copy //

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Sub Assistant Registrar(CS)

vsd/Ns

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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+1 CC to M/s.GP (SR-13849[F] dated 07/08/2020)

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KK(25.08.2020) 4P 7C