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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.Nos.364 and 366 of 2022

D.Brilla David .. Appellant in
W.A.No.364/2022

K.Gnanaprakasam .. Appellant in
W.A.No.366/2022

Vs

- 1.The Government of India,
rep. 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 District,
At Kanchipuram,
Camp Office at Taluk Office Premises, 2nd Floor,
Poonamallee,
Chennai-600 056.
- 3.The Special Tahsildar (L.A),
National Highways,
Tiruvallur District,
Taluk Office Premises, 2nd Floor,
Ponnamallee,
Chennai-600 056.
- 4.The National Highways Authority of India,
rep. by Project Director & General Manager,
SPIC Building,
Chennai-600 002.



5.The Chennai Metro Water Supply & Sewerage Board,
rep. by Chairman & Managing Director,
No.1, Pumping Station Road,
Chindaripet, Chennai-600 002.

.. Respondents

Prayer: Appeals under Clause 15 of the Letters Patent against the comm order dated 02.12.2021 passed by the learned Single Judge in W.P.No.27492 and 25373 of 2006.

Prayer in 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 S.O. 697 (E) in the Gazatte of India No.507 dated 24.05.2005 issued by the 1st respondent (2) Rc No.128/2005/A/NH-4/TVR dated 03.06.2006 issued by the 2nd respondent (3) Rc No.130/2005/A/NH-4/TVR dated 25.01.2006 issued by the 2nd respondent and quash the same and direct the competent authorities to carryout mutation of all revenue records in respect of New Survey Nod.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 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) dt. 13.10.2004 issued by the 1st and 2nd respondent 2) Noification S.O 697 (E) in the Gazatte of India No. 507 dt. 24.5.2005 issued by the 1st respondent 3) RC No. 128/2005/A/NH-4/TVRdt. 03.06.2005 issued by the 2nd respondent and all other connected proceedings and quash the same and direct the competent authorities to carryout mutation of all revenue records in respect of New S. No. 295/4B (Old Surey No. 295/3C) with building petroln tnk 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 the Appellants : Mr.T.Karunakaran

For the Respondents : Mr.C.Kathiravan
Spl. Government Pleader (L.A)
for respondent Nos.2, 3 and 5

COMMON JUDGMENT
(Delivered by the Hon'ble Chief Justice)

By these writ appeals, a challenge is made to the common order dated 02.12.2021, by which two writ petitions were decided



by the learned Single Judge in W.P.Nos.25373 and 27492 of 2006.

2. W.P.No.25373 of 2006 was filed to challenge the Notification S.O.697(E) published in the Gazette of India No.507, dated 24.05.2005 issued by the first respondent, coupled with the public notice dated 03.06.2005 and the proceedings dated 25.01.2006 issued by the second respondent with a request to 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 metres with building thereon situated at Poonamalle Village in favour of the appellant Gnanaprakasam. In the connected writ petition, being W.P.No.27492 of 2006, the same challenge and the request was made.

3. It is a case where the land in question bearing Survey Nos.295/5A and 295/5B was sought to be acquired by the National Highways Authority of India under the National Highways Act, 1956 (for short, "the Act of 1956"). After completion of the proceedings, an award was passed by the competent authority on 25.01.2006. Out of the two writ petitioners, one writ petitioner had received the compensation. Thereupon, the writ petitioners have filed the writ petitions to challenge the award mainly on the ground that while issuing the notification under Section 3(A)(1) of the Act of 1956, it was shown to be for the purpose of widening of road, but finally when the award was passed, it was shown to be for the purpose of handing over to the Chennai Metro Water Supply and Sewerage Board (for short, "the Board"). The issue raised by the writ petitioners was as to whether the land acquired for construction and widening of road could be handed over to the Board, for different usage. The argument raised by the petitioners did not find favour of the learned Single Judge.

4. It is the further argument of learned counsel for the appellants that the land in question has not yet been utilized and, therefore, the same is lying vacant.

5. According to learned counsel for the appellants, the issues raised in the writ petitions have not been determined by the learned Single Judge in reference to the jurisdiction of the National Highways Authority of India to acquire the land under the Act of 1956 for the purpose other than for construction of road. It was even fortified by the award, wherein it is stated that the land is to be handed over to the Board and also that the land is still lying vacant. The appellants, accordingly, pray for restoration of land to them. Thus, a challenge to the order of the learned Single Judge has been made mainly on that ground.



6. We have considered the submissions made by learned counsel for the appellants and also perused the materials available on record.

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7. The provisions of National Highways Act, 1956 are not similar or *pari materia* to the provisions of the Land Acquisition Act, 1894 (for short, "the Act of 1894"). Rather, with the issuance of notification for acquisition, followed by a notification under Section 3(D) of the Act of 1956, the land vests in the Central Government free from all encumbrance.

8. The aforesaid aspect has been taken into consideration by the learned Single Judge while dealing with the issues and it was held that the land was to be acquired for widening of the road, however, finding that certain lands of the Board are also to be acquired, thus, a meeting of the High-Level Committee was held. It was resolved to allot alternate land to the Board and thereby use their land for the road. On the aforesaid arrangement, the land in question was acquired so that with the exchange of land with the Board, the widening of the road can be carried out. The aforesaid has been mentioned in the award. Otherwise, it could have been arranged subsequent to the passing of the award. Thus, acquisition of the land was for the purpose of widening of the road. Therefore, *ipso facto*, we cannot agree with learned counsel for the appellants that the acquisition of the land was beyond the scope and ambit of the provisions of the Act of 1956.

9. It is not in dispute that the land is being utilized for laying pipelines. The declaration under Section 3(D) of the Act of 1956 was issued in the year 2006 i.e., almost 16 years back. An affidavit has been filed by the Board to the effect that pipelines of 2000mm diameter have been placed under the earth. Some encroachments were put up on the land acquired by the respondents and on the direction of this Court, those encroachments were removed.

10. Taking all the facts in totality and considering the arguments of the appellants/writ petitioners, the writ petitions were disposed of by the learned Single Judge with appropriate directions. We do not find any error in the order of the learned Single Judge so as to cause interference in it. The acquisition of the land is almost 16 years back. In one case, admittedly, the writ petitioner/appellant has accepted the compensation even before filing of the writ petition and without any protest. In the other case, an appropriate direction has been given by the learned Single Judge to approach the authority with required documents insofar as the appellant in W.A.No.364 of 2022, D.Brilla David, is concerned and if the authority finds that



the land belongs to the said writ petitioner, they have been directed to disburse the compensation. It is submitted on behalf of the appellants/writ petitioners that the amount may be lying in the bank account and earned interest. In such view of the matter, the said writ petitioner may pursue the authorities for payment of interest.

11. In the light of the foregoing discussions, we do not find any ground to cause interference in the order of the learned Single Judge and both the writ appeals fail. Accordingly, the writ appeals are dismissed. No costs.

Sd/-
Assistant Registrar (CO)

//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 District,
At Kanchipuram,
Camp Office at Taluk Office Premises, 2nd Floor,
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- 4.The Project Director & General Manager,
National Highways Authority of India,
SPIC Building,
Chennai-600 002.



5.The Chairman & Managing Director,
Chennai Metro Water Supply & Sewerage Board,
No.1, Pumping Station Road,
Chindaripet, Chennai-600 002.

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+4ccs to Mr.T.Karunakaran, Advocate SR.No.13188, 13189

+1cc to Government Pleader SR.No.13777(11/03/2022)

W.A.Nos.364 and 366 of 2022

GMR (CO)
GMY (03/03/2022)