



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 01.09.2022

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THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.Nos.432 and 433 of 2011
and M.P.No.1 of 2011 (2 petitions)

K.R.Krishnan

... Petitioner in W.P.No.432 of 2011

K.R.Kannan

... Petitioner in W.P.No.433 of 2011

-Vs-

1 The Secretary to Government,
Highways Minor Ports (HQ) Department,
Government of Tamil Nadu,
Secretariat, Chennai-9.

2. The District Collector,
Kancheepuram District.

3. The Tahsildar,
Land Acquisition Division,
Highways Road Project,
Tambaram, Chennai-45.

4. The Managing Director,
Tamil Nadu Road Development Corporation,
Perungudi, Chennai.

5. The Special Tahsildar (LA)
Radial Road Scheme, Tambaram,
Chennai-45.

... Respondents in both the writ petitions



Prayer in W.P.No.432 of 2011: Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records of the 1st respondent impugned G.O.Ms. No. 256 Highways and Minor Ports (HQ) dt 6.8.2010 and published in the T.N. Gazette No. 36 dt 15.9.2010 purported to have been issued under Se. 15(1) of T.N. Highways Act. 2001 along with consequential communication of the 5th respondent bearing proceeding number as Collector Kancheepuram proc. Rc. 16832/2009/F1 dt 20.9.2010 received on 9.12.2010 in so far as the petitioners Lands situated in S.No. 394/3B Part now sub divided as 394/3B2 Wet 00326 sq.mtrs S.No.394/3C Part now sub divided as 394/3C2 Wet 00451 Sq.mtrs S.No. 396/1 Part now sub divided as 396 Wet 00350 sq.mtrs S. No. 397/1 part now sub divided as 397/1B Wet 00714 Sq. mtrs, S.No.397/2 part now sub divided as 397/2B wet 001715 sq.mtrs S.No.397/5 Part now sub divided as 397/6B, Wet 00210 sq.mtrs. 155, Paiyanur Village, Chengalpattu Taluk, Kancheepuram District and quash the same.

Prayer in W.P.No.433 of 2011: Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records of the 1st respondent impugned G.O.Ms. No. 256 Highways and Minor Ports (HQ) dt 6.8.2010 and published in the T.N. Gazette No. 36 dt 15.9.2010 purported to have been issued under Se. 15(1) of T.N. Highways Act. 2001 along with consequential communication of the 5th respondent bearing proceeding number as Collector Kancheepuram proc. Rc. 16832/2009/F1 dt 20.9.2010 received on 9.12.2010 in so far as the petitioners Lands situated in S.No. 394/1 Part now sub divided as 394/1B Wet 00476 sq.mtrs, S.No.394/3A Part now sub divided as 394/3A2, Wet 00239 Sq.mtrs 155 Paiyanur village, Chengalpattu taluk , Kancheepuram district and quash the same.



For petitioner : Mr. S.Chandrasekaran

For Respondents : Mr. J.Ravindran, AAG

Assisted by

Ms.Akila Rajendran, GA for RR1 to 3, 5

Mr.Sivavardhan for R4

COMMON ORDER

Since the issue involved in both the matters and the facts are one and the same. Therefore, all the petitions are disposed of by way of common order.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioners' have filed these writ petitions challenging the order passed by the District Collector, Kancheepuram, acquiring their lands for the purpose of laying six way lane road.

4. It is the case of the petitioners that they are the owners of the subject properties situated at Paiyanur Village, Chengalpet Taluk, Kancheepuram District. According to the petitioners, their lands were acquired by the Highways Department for expansion of four way lane road and the said fact was also



accepted by the second respondent/District Collector in the counter affidavit filed by him.

5. It is the further case of the petitioners that though initially their lands were acquired for the purpose of laying four way lane road. However, subsequently, the same was acquired for laying six way lane road. Challenging the said proceedings passed by the second respondent for acquisition of the lands, the petitioners have filed these writ petitions.

6. In view of the contrary stand taken by the respondent with regard to the acquisition of lands for the purpose of expansion of four way lane road, this Court directed the District Collector to appear before this Court on 28.04.2022. On 28.04.2022, the District Collector has also appeared before this Court and sought time for file better counter affidavit. In the subsequent counter affidavit, the second respondent stated that no land was acquired from the petitioners for expansion of four way lane road and therefore, acquisition proceeding were initiated for expansion of six way lane road.

7. In view of the contrary stand taken by the respondents, this Court



issued a direction to the Tahsildar and Head Surveyor to measure the property in the presence of Advocate Commissioner after receipt of the title deeds produced by the petitioners. The officials have also therefore filed a report before this Court whether four lane road was laid in the petitioners' land or not and if acquired, what extent of land was acquired. If not acquired already, what extent the land is going to be acquired for expansion of six lane road project.

8. The Advocate Commissioners have filed interim report dated 21.06.2022 stating that the subject properties were fully covered with bushes and water logging and therefore, it was not possible for the Tahsildar and Head Surveyor to measure the properties exactly. The Advocate Commissioners have had requested the petitioners to clear the properties off bushes and water logging. So, it could be possible for the officers to measure the properties without any hindrance.

9. Subsequently, the District Collector, Kancheepuram, the second respondent herein has filed a counter affidavit stating that those officers were ready to survey the lands and sent prior notice to the petitioners on 18.06.2022 and 06.08.2022. Neither the petitioners' nor the interested parties were present



when the properties was undertaken to measure. The District Collector has categorically held that the petitioners properties were not utilized by the Highways department for formation of four way lane road. The existing four way lane was formed in the Survey No.395 and 396/2 which are already classified as Salai Poromboke. The second respondent further stated that no award passed to any one relating to the acquisition of land for four way lane since the highways department has proposed to acquired lands for six way lane.

10. The second respondent stated that in order to widen the existing Old Mahabalipuram Road and to develop the already laid four way lane into six way lane in S.Nos.394/1 (part), 394/3A, 3B, 3C, 396/1, 397/1, 397/2, 397/6 and 397/5 in total an extent of 5282 sq. mtrs. Of land was acquired for formation of six way lane. The second respondent has stated that the award for the petitioners' land has been prepared and the compensation will be paid to the petitioner for the total extent of 5582 sq.mtr. Acquired for six way lane.

11. Though the learned counsel for the petitioner has made elaborate arguments for the illegality in the order passed by the second respondent. In view of the categorical stand taken by the second respondent in the counter affidavit,



this Court of the view that no interference is required in the order passed by the second respondent. The second respondent has also submitted that an award amount is likely to be paid to the petitioners in due course.

12. This Court is fully satisfied that due process of law has been followed in the matter of acquisition and there is no need for interference in the order passed by the second respondent.

13. In view of the same, the writ petitions fail and the same are dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

01.09.2022

Index : Yes/No
Internet: Yes/No
Speaking Order : Yes/No
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To
1 The Secretary to Government,
Highways Minor Ports (HQ) Department,
Government of Tamil Nadu,
Secretariat, Chennai-9.

2. The District Collector,
Kancheepuram District.



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M.DHANDAPANI, J.

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