



IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 02.12.2021  
CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.25373 and 27492 of 2006

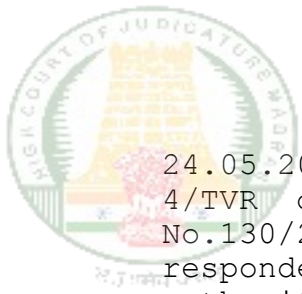
K.Gnanaprakasam ... Petitioner in W.P.No.25373/2006

D.Brilla David ... Petitioner in W.P.No.27492/2006

vs.

- 1.The Government of India,  
Represented by its Secretary,  
Ministry of Shipping Road Transport and Highways  
(Road Transport and Highways),  
New Delhi.
- 2.The Competent Authority and  
The Special District Revenue Officer (L.A.),  
National Highways Schemes,  
Kanchipuram & Tiruvallur Districts,  
At Kancheepuram.  
Camp Office at Taluk Office Premises, 2<sup>nd</sup> Floor,  
Poonamallee,  
Chennai - 600 056.
- 3.The Special Thasildar (L.A.),  
National Highways,  
Tiruvallur District,  
Taluk Office Premises, 2<sup>nd</sup> Floor,  
Poonamallee,  
Chennai - 600 056.
- 4.The National Highways Authority of India,  
Rep. by Project Director and General Manager,  
S P I C Building,  
Chennai - 600 032.
- 5.The Chennai Metro Water  
Supply and Sewerage Board,  
Rep. by Chairman and Managing Director,  
No.1, Pumping Station Road, Chindaripet,  
Chennai - 600 002. ... Respondents in both WPs.

Prayer in W.P.No.25373 of 2006: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records 1) Notification S.O.697(E) in the Gazette of India No.507 dated



24.05.2005 issued by the 1<sup>st</sup> respondent 2) RC No. 128/2005/A/NH-4/TVR dated 03.06.2005 issued by the 2<sup>nd</sup> respondent 3) RC No.130/2005/A/NH-4/TVR dated 25.01.2006 issued by the 2<sup>nd</sup> respondent and quash the same and direct the competent authorities to carry out mutation of all revenue records in respect of New Survey No.295/5B (Old Survey No.295/5), measuring 500 Square Meters, with building thereon Ponamallee Village and Taluk, Tiruvallur District in favour of the petitioner and within time to be fixed by this Court.

Prayer in W.P.No.27492 of 2006: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records 1) Notification No.1113(E) dated 13.10.2004 issued by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents 2) Notification S.O.697 (E) in the Gazette of India No.507 dated 24.05.2005 issued by the 1<sup>st</sup> respondent 3) RC No. 128/2005/A/NH-4/TVR dated 03.06.2005 issued by the 2<sup>nd</sup> respondent 4) RC No.130/2005/A/NH-4/TVR dated 25.01.2006 issued by the 2<sup>nd</sup> respondent and all other connected proceedings and quash the same and direct the competent authorities to carry out mutation of all revenue records in respect of New Survey No.295/4B (Old Survey No.295/3C) with buidling, petrol tank and all other accessories thereon situated at Poonamallee Village and Taluk, Tiruvallur District, in favour of the petitioner and within time to be fixed by this Court.

For Petitioner : Mr.T.Karunakaran

For R2 and R3 : Mr.C.Karhiravan  
Special Government Pleader

For R4 : Mr. Richardson Wilson  
for M/s.P.Wilson Associates

For R5 : Mr.N.Ramesh  
Standing Counsel

#### COMMON ORDER

These writ petitions have been filed for the following prayers:-

- (i) to call for the records 1) Notification S.O.697(E) in the Gazette of India No.507 dated 24.05.2005 issued by the 1<sup>st</sup> respondent 2) RC No. 128/2005/A/NH-4/TVR dated 03.06.2005 issued by the 2<sup>nd</sup> respondent 3) RC No.130/2005/A/NH-4/TVR dated 25.01.2006 issued by the 2<sup>nd</sup> respondent and quash the same and direct the competent authorities to carry out mutation of all revenue records in respect of New Survey No.295/5B (Old Survey No.295/5), measuring 500 Square Meters, with building thereon

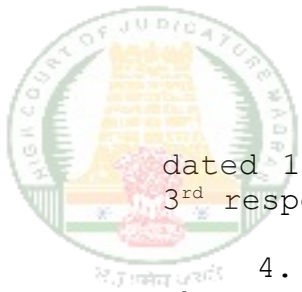


Ponamallee Village and Taluk, Tiruvallur District in favour of the petitioner and within time to be fixed by this Court; and

(ii) to call for the records 1) Notification No.1113(E) dated 13.10.2004 issued by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents 2) Notification S.O.697 (E) in the Gazette of India No.507 dated 24.05.2005 issued by the 1<sup>st</sup> respondent 3) RC No. 128/2005/A/NH-4/TVR dated 03.06.2005 issued by the 2<sup>nd</sup> respondent 4) RC No.130/2005/A/NH-4/TVR dated 25.01.2006 issued by the 2<sup>nd</sup> respondent and all other connected proceedings and quash the same and direct the competent authorities to carry out mutation of all revenue records in respect of New Survey No.295/4B (Old Survey No.295/3C) with buidling, petrol tank and all other accessories thereon situated at Poonamallee Village and Taluk, Tiruvallur District, in favour of the petitioner and within time to be fixed by this Court.

2. The case of the petitioners is that the petitioners in both the writ petitions owned land comprised in S.No.295/3 (New S.No.295/5A and 295/5B) ad-measuring 11 cents and the land comprised in S.No.295/4B (Old S.No.295/3C) ad-measuring to an extent of 0.02.0 hectrares/2440 sq.ft, situated at Poonamallee (hereinafter referred to as 'the subject properties' for short). The 1<sup>st</sup> respondent by the notification dated 13.10.2004 under Section 3 of the National Highways Act, 1956 (hereinafter referred to as 'NH Act' for short) sought to acquire the subject properties. It was published under Sub-section 3 (A) (i) of NH Act stated that the subject properties were required for the purpose of building four-laning of the NH-4 between Chennai-Ranipet section. In exercise of the powers conferred under Sub Section (1) of Section 3(D) of the NH Act, the Central Government declared that the subject properties are to be acquired for the aforesaid purpose and the same is notified in the Government of India Gazette vide S.O.697(E) Part-II, dated 24.05.2005.

3. Subsequently, on 12.06.2005, the 1<sup>st</sup> respondent published a public notice under Section 3(G)(3) of the NH Act inviting claims from the petitioners. On 22.06.2005, the 3<sup>rd</sup> respondent issued notice for enquiry to be held between 20.06.2005 to 24.06.2005. Thereafter, the petitioners submitted representation to the 3<sup>rd</sup> respondent to fix compensation at Rs.3,000/- per sq.ft for vacant site and Rs.1,500/- per sq.ft for superstructure. However, the 3<sup>rd</sup> respondent by an order dated 25.01.2006 fixed compensation at Rs.4,17,109/- and Rs.1,05,820/- respectively. Aggrieved by the same, both the petitioners challenged the notifications issued by the 1<sup>st</sup> respondent dated 13.10.2004 and 24.05.2005 and the notification issued by the 2<sup>nd</sup> respondent



dated 12.06.2006 and the compensation proceedings issued by the 3<sup>rd</sup> respondent dated 25.01.2006.

4. The learned counsel for the petitioners would submit that the proceedings dated 25.01.2006 was not served upon the petitioners. The subject properties acquired by the 3<sup>rd</sup> respondent and handed over to the 5<sup>th</sup> respondent. The 1<sup>st</sup> to 4<sup>th</sup> respondents have no power to acquire the lands under the National Highways Act, 1956 for any purpose, other than the purpose indicated in Section 3(1) of the NH Act. In fact, the 1<sup>st</sup> to 4<sup>th</sup> respondents never disclosed the fact that the alleged internal agreement between the 1<sup>st</sup> to 4<sup>th</sup> respondents and 5<sup>th</sup> respondent and as such, the entire acquisition proceedings is not valid and not binding upon the petitioners. The provisions under Section 3(A) of the NH Act empowers the Central Government to acquire the lands if it is satisfied that for a public purpose any land is required for the building maintenance, management or operation of National Highway or park thereof, it may by notification in the Official Gazette declare its intention to acquire such land.

5. He further submitted that under Section 3(D) of NH Act a declaration should be made by notification in the Gazette that the land should be acquired for the purpose or purposes mentioned in Section 3(A)(1) of NH Act. When the petitioners' land had been acquired under the Act, it should be utilised only for the purpose mentioned in the notification. The notification clearly indicates that the land is acquired for the purpose of four-lane in NH-4 between Chennai and Ranipet section. Therefore, the subject properties cannot be handed over to the 5<sup>th</sup> respondent and entire acquisition proceedings is illegal and liable to be quashed.

6. The Act does not empower the 1<sup>st</sup> to 4<sup>th</sup> respondents to acquire the lands and handed over to the 5<sup>th</sup> respondent. The List - I, viz., the Union List under the Constitution of India in Serial No.23 meant for Highways declared by or under law made by Parliament to be national highways. Whereas, the Serial No.35 in the List - II viz., State List under the Constitution of India meant for works, lands and building vested in or in the possession of the State. Therefore, when the land acquired by the Central Government, it cannot be transferred to the State Government.

7. He further submitted that so far, the compensation amount has not been paid to the petitioners. Insofar as the possession is concerned, after demolishing the petrol bunk run by the petitioners, had taken by the respondents. Thereafter, there are so many encroachments made by the encroachers and after directions issued by this Court, the respondents removed the



encroachments and now it is lying vacant without any use. When the land lying vacant, it leads to encroachment by encroachers, since it is located adjacent to the road.

8. Per contra, Mr. Richardson Wilson, learned counsel appearing for the 4<sup>th</sup> respondent filed counter affidavit dated 29.09.2021 and submitted that the only contention raised by the petitioner is that the subject properties acquired under the National Highways Act, 1956, cannot be handed over to the 5<sup>th</sup> respondent. The subject properties have been acquired and they were duly paid compensation. On publication of the declaration under Section 3(D) of the NH Act, the subject properties shall vest absolutely with the Central Government free from encumbrances and there is no restriction or prohibition for dealing with the said acquired lands for any other public purpose. The subject properties have been acquired under the provisions of the National Highways Act, 1956 for the purpose of construction, road widening and maintenance. Certain lands belonging to the 5<sup>th</sup> respondent were also subjected for acquisition. The lands available with the 5<sup>th</sup> respondent were originally acquired under the provisions of the Tamil Nadu Land Acquisition Act, 1984 for augmenting water supply to the Chennai City from Chembarambakkam Water Treatment Plant which is the major component of Krishna Water Supply Project.

9. He further submitted that such lands do lie on the road margin of the existing National Highways. The laying of the pipelines for water supply by the 5<sup>th</sup> respondent would be great hindrance to the project of the Government of India in widening the Highways in public interest. When the land owned by the 5<sup>th</sup> respondent was sought to be acquired by the 3<sup>rd</sup> respondent, the 5<sup>th</sup> respondent had to be compensated. Since the 5<sup>th</sup> respondent is an agency of the Government of Tamil Nadu, the issue was discussed at the high-level committee meeting at the Secretariat, Chennai Chaired by the Development Commissioner, Government of Tamil Nadu. In the said meeting, a decision was taken that the 3<sup>rd</sup> respondent shall acquire lands from the 5<sup>th</sup> respondent and instead of payment, the 5<sup>th</sup> respondent should be compensated with equal extent of the land acquired by the 3<sup>rd</sup> respondent.

10. Accordingly, the subject lands handed over to the 5<sup>th</sup> respondent. Therefore, the subject lands were very much acquired for the bonafide public purpose of construction of National Highways only. It is an internal arrangement between two Governments for exchange of lands. The Government of India is empowered to acquire lands for building, maintenance and management of any National Highway in India and to issue notifications for the purpose under Section 3A(1) and 3D(1) of NH Act. The subject lands were notified and acquired based on



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the entries in the revenue records. The purpose of land acquisition is for the bonafide public purposes of the National Highways only and the exchange of lands after acquisition is also for the aforesaid purpose between the 3<sup>rd</sup> respondent and 5<sup>th</sup> respondent.

11. Insofar as the petitioner in W.P.No.25373 of 2006, after the award was passed, the entire compensation amount was duly received by the petitioner. In fact, the petitioner in W.P.No.25373 of 2006 also filed a petition for enhancement of compensation amount before the Arbitrator as contemplated under Section 3G(5) of the NH Act. Insofar as the petitioner in W.P.No.27492 of 2006 is concerned, the petitioner was duly issued notice to produce all the original documents to receive compensation. However, the petitioner did not appear and now the entire compensation amount is lying with the Government Authority, viz., the 2<sup>nd</sup> respondent herein.

12. Heard Mr.T.Karunakaran, learned counsel for the petitioners, Mr.C.Karhiravan, learned Special Government Pleader for the 2<sup>nd</sup> and 3<sup>rd</sup> respondents, Mr. Richardson Wilson, learned counsel for the 4<sup>th</sup> respondent and Mr.N.Ramesh, learned Standing Counsel for the 5<sup>th</sup> respondent and perused the materials placed on record, apart from pleadings of the parties.

13. The subject lands in both the writ petitions subjected to acquisition under the provisions of the National Highways Act, 1956. The notification under Section 3(A)(1) of the NH Act was published in the Government of India Gazette vide Notification No.1113(E) dated 13.10.2004 and subsequently a declaration notification under Section 3(D)(1) of the NH Act was published vide Notification No.S.O.697(E) Part-II dated 24.05.2005. The substance of the notification under Section 3(A)(1) of NH Act was published in the daily newspapers, viz., The New Indian Express and Dinamani, dated 03.11.2004 thereby inviting objections for the proposed acquisition. However, the petitioners did not file any objections to the proposed acquisition. Based on the entry in the revenue records, a declaration notification under Section 3(D)(1) of NH Act was published in the Government of India Gazette, dated 24.05.2005 duly notified the subject lands and the names of the petitioners.

14. Thereafter, a public notice under Section 3G(3) of the NH Act was published in the daily newspapers, viz., The New Indian Express and Dinamani thereby inviting the petitioners to appear for enquiry to be held on 22.06.2005 with original title deeds to establish their ownership and also to receive compensation. However, the petitioners failed to avail the opportunity of attending the enquiry. Therefore, again the 3<sup>rd</sup>



respondent issued notice dated 22.06.2005 to the petitioners to attend the enquiry between 28.06.2005 and 29.06.2005. Even on those days, the petitioners did not attend the enquiry. Thereafter, the 2<sup>nd</sup> respondent passed award for compensation at Rs.4,17,109/- and Rs.1,05,820/- for the subject lands respectively.

15. Insofar as, the petitioner in W.P.No.25373 of 2006 is concerned, he already received entire compensation amount. In fact, he filed a petition for enhancement of compensation before the Arbitrator as contemplated under Section 3G(5) of NH Act. Insofar as the petitioner in W.P.No.27492 of 2006 is concerned, the entire compensation award has been deposited and it is lying with the 2<sup>nd</sup> respondent herein. Even then, the petitioner in W.P.No.27492 of 2006 did not approach the 2<sup>nd</sup> respondent, even till today, to receive the compensation amount. Therefore, the respondents duly complied the provisions as contemplated under the National Highways Act, 1956. The learned counsel for the petitioner mainly contended that the subject lands acquired under the National Highways Act, 1956 cannot be handed over to the 5<sup>th</sup> respondent.

16. Admittedly, the subject lands have been acquired under the provisions of the National Highways Act, 1956 for the purpose of construction, road widening and maintenance. Certain lands belonging to the 5<sup>th</sup> respondent were also subjected to acquisition for road widening. Those lands were originally acquired under the provisions of Tamil Nadu Land Acquisition Act, 1894 by the 5<sup>th</sup> respondent for augmenting water supply to the Chennai City from Chembarambakkam Water Treatment Plant which is the major component of Krishna Water Supply Project. Since such lands do lie on the road margin of the existing National Highways, the laying of the pipelines for water supply by the 5<sup>th</sup> respondent would be hindrance to the project of widening the Highways. Therefore, the 3<sup>rd</sup> respondent intended to acquire the land belong to the 5<sup>th</sup> respondent and compensated by the subject lands. In this regard, the high-level committee meeting at the Secretariat, Chennai chaired by the Development Commissioner, Government of Tamil Nadu, was conducted.

17. On perusal of the records revealed that in the said meeting, a decision was taken that the 3<sup>rd</sup> respondent shall acquire land from the 5<sup>th</sup> respondent and instead of payment of compensation, the 5<sup>th</sup> respondent should be compensated with equal extent of land acquired by the 3<sup>rd</sup> respondent. The said decision was agreed by both the 3<sup>rd</sup> and 5<sup>th</sup> respondents herein. Accordingly, the lands were exchanged and now it is lying vacant, since the 4<sup>th</sup> respondent has to shift entire water line to the subject lands for the purpose of widening the National Highways.



18. It is also seen that owing to increase in traffic flow along the National Highways No.4 (Bangalore Chennai Highway) existing four-lane is proposed to be widened to six-lane with service road on either side from Maduravoyal to Sriperumbudur. Further, DPR for six-lane elevated corridor from Maduravoyal to Sriperumbudur along NH-4 (Bangalore Chennai Highway) is in progress. Therefore, the water treatment plant and its transmission line has to run in the subject lands. Thus, it is clear that the subject lands are used for the public purpose and not handed over for any other purpose. That apart, the possession of the subject lands is with the 3<sup>rd</sup> and 5<sup>th</sup> respondents and duly protected from encroachers by fencing. Hence, both the writ petitions fail and devoid of merits and they are liable to be dismissed.

19. Accordingly, these writ petitions are dismissed. However, the petitioner in W.P.No.27492 of 2006 is directed to approach the 2<sup>nd</sup> respondent with all original documents in respect of subject land for disbursement of compensation. On receipt of the same, the 2<sup>nd</sup> respondent is directed to disburse the compensation in accordance with law. Both the petitioners are at liberty to file a petition before the Arbitrator for enhancement of the compensation amount for the subject lands, within a period of two weeks from the date of receipt of a copy of this order, if not already filed. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary,Government of India,  
Ministry of Shipping Road Transport and Highways  
(Road Transport and Highways),  
New Delhi.
- 2.The Competent Authority and  
The Special District Revenue Officer (L.A.),  
National Highways Schemes,  
Kanchipuram & Tiruvallur Districts,  
At Kancheepuram.  
Camp Office at Taluk Office Premises, 2<sup>nd</sup> Floor,  
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3.The Special Thasildar (L.A.),  
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5.The Chennai Metro Water  
Supply and Sewerage Board,  
Rep. by Chairman and Managing Director,  
No.1, Pumping Station Road, Chindaripet,  
Chennai - 600 002.

+1 cc to Mr.M/s.P.Wilson Associates , Advocate Sr.NO.63344

+2 ccs to Mr.T.Karunakaran , Advocate Sr.NO. 63322

+1 cc to Government Pleader Sr.NO. 63828

+2 ccs to Mr.T.Karunakaran, Advocate Sr.NO. 63321 (24.02.2022)

W.P.Nos.25373 and 27492 of 2006

RSV(CO)

A.SK(03.01.2022)