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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.38255 of 2015 & 23863 of 2016 and
M.P.Nos.1 & 2 of 2015 and
W.M.P.Nos. 20480 & 20481 of 2016

W.P.No. 38255 of 2015:-

1. M.Govindan
2. K. Jaganathan

...Petitioners

-Vs-

1. The District Revenue Officer,
Vellore.
2. The Director (Planning),
National Highways Department,
Krishnagiri.
3. The District Collector,
Vellore District.

...Respondents

W.P.No. 23863 of 2016:-

S.Neelammal

...Petitioner

-Vs-

1. The District Revenue Officer,
Vellore.
2. The District Collector,
Vellore District.
3. The Divisional Engineer,
Highways (Planning) Division,
Vellore.
4. The Assistant Divisional Engineer,
Highways Department,
Vellore.

...Respondents



Prayer in W.P.No. 38255 of 2015:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for records relating to the impugned notification of the first respondent in Se.ma.tho.E./163/Nilam/2015 published in Vellore edition of Dhina Malar, dated 01.09.2015, to quash the same insofar as Sl.Nos.12 to 16 of the notifications are concerned.

Prayer in W.P.No. 23863 of 2016:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for records relating to the impugned notification of the first respondent in Se.ma.tho.E./163/Nilam/2015 published in Vellore edition of Dhina Malar, dated 01.09.2015, to quash the same insofar as Sl.No.17 of the notification is concerned.

In both W.Ps

For Petitioners : Mr.L.Chandrakumar

For Respondents : Mr.Richardson Wilson
Government Advocate.

COMMON ORDER

W.P.No. 38255 of 2015 has been filed for the issuance of Writ of Certiorari, calling for records relating to the impugned notification of the first respondent in Se.ma.tho.E./163/Nilam/2015 published in Vellore edition of Dhina Malar, dated 01.09.2015, to quash the same insofar as Sl.Nos.12 to 16 of the notifications are concerned.

2. W.P.No. 23863 of 2016 has been filed for the issuance of Writ of Certiorari, calling for records relating to the impugned notification of the first respondent in Se.ma.tho.E./163/Nilam/2015 published in Vellore edition of Dhina Malar, dated 01.09.2015, to quash the same insofar as Sl.No.17 of the notification is concerned.

3. Heard Mr.J.Chandrakumar, learned counsel appearing for the petitioners and Mr.Richardson Wilson, learned Government Advocate appearing for the respondents.

4. In W.P.No. 38255 of 2015, the petitioners are the owners of the land comprised in Survey No.26/7B2, 26/7A2, 26/6B/1B, 26/6A/2 and 26/4 situated at Vazhayampattu Village, Vaniyambadi.



5. In W.P.No.23863 of 2016, the petitioner owned the land comprised in Survey No. 26/5 of Kollimedu Vazhayampattu Village, Vaniyambadi, to an extent of 0040 sq.metres.

6. Originally, the said lands were proposed to acquire for Harijan Welfare Department and National Highways Department and subsequently it was dropped by the proceedings in Na.Ka. G4/58/2010, dated 09.05.2013, for the reason that the middle of the subject land alone sought to be acquired and on both sides the remaining land will be there. Therefore, instead of acquiring the land belong to the petitioners, they proposed to acquire the land situated in the Government Poramboke. However, again the respondents proposed to acquire the subject land for construction of Road Over Bridge in lieu of existing level crossing No.80 at Railway kilometer 195/28-30 in between Vinamangalam to Vaniyambadi Railway stations at Valayampattu to Vaniyambadi road.

7. The learned counsel for the petitioner would submit that the petitioners are having the subject land for their livelihood by doing agriculture. They are in absolute possession and enjoyment of the said property. The said land was dropped from the acquisition proceedings for the reason that the road was proposed to be expanded in the middle of the subject land. Therefore, they intended to acquire the Government Poramboke land leaving the subject land. Again now, for the purpose of laying Road Over Bridge, they sought to acquire the very same land. Therefore, action of the respondents is arbitrary and they are being various other alternative site with deviation in any manner not being required for such developmental activities. He further submitted that the respondents before resorting to initiation of the acquisition proceeding ought to have taken into account the earlier proceedings as well as that of the earlier acquisition having been made and done in the same survey number as well as other adjoining survey numbers.

8. The first respondent filed counter stating that the earlier acquisition proceeding was dropped by the Harijan Welfare Department and National Highways Department. However, it is necessary to acquire the subject land for construction of Road Over Bridge for controlling the traffic in future. By the communication dated 09.05.2013, the National Highway Authority of India have pointed out that these subject lands and some other survey numbers identified are not required by National Highway Authority of India, but required by the State Highways Department for the construction of Road Over Bridge to be constructed by the Railway Department and the State Government. As per the proceedings, the first respondent issued proceedings dated 05.11.2014 and the Tahsildar, Vaniyambadi has inspected



the subject land. At the time of field inspection, the petitioners and the other land owners have not raised any objections for acquiring the subject land for Road Over Bridge project.

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9. In fact, on 18.12.2014, the Revenue Divisional Officer, Tirupattur has also inspected the subject land and the land owners have not raised any objections. After the said field inspection, the respondents issued notification under Section 15 (2) of the Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34 of 2002), intimating about the Road Over Bridge project to the land owners for raising their objections within a period of thirty days. Again on 27.08.2015, the respondents issued show cause notice under Section 15(2) of the Tamil Nadu Highways Act, raising the objections of the respective land owners. However, the land owners did not raise any objections up to two years and only on 22.09.2015, raised their objections. On 25.09.2015, enquiry was conducted by the first respondent, in which, the land owners were appeared and raised their objections only with regard to the higher compensation. No owners have raised any objections for acquisition of land. In fact, the petitioners failed to appear before the enquiry and did not raise any objections. Only on representation received by the general public to provide the Road Over Bridge at this location, and also on request made by the Railways to provide Road Over Bridge, the Government considered their request carefully and accorded to Administration Sanction in G.O.Ms.No. 200/Highways and Minor Ports/(HQ2) Department, dated 07.12.2011.

10. It is further revealed that the land acquisition shall be done as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and the Government orders will provide enhanced compensation including resettlement and rehabilitation. The livelihood of the petitioners will be taken care of by the Government and stipulate fair compensation to the lands as per the first schedule including resettlement and rehabilitation as per the second and third schedules will be provided. Now, the work is started on both sides. The acquisition of the petitioners land is necessary for the construction of main Road Over Bridge and completion of the project. The Railway Authorities have constructed the bridge in their portion and as such, acquisition of the petitioners land is unavoidable. Therefore, this Court finds no merits in the contention raised by the petitioners in these writ petitions. Hence, both the writ petitions are devoid of merits.



11. In view of the above, these Writ Petitions are dismissed. Consequently, connected Miscellaneous petitions are closed. No costs.

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Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Lpp/mn

To

1. The District Revenue Officer,
Vellore.
2. The Director (Planning),
National Highways Department,
Krishnagiri.
3. The District Collector,
Vellore District.
4. The Divisional Engineer,
Highways (Planning) Division,
Vellore.
5. The Assistant Divisional Engineer,
Highways Department,
Vellore.

+2ccs to Mr.L.Chandrakumar, Advocate, S.R.No.50408,50409
+1cc to the Government Pleader, S.R.No.51281

W.P.Nos.38255 of 2015 & 23863 of 2016 and
M.P.Nos.1 & 2 of 2015
and W.M.P.Nos. 20480 & 20481 of 2016

CA[co]
NSK 28/10/2021