

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2021

CORAM

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P.No.1194 of 2021
& WMP No.1347 of 2021

Mrs.J.Panjami

.. Petitioner

Vs.

1.The Union of India,
rep. by its Secretary,
Ministry of Shipping, Road Transport
and Highways,
Department of Road
Transport and Highways,
New Delhi.

2.The Competent Authority and
Special District Revenue Officer(L.A).,
National Highways Schemes,
Kancheepuram District,
R.D.O.Office, Kancheepuram.

3.The Project Director,
National Highways Authority of India,
SPIC House, No.88, Anna Salai,
Guindy, Chennai-600 032.

....Respondents

Petition filed under Article 226 of The Constitution of India praying for issuance of a Writ of Mandamus, to forbear the respondents from taking possession of the petitioner's property situated at No.1C, Pattunool Chatiram, Sriperumbudur, Kancheepuram District, comprised in S.No.704/9A of Sriperumbudur 'B' Village, Sriperumbudur Taluk, Kancheepuram District pursuant to the notice, published in 'Daily Thanthi' dated 10.07.2020.

For Petitioner .. Mr.S.M.Murali Dharan
For Respondents.. Mr.Su.Srinivasan, for RR1,3
Mr.D.Raja, AGP for R2

ORDER

The present Writ Petition has been filed by the petitioner seeking for a Mandamus to forbear the respondents from taking possession of the petitioner's property situated at No.1C, Pattunool Chatiram, Sriperumbudur, Kancheepuram District,

comprised in S.No.704/9A of Sriperumbudur ''B'' Village, Sriperumbudur Taluk, Kancheepuram District pursuant to the notice, published in ''Daily Thanthi'' dated 10.07.2020.

2. The petitioner owned a Plot measuring 6 cents comprised in S.No.704/1B, which she claims to have purchased under a sale deed dated 18.06.1979. Part of this 6 cents, measuring 186 sq.meters (about 2000 sq.feet) so far was notified for acquisition under Section 3A of the National Highways Act, on 27.01.2005. Subsequently, the enquiry was initiated for passing an Award under Section 3G of the Act.

3. According to the Land Acquisition Officer, notice could not be served on the petitioners, since the plot was a vacant land, and the petitioner could be communicated only through a newspaper publication in ''Dinamani & Dinathanthi, two dailies with substantial readership. The petitioner did not turn up in response to the public notice given in the newspapers, consequent to which, an award came to be passed on 22.03.2006. Towards compensation payable for the land acquired, a sum of Rs.2,91,091/- was determined. It is stated that the said amount has been deposited by the Land Acquisition Authority, in a joint account held in the name of the Land Acquisition Authority and the Project Director of the NHAI.

4. According to the learned counsel for the petitioner, in this back drop, the NHAI has issued notice under Section 3E of the National Highways Act on 18.07.2020 and 25.09.2020 for taking possession.

5. A counter and the typed set of papers have been filed, based on which, the learned counsel for the petitioner brought to the notice of this Court that there is some discrepancy in describing the petitioner's property in the notification itself, which is continued to be carried forward in the impugned notice as well. In particular, he submitted, that the petitioner has purchased 6 cents in S.No.704/1B under a sale deed dated 18.06.1979, whereas, as per the counter, after the acquisition, the property has been sub-divided and the property of the petitioner that remains un-acquired falls under S.No.704/9(B). In this regard, counter also says that the challenge in the present Writ Petition is pursuant to the Village Permanent Register required under the UDR Scheme. The learned counsel for the petitioner also brought to the notice of this Court a copy of the FMB enclosed in the typed set of papers.

6. Heard Mr.S.M.Murali Dharan, learned counsel for the petitioner and Mr. D.Raja, learned Addl.Govt.Pleader for the respondents.

7. This Court was informed that over 35,000 sq.meters of

land was acquired for the project some time in 2002 and subsequently, and some additional extent of land was also acquired in 2005, and the petitioner's property forms part of this acquisition of smaller extent, and based on the earlier acquisition, four lane roads have been laid, and now the additional extent is being taken possession of for forming a six lane highway.

8. Both the submissions are carefully considered. There are two aspects that required to be noticed. First is the petitioner's right to challenge the notice under Section 3E and secondly, his entitlement to get enhanced compensation if he is aggrieved by an award passed. However, neither of these two were the subject matter here, but the cause of action is rested on a discrepancy in the notification issued under Section 3A, although notification under Section 3D had been issued. To consider the same will be well beyond the scope of this Writ petition. Even otherwise, when a project of this magnitude is under way, it is necessary that it cannot be not stopped. It should not be forgotten that the acquisition was completed some 15 years ago as on today. Therefore, a more pragmatic option would be to enable the petitioner and the respondents to identify so much property of the petitioner as is stated to have been acquired by the Department by physically surveying the property, since some discrepancy in the survey number is mentioned. So far as the other object of obtaining higher compensation is concerned, the petitioner may work out her remedy under Section 3G(5) of the National Highways Act, if there exists a right in her favour to agitate.

9. This Court, therefore, now directs both the authorities concerned to fix a date for enquiry after the conclusion of the General Elections, and after giving due notice to the counsel for the petitioner, and also to the petitioner at the address given in the Writ Petition, for physically surveying and identifying the plot acquired.

10. This Writ Petition is disposed of accordingly. No costs. Consequently, connected WMP is closed.

11. Post the matter ''for reporting compliance'' on 28.06.2021.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary,
Union of India,
Ministry of Shipping, Road Transport
and Highways,
Department of Road
Transport and Highways,
New Delhi.

2.The Competent Authority and
Special District Revenue Officer(L.A).,
National Highways Schemes,
Kancheepuram District,
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3.The Project Director,
National Highways Authority of India,
SPIC House, No.88, Anna Salai,
Guindy, Chennai-600 032.

W.P.No.1194 of 2021

AJB(CO)
GN(15/04/2021)