

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P. No.9610 of 2012

and

M.P.No.1 of 2012

M.Munusamy Nattar

... Petitioner

Vs

1.The Competent Authority-cum-Special

District Revenue Officer,
Land Acquisition,
National Highways No.205,
Plot No.162, MIG II Floor,
Tamil Nadu Housing Board,
Kakkalur Bye Pass Road,
Tiruvallur 602 001.

2.Project Director,

National Highways Authority of India,
1/54-28, Butt Road,
St.Thomas Mount, Chennai - 600 016.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent dated 07.03.2012 made in NHA1/18011/97A/PIU, Chennai/500 and quash the same and consequently direct the respondent to pass orders by assigning the lands comprised in S.No.663, 664 to an extent of 4400 sq.meters in Pattarai Perumbudur Village, Tiruvallur Taluk in lieu of the land which was acquired by the second respondent from the petitioner comprised in S.Nos.663/1A1B, 664/1A1B, 666/1B and 666/3B to an extent of 4986 sq.meters in Pattarai Perumbudur Village, Tiruvallur Taluk and District.

For Petitioner : Mr.A.Jenasenan

For R1 : Mr.Richardson Wilson
Government Advocate

For R2 : Mr.M.Meiyyappan
for P.Wilson Associates

O R D E R

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent dated 07.03.2012 made in NHA1/18011/97A/PIU, Chennai 500 and quash the same and consequently direct the respondent to pass orders by assigning the lands comprised in S.No.663, 664 to an extent of 4400 sq.mt. in Pattarai Perumbudur Village, Tiruvallur Taluk in lieu of the land which was acquired by the second respondent from the petitioner comprised in S.Nos.663/1A1B, 664/1A1B, 666/1B and 666/3B to an extent of 4986 sq.mt. in Pattarai Perumbudur Village, Tiruvallur Taluk and District.

2. Heard, Mr.A.Jenasenan, the learned counsel appearing for the petitioner, Mr.Richardson Wilson, Government Advocate appearing for the first respondent and Mr.M.Meiyappan, learned counsel appearing for the second respondent.

3. The petitioner is the owner of the property comprised in survey Nos.663/1A1, 664/1A, 664/1B, 666/1 and 663/3 situated at Pattarai Perumbudur Village, Tiruvallur Taluk by way of two registered sale deeds dated 26.10.1987 and 09.11.1987. The second respondent initiated the proceedings for the purpose to lay the National Highway Road from Tiruttani to Chennai for the building, maintenance, management of a National Highway under the National Highways Act.

4. Accordingly, the second respondent acquired land to an extent of 4986 sq.mt. comprised in survey Nos. 663/1A1B, 664/1A1B, 666/1B and 666/3B. The proposed road was planned to straighten the existing road by way of alignment, the existing land lying in S.Nos.663 and 664 will not be used by the second respondent and it cannot be used for any public purpose. If the existing road lays vacant, it will be encroached by keeping existing road by the respondent. Therefore, the petitioner, instead of claiming compensation, it will be beneficial to the petitioner and the respondent, if the existing road is assigned to the petitioner equivalent to the proportionate extent of the land which is already acquired from the petitioner. Whether laying the road or straightening the road, the existing circuitous road is not being used by the government and the same is encroached and if the land is assigned to the equal extent of land, which is already acquired by the respondent. Therefore, the petitioner made a representation to the respondent to assign the land comprised in survey No.663 and 664 to an extent of 4400 sq.mt. by way of an exchange of land, which is sought to be acquired from the petitioner to an extent of 4986 sq.meter. However, the second respondent rejected the request by an order dated 07.03.2012.

5. The first respondent filed a counter stating that after acquiring the land belonging to the petitioner, an award was passed and the award amount was also deposited. The land notified under Section 3A(1) was confirmed by way of notification of declaration under Section 3D(1) of the National Highways Act. The same was also published in the Gazette of India, Gazette No.2280 in S.O.No.2698(E) dated 02.11.2010. From the date of publication, which the lands are vested absolutely with the Central Government free from all encumbrances as per Section 3D(2) of the National Highways Act, 1956. As per the sub-division records prepared and technically scrutinized under Section 3D(1) of the Act in respect of the petitioners land was restricted to 4986 sq.mt.

6. Consequent to the publication of the notification under Section 3D(1), Public notices under Section 3G(3) and (4) of the National Highways Act, 1956 were published in the two local dailies. In fact, the petitioner did not even participate in the enquiry which was conducted under Section 3G (3) and (4) and failed to provide any records for proof of the ownership of his lands. However, they fixed the market value of the land, which was acquired, duly taking into consideration the place in the vicinity as per the provisions laid down in the Act under Sub-section 7 of the Section 3G of the Act for determining the amount to be paid under Section 3G(1) of the National Highways Act, 1956. The compensation has been apportioned to the land owners as per the Award No.17 of 2010. Accordingly, the petitioner was awarded a sum of Rs.26,38,920/-.

7. Thereafter, the petitioner also issued notice as contemplated under Section 3E of the Act, received the compensation after producing documentary evidences of ownership and encumbrance certificate. Whereas, the petitioner failed to produce any documents and without producing the documents, received the compensation. In these circumstances, the petitioner requested the respondents seeking assignment of the existing road comprised in survey No.663 and 664 ad-measuring 4400 sq.meter. After acquisition of the petitioner's land as per Section 3D(2) of the National Highways Act, 1956, and on the publication under Section 3D(1), the land vested with the Central Government free from all the encumbrances. Therefore, the land in which sought for assignment by the petitioner comprised in survey No.663 and 664, in which the existing National Highways Road runs which was acquired from him at an earlier point of time. Therefore, the lands which were acquired are now vested with the Central Government. Therefore, the respondents rightly rejected the request made by the petitioner. Therefore, this Court finds no infirmity or illegality in the order passed by the respondents. Hence, the Writ Petition is devoid of merits.

8. However, the learned counsel for the petitioner submitted that the petitioner may be given opportunity to approach the Central Government for assignment of the property which was acquired earlier.

9. Considering the said request the petitioner is always at liberty to approach the Central Government for assignment of land.

10. With the above observations, the Writ Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Lpp

To

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District Revenue Officer,
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CP (CO)
PR (24/09/2021)