



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.21359 of 2017

M. Jamaludeen (deceased)

1. J. Kaleel
2. J. Miyakhan
3. J. Mohamed Moideen
4. J. Sahul Hameed

... Petitioners

-Vs-

1. The Government of Tamil Nadu,
Represented by its Secretary,
Highways Department,
Secretariat, Fort St.George, Chennai.
2. The Regional Officer,
National Highways Authority of India,
SRI Tower, 3rd floor, Industrial Estate, Guindy,
Chennai-600 032.
3. The Collector of Chennai,
Chennai 600 001.
4. The Tahsildar, Egmore,
Nungambakkam, Chennai-600 031.
5. The Special District Revenue Officer (LA),
National Highways,
Kancheepuram & Tiruvallur District
at Kancheepuram.

6. P.Ameenul Beve
 7. S.Mahmoodha Begum
 8. J.Pakkeer Meeral
 9. S.Bismi
- (R6 to R9 impleaded as per
order dated 01.12.2021 in
W.M.P.No.18985 of 2021
in W.P.No.21359 of 2017)

... Respondents



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Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to pay compensation for the property acquired at T.S.No.1 of Koyambedu Village, Egmore, Nungambakkam Taluk, Chennai.

For Petitioners	: Mr.V.Raghavachari
For R2	: M/s. S.R.Sumathi
For R1, R3 to R5	: Mr.C.Kathiravan
	Special Government Pleader

ORDER

This Writ Petition has been filed to direct the respondents to pay compensation for the property acquired at T.S.No.1 of Koyambedu Village, Egmore, Nungambakkam Taluk, Chennai.

2.Heard Mr.V.Raghavachari, learned counsel appearing for the petitioners, Mr.C.Kathiravan, learned Special Government Pleader appearing for the respondents 1, 3 to 5 and M/s. S.R. Sumathi, learned counsel appearing for the second respondent.

3.The petitioners' property comprised in Survey No.125/1B1B, situated at Koyambedu village, Egmore, Nungambakkam Taluk, Chennai, was purchased by the petitioners' by the registered sale deed, dated 12.03.1981. Out of the total extent of 50 cents, 34 cents were acquired by the fifth respondent from the petitioners. The award was passed on 07.11.1983 in Award No.21 of 1983. From the petitioners' paternal uncle, in Survey No.125/1B to an extent of 12 cents were also acquired for the formation of inner ring road. By way of a gift deed, dated 20.07.2003, the petitioners' paternal uncle had transferred the remaining holding, ad-measuring 39 cents - 18 cents comprised in Survey No.125/4 and 21 cents in Survey No.125/5 in favour of the petitioners' father. In turn, the petitioners' father executed a settlement deed in favour of the first petitioner's brothers and the first petitioner herein through the settlement deed, dated 11.10.2004 registered vide Document No.4168 of 2004. While being so, the fifth respondent proposed the construction of free flow facilities along National Highways 4, 45 and 205 to improve the access to Golden Quadrilateral Corridor and construction of fly over at Koyambedu. For the said purpose, 1123 sq.metres of the petitioners' land were sought to be acquired. However, the said land had been wrongly classified as Government Poramboke and as such the petitioners filed a petition in W.P.No.10317 of 2006 and by an order dated 03.09.2013, this Court directed to re-classify the said land and



to disburse the compensation within a period of six weeks.

4. On 06.02.2017, the project director had submitted a proposal to the Regional Officer, National Highways Authority of India and through private negotiation, a sum of Rs.29,00,03,520/- (Rupees Twenty Nine Crores Three Thousand Five Hundred and Twenty only) was fixed and affidavit of the petitioners' acceptance was also obtained. However, the respondents failed to pay the compensation even till today.

5. A perusal of the counter filed by the second respondent revealed that to an extent of 28619.50 sq.meters of land was proposed for acquisition, for the project of construction of free flow facilities along National Highways Road 4, 45 and 205 to improve the access to Golden Quadrilateral Corridor and construction of Fly over at Koyambedu. Under the National Highways Act, 1956, section 3(A) notification was published on 12.08.2005. Section 3D notification of the National Highways Act, 1956 was published on 18.11.2005 for the corrected area of 26,247.50 sq.meters. Accordingly, the award was passed by the competent authority for land acquisition on 08.12.2006 in R.C.466/2005/NH. The petitioners approached the competent authority for compensation. The third respondent by his proceedings dated 18.12.2013 had directed the fifth respondent to pay the compensation. As per the order passed by this Court in W.P.No.10317 of 2006, the District Collector also directed to take necessary changes in the revenue records to enable the fifth respondent to pay the compensation.

6. Accordingly, the fifth respondent by the proceedings dated 18.09.2015 made changes in the revenue records for an extent of 880 sq.meters in Block No.43, T.S.No.1 and 243 sq.meters in T.S.No.28/2. Thereafter, submitted the proposal for acquisition of land to an extent of 1123 sq.meters under Section 3A of the National Highways Act, 1956. The proposal for taking over the subject land through private negotiation is based on the consent given by the petitioner. The entire project has been completed in the year 2012 and handed over to the State Government for further maintenance. However, to an extent of 243 sq.meters which was notified under Section 3D of the National Highways Act, 1956, was only utilized for construction of Fly over and balance portion is left and unutilized. Further revealed that, for further development there will be no additional land requirement for improvement by the National Highways Authority of India. Therefore, the competent authority for land acquisition requested to pass award to an extent of 243 sq.metre in T.S.No.28 by the Letter dated



10.06.2017 which is awaited.

7.A perusal of the order dated 06.02.2017 passed by the second respondent revealed that, by the letter dated 14.09.2006, the competent authority for land acquisition has submitted the proposal of private negotiation to acquire 1123 sq.metres of land in Block No.43, T.S.No.1 (880 sq.metres) and T.S.No.28 (243 sq.metres). The rate of compensation has been fixed by the competent authority for land acquisition as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and adopted guideline value of Jawaharlal Nehru Road as on 15.10.2014 at Rs.12,000/- per sq.metre. Accordingly, the compensation to be paid for 1123 sq.metres of land for the work of construction of fly over at Koyambedu, work out to 29,00,03,520/- (Rupees Twenty Nine Crores Three Thousand Five Hundred and Twenty only). In fact, the petitioners have given undertaking on Rs.100/- stamp paper that the rate of compensation payable is acceptable and neither they nor their legal heirs will not raise any objections and will not approach Arbitrator for enhancement. In fact, the possession of the subject land had been already taken over by the National Highways Authority of India and the entire project have been completed in the year 2012. The second respondent has also recommended for approval of the competent authority.

8.Considering the above, the fifth respondent is directed to disburse the compensation for the land comprised in T.S.No.1 of Koyambedu Village, Egmore, Nungambakkam Taluk, Chennai to the petitioners and the respondents 6 to 9, within a period of four weeks from the date of receipt of a copy of this order. On the date of disbursal of compensation amount, the petitioners and the respondents 6 to 9 are directed to execute a deed of conveyance in respect of the subject property in favour of the second respondent.

9.With the above directions, this writ petition stands allowed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
The Government of Tamil Nadu,
Highways Department,
Secretariat, Fort St.George, Chennai.
2. The Regional Officer,
National Highways Authority of India,
SRI Tower, 3rd floor, Industrial Estate, Guindy,
Chennai-600 032.
3. The Collector of Chennai,
Chennai 600 001.
4. The Tahsildar, Egmore,
Nungambakkam Chennai-600 031.
5. The Special District Revenue Officer (LA),
National Highways,
Kancheepuram & Tiruvallur District at Kancheepuram.

+lcc to Mr.V.Raghavachari, Advocate SR.No.62817
+lcc to the Government Pleader SR.No.63525

W.P.No.21359 of 2017

GPL(CO)
GN(22/12/2021)