



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.07.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P (MD)No.8345 of 2021

and

W.M.P. (MD)No.6323 of 2021

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E.Palanisamy

... Petitioner

Vs.

1.The District Collector,
Karur District, Karur.

2.The Competent Authority and
District Revenue Officer,
National High Ways No.67,
Four Way Lane Extension Project
(Karur - Coimbatore Section),
Karur.

3.The Special Tahlisdar (NH.67),
National High Ways No.67,
Four Way Lane Extension Project,
(Karur - Coimbatore Section),
Karur.

4.The Project Director,
National Highways Authority of India,
44, 3rd Main Road, Jaya Nagar,
Trichirappalli - 620 001.

... Respondents

(R4 is suo motu impleaded vide order dated
24.06.2021 in W.P. (MD)No.8435 of 2021 by NAVJ)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents not to demolish the building of the petitioner in S.F.Nos.591/77,A,D,E to an extent of 56 Sq.Meter situated at Andankovil East Village, Thanthoni Union, Manmangalam Taluk, Karur District other than the acquired portion of 27 Sq.Meter as per the certificate of award dated 23.07.2010 consequently direct the 2nd and 3rd respondents to issue notification afresh for acquiring the remaining portion of the land of the petitioner by conducting re-survey.



For Petitioner : Mr.S.Gokulraj
For Respondents : Mr.R.Suresh Kumar,
Government Advocate for R1 & R3
Mr.Arul Vadivel Sekar
Standing Counsel for R2 & R4.

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ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the respondents not to demolish the building of the petitioner in the subject property to an extent of 56 Sq. meters other than the acquired portion of 27 Sq. meters.

2. When the matter was considered for admission, this Court passed the following order on 22.04.2021:-

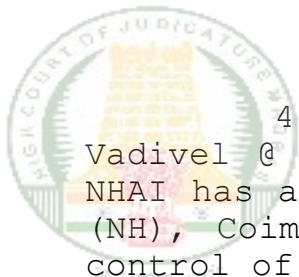
"Mr.K.P.Krishnadoss, learned Special Government Pleader takes notice on behalf of the first respondent and Mr.Arul Vadivel @ Sekar, learned counsel takes notice on behalf of the respondents 2 and 3.

2. The case of the Petitioner is that the respondents 2 and 3 had earlier acquired an extent of 27 sq.mts in each survey number and the compensation was also paid to the Petitioner. The grievance of the Petitioner is that the respondents 2 and 3 have now made measurements inside the property of the Petitioner to an extent of 56 sq.mts. According to the Petitioner, either the respondents 2 and 3 will have to acquire the property and pay the compensation or they should confine their work only to 27 sq.mts, which was already acquired by them. Hence, this Court is of the view that the Petitioner has made out a prima facie case for grant of interim injunction.

3. In view of the above, there shall be an order of interim injunction as prayed for, till 24.06.2021.

4. Post this matter under the caption ''for orders'' on 24.06.2021."

3. When the above order was passed, this Court had *suo motu* impleaded the fourth respondent and directed Mr.Arul Vadivel @ Sekar, learned Standing Counsel to take instructions from the fourth respondent.



4. When the matter was taken up for hearing today, Mr.Arul Vadivel @ Sekar, learned Standing Counsel informed this Court that NHAI has already handed over the project to the Divisional Engineer (NH), Coimbatore on 13.11.2015 and presently, it is not under the control of NHAI.

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5. The learned Government Advocate appearing on behalf of the respondents 1 to 3 filed a counter affidavit. This counter affidavit has been sworn to by the third respondent. The relevant portions in the counter affidavit are extracted hereunder:-

"7. It is also humbly submitted that there were 4 Special Tahsildar Units viz. (1). The Sepcial Tahsildar, NH-7 Unit-1, (2). The Special Tahsildar, NH-7 Unit-2, (3). The Special Tahsildar NH-67, Karur-Coimbatore Section and (4) The Special Tahsildar, NH-67 Trichy-Karur Section, Karur Division. Now, except the Special Tahsildar NH-67, Trichy-Karur Section, Karur Division, all other Special Tahsildar Units were dismantled since their allocated work was completed. It is humbly submitted that the third respondent unit was dismantled on 31.03.2013 itself. The case against the dismantled third respondent Unit itself shows the false nature of the petitioner's case. On behalf of the dismantled third respondent, the Special Tahsildar NH-67, Trichy-Karur Section, Karur Division, is appearing before this Hon'ble High Court of Judicature. This counter affidavit is also filed on behalf of the respondents 1 and 2.

8. It is humbly submitted that the dismantled third respondent has not taken any steps to demolish the petitioner's building in S.F.Nos.591/77 A, D, E to an extent of 56 Square Metre other than the acquired portion of 27 Square Meters as per the Certificate of award, dated 01.07.2009, remaining portion not touch at any cost."

6. Heard Mr.S.Gokulraj, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Government Advocate appearing for the respondents 1 and 3 and Mr.Arul Vadivel @ Sekar, learned Standing Counsel appearing for the respondents 2 and 4.

7. It is clear from the stand taken by the third respondent in the counter affidavit that an undertaking has been given to the effect that the petitioner's building to an extent of 56 Sq. Meters



will not be demolished and the respondents will only be acting upon the already acquired portion of 27 Square meters.

8. In view of the specific undertaking given by the third respondent, the same is recorded and if the respondents want to utilize the portion of the building which is under the control of the petitioner, separate proceedings shall be initiated to acquire this property also in accordance with law.

9. This Writ Petition stands disposed of with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The District Collector,
Karur District, Karur.
- 2.The Special TAHlisdar (NH.67),
National High Ways No.67,
Four Way Lane Extension Project,
(Karur - Coimbatore Section),
Karur.

+1 CC to M/s.S.GOKUL RAJ, Advocate (SR-23570[F] dated 22/07/2021)

+1 CC to M/s.GP (SR-23689[F] dated 23/07/2021)

W.P(MD)No.8345 of 2021
22.07.2021

ES (CO)
MGJ(30.07.2021) 4P 5C