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W.P.Nos.26910 of 2015 etc., and batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.26910, 20039 to 20041, 22717, 22684, 22695, 26585, 26586 of 2015, W.P.Nos. 40000, 40084 of 2016 of 2022
and
M.P.Nos.1 of 2015 in W.P.Nos.26910, 26585, 26586, 20040, 20041 of 2015 and M.P.Nos.2 of 2015 in W.P.Nos.20039 to 20041, 22695, 22717, 26585, 26586,26910, 22684 of 2015 and
W.M.P.Nos.34130, 34059, 34129, 34058 of 2016
in W.P.Nos.40084, 40000 of 2016 and
W.M.P.Nos.8363, 15862, 20018, 11341, 20012, 15857, 1864, 8660, 11340, 20014 of 2020 in W.P.Nos.20039 to 20041, 26910, 22684 of 2015 and
W.P.Nos.40000, 40084 of 2016

W.P.No.26910 of 2015:

1. N.Boopalan
2. M.Madurai Veeran
3. R.Panjali
4. Meena Boopalan
5. P.Kamalam
6. P.Srimani Devi
7. P.Srimani Devi

... Petitioners



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VS.

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1. Government of Tamil Nadu,
Rep.by its Secretary,
Transport Department,
Fort St.George,
Chennai – 600 009.
2. District Collector,
Coimbatore.
3. District Revenue Officer,
Coimbatore.
4. Special District Revenue Officer,
Coimbatore.
5. Airport Authority of India,
Rep. by its Chairman
Rajiv Gandhi Bhavan
Safdurjung Airport,
New Delhi – 110 003.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent in his proceedings in G.O.Ms.No.251, Transport (1-2) dated 31.12.2013 (Published in Tamilnadu Government Gazette Publication No.393 dated 31.12.2013) and quash the same and directing the first respondent to implement the ultimate master plan proposal put forward by the fifth respondent vide letter dated 09.04.2013.



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For Petitioners : Mr.Mukund
for M/s.Sarvabhauman Associates

For R1 to R4 : Mr.T.K.Saravanan
Government Advocate

For R5 : M/s.Sr.A.Arul Mary

COMMON ORDER

Since the issue involved in the present writ petitions are one and the same they are disposed of by way of this common order.

2. It is the case of the petitioners that they are the owners of different extents of house property in the layouts in and around G.K.R.Nagar, Kalpatti Village, Coimbatore. The second respondent has issued public notification u/s 3(2) of Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (hereinafter referred to as 'the Act') stating that the petitioners' lands are required for expansion of Coimbatore Airport runway. Aggrieved over the said notification, the petitioners have submitted their objections to the second respondent stating that if the acquisition is given effect to, several persons would get displaced and also pointed out the



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existence of alternative space in the South could be acquired with minimum displacement of persons, but the said objections were not considered by the second respondent. The fifth respondent after repeated representation made by the petitioners had addressed a letter dated 09.04.2013 to the Chief Secretary, Government of Tamil Nadu submitting the ultimate master plan proposal for Coimbatore Airport which will exempt the petitioners lands from acquisition proceedings. However, ignoring the master plan proposal submitted by the fifth respondent, the first respondent had issued notifications under Section 3(1) of the Act, notifying that the petitioners lands are sought to be acquired for the above said purpose. Challenging the said notifications issued by the first respondent, the petitioners have filed these writ petitions seeking the aforesaid relief.

3. Learned counsel for the petitioners submitted that during the pendency of these writ petitions, some of the writ petitioners sought withdrawal of their petitions whereas others prayed this Court to adjudicate the issue involved in these batch of writ petitions. This Court vide order dated 01.11.2022, directed the respondents 2 and 4 to file a comprehensive



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report as to whether the petitioners' lands have been acquired for expansion of Coimbatore Airport runway and whether any awards were passed during the pendency of these writ petitions, pursuant to which the second and fourth respondents filed a report before this Court, wherein it is clearly stated that during the pendency of these writ petitions awards were passed in respect of some of the writ petitioners while award in respect of remaining land owners are yet to be passed. Therefore, it is submitted that the entire acquisition proceedings undertaken by the first respondent is not sustainable. Hence, the notification u/s 3(1) of the Act, issued by the first respondent is liable to be quashed.

4. Learned Government Advocate appearing for the respondents 1 to 4 submitted that though the writ petitioners herein had filed the present writ petitions as early as, in 2015 and 2016, most of the petitioners through their letters of consent, have agreed to part with their lands upon receipt of compensation. Further, many of the writ petitioners have given consent for acquisition of their lands through private negotiations between the District Level / State Level Private Negotiation Committees and land owners as



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approved by the Government. It is further contended that the alternative proposal prepared by the fifth respondent involves acquisition / displacement of large number of land owners, terraced houses, Schools, Temples and factories and the cost of Land Acquisition would be much higher than the original proposal. In such view of the matter, these writ petitions are liable to be dismissed.

5. Heard learned counsel appearing on either side and perused the materials placed before this Court.

6. The petitioners lands were sought to be acquired for the expansion of Coimbatore airport, which resulted in the issuance of notification u/s 3 (2), aggrieved by which the petitioners preferred the objections, which were rejected and notification u/s 3 (1) of the Act was issued, which has resulted in the filing of the present petitions.

7. Further to the report sought for from 2nd and 4th respondents with regard to the status of the acquisition and also whether any award has been



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passed, it is brought to the notice of this Court that pending the writ petitions, on the basis of private negotiations between some of the petitioners and the respondents, on the basis of the consent expressed by most of the petitioners to part with their lands, the lands have since been acquired and award has been passed to the said effect and payment of compensation has also been made.

8. It further transpires from the records that some of the writ petitioners have even received the compensation and in respect of some others, due to the pendency of the writ petition, awards were not passed. From the above, it is evident that the acquisition has taken place in respect of very many petitioners and only due to the pendency of the present petitions, awards could not be passed by the respondents. Such being the case, it is not open to the petitioners, who were party to the private negotiations and having accepted the offer based on which many of the land owners, including some of the writ petitioners have received the compensation, to turn back and claim that award has not been passed and compensation has not been paid, which would lapse the acquisition.



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9. It is further to be pointed out that once the petitioners, on their own volition have partaken in private negotiations and accepted the offer to part with the lands, which resulted in compensation having been paid to very many persons for the project, which is intended for a public purpose, the stand of the petitioners is wholly unjustifiable and does not deserve acceptance.

10. Further, the claim of the petitioners that alternative proposal prepared by the 5th respondent, without interfering with the lands of the petitioners have not been considered properly, it is to be pointed out that his Court, sitting under Article 226 of the Constitution cannot interfere with the opinion of the experts, who have drafted the proposal for the particular alignment of the runway.

11. It is also to be pointed out that the lands which are required for the purpose of runway for the expansion of the Airport is decided on the basis of the technical specification given by the experts, who take into account the necessity for certain technical criteria. Such matters of technical nature,



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therefore, would be within the realm of the experts to deliberate and decide and courts should not enter into the domain of technical experts and substitute its opinion, which has been the consistent view of the Courts.

The Hon'ble Apex Court in ***Union of India – Vs – Kushala Shetty (2011 (12) SCC 69*** has spoken about the technical expertise of the National Highways and for better appreciation, the relevant portion of the decision is quoted hereunder:-

“24. Here, it will be apposite to mention that NHAI is a professionally managed statutory body having expertise in the field of development and maintenance of National Highways. The projects involving construction of new highways and widening and development of the existing highways, which are vital for development of infrastructure in the country, are entrusted to experts in the field of highways. It comprises of persons having vast knowledge and expertise in the field of highway development and maintenance. NHAI prepares and implements projects relating to development and maintenance of National Highways after thorough study by experts in different fields. Detailed project reports are prepared keeping in view the relative factors including intensity of heavy vehicular traffic and larger public interest. The Courts are not at all equipped to decide upon the viability and feasibility of the particular project and whether the particular alignment would subserve the larger public interest. In such matters, the scope of judicial review is very limited. The Court can nullify.



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the acquisition of land and, in rarest of rare cases, the particular project, if it is found to be ex-facie contrary to the mandate of law or tainted due to mala fides. In the case in hand, neither any violation of mandate of the 1956 Act has been established nor the charge of malice in fact has been proved. Therefore, the order under challenge cannot be sustained.”

(Emphasis Supplied)

12. Similar to the projects involving construction of new highways and widening and development of the existing highways, which are vital for development of infrastructure in the country, expansion of the Airport is also in the interest of the public and also in the interest of the development of the State and the Airports Authority, being manned by experts having vast knowledge and expertise in the field of airport development and maintenance, who take into account all the factors, including the public purpose involved and that when the acquisition is also made keeping in mind the future necessities of the project and future expansion due to explosion of air traffic and when the project has been approved for which acquisition is being made and financial approval has also been provided by releasing the necessary finance, which has been paid as compensation to the petitioners, more so in the private negotiations held with the petitioners and



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the petitioners having received the compensation, the Court should not sit over the opinion of the experts to say whether the lands of the petitioners are required or not for the purpose of expansion of the Airport and whether the alternative proposal submitted by the 5th respondent should be approved by the 1st respondent is too big an ask made on behalf of the petitioners, which does not deserve acceptance.

13. For the reasons aforesaid, which the writ petitions are dismissed however this Court without interfering with the order impugned, directs the second respondent to pass the awards in respect of the remaining writ petitioners, if not already passed, and to pay the compensation to the respective land owners / writ petitioners as expeditiously as possible.

14. With the above directions and observation, these writ petitions are dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

04.11.2022

RAP

11/14



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Index : Yes/No

Speaking order : Yes/No

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To:

1. The Secretary,
The Government of Tamil Nadu,
Transport Department,
Fort St.George,
Chennai – 600 009.
2. District Collector,
Coimbatore.
3. District Revenue Officer,
Coimbatore.
4. Special District Revenue Officer,
Coimbatore.
5. The Chairman
Airport Authority of India,
Rajiv Gandhi Bhavan
Safdurjung Airport,
New Delhi – 110 003.



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M.DHANDAPANI, J.

RAP

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22695, 26585, 26586 of 2015, W.P.Nos. 40000, 40084 of 2016 of 2022**

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