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W.P.No.31989 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.31989 of 2016

And

W.M.P.Nos.27719 and 27765 of 2016

- 1.D.Bhuvana
- 2.Fathima Beevi
- 3.Santhakumari

... Petitioners

Vs.

- 1.The Government of India,
Ministry of Transport and Highways,
New Delhi.
- 2.The Chairman,
National Highway Authority of India,
G-5 and 6, Sector 10 Dwarka,
New Delhi – 110 075.
- 3.The Chief General Manager,
COOD & Public Grievance,
National Highway Authority of India,
G-5 and 6, Sector 10 Dwarka,
New Delhi – 110 075.
- 4.The Secretary to Government
For Land Acquisition & High Ways,
Government of Tamilnadu,
Fort St.George,
Chennai.
- 5.The District Collector,
Office of Collectorate,
Sathuvacharri, Vellore District.



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6.The District Revenue Officer,
Vellore District,
Vellore – 9.

7.The Special Tahsildar,
Land Acquisition for National High Ways,
Six way Road,
"B" Block, 4th Floor Collectorate,
Sathuvacharri,
Vellore – 9.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for records relating to the impugned notification issued by the 1st and 6th respondent dated 18.01.2015 as far as the petitioners are concerned and quash the same and consequently direct the respondents to remove the Tollgate situated at Palligonda, Vellore District.

For Petitioners : Mr.S.Arokia Maniraj for P1
Mr.T.Sai Krishnan for P2

For Respondents : Mr.J.Madana Gopal Rao for R1
Senior Panel Counsel
Mrs.S.R.Sumathy for R2 and R3
Mr.Yogesh Kannadasan for R4 to R7
Special Government Pleader

O R D E R

The petitioners have filed this writ petition seeking issuance of



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Writ of Certiorarified Mandamus, calling for records relating to the impugned notification issued by the respondents 1 and 6 dated 18.01.2015 as far as the petitioners are concerned and to quash the same and to consequently direct the respondents to remove the Tollgate situated at Palligonda, Vellore District.

2.The learned counsel appearing for the petitioners submitted that change of vakalat was given much earlier and case papers handed over to the petitioners and reported 'no instructions'. However, considering the pendancy of the case that the case is of the year 2016, this Court is inclined to dispose of the case based on the materials available on record.

3.The case of the petitioners is that the respondents initiated land acquisition proceedings to extend the toll gate and for construction of toilet and bathroom for the workers of toll gate. The petitioners were not aware of the Notification issued by the respondents for acquisition of their lands. Thereafter Notice under Section 3 G (3) of the National Highway Act [hereinafter referred to as 'Act'] was issued to the petitioners calling upon them to submit the documents relating to the ownership of the property.



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4.The grievance of the petitioners is that without affording any opportunity under Section 3 A (1) and without conducting any enquiry under Section 3 C (3) of the Act, their lands were acquired and notice under Section 3 G (3) of the Act was issued to them, which is violation of principles of natural justice.

5.The sixth respondent has filed a counter affidavit on behalf of respondents 4 to 7, wherein, it is stated that necessary Notification for lands to an extent of 2718 sq.mtr in S.No.189/1B and etc., in Pallikonda Village, Anaicut Taluk, for acquisition for expansion of existing Toll Plaza had been published as follows:

(i) 3A(1) Notification – No.2874 S.O.No.3792 (E) dated 20.12.2013.

(ii) 3A(3) Published in Daily Thanthi (Tamil) on 14.01.2014 Indian Express (English) on 14.01.2014.

(iii) 3D(1) Notification – No.2502 S.O.3099(E) dated 09.12.2014.

(iv) 3G(3) published Daily Thanthi (Tamil) on 18.01.2015 Indian Express (English) on 18.01.2015.



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6.It is further stated in the counter affidavit that in the 3A(1) Notification and 3A(3) Publication, it has been requested to submit objection within 21 days. Thereafter, award enquiry was conducted on 23.01.2015 at the Special Tahsildar's Office, Vellore. The first petitioner did not appear for enquiry and hence, the compensation amount was ordered to be kept in National Highways Account; the second petitioner appeared for enquiry and objected the land acquisition, however, she did not produce the objection petition in time and compensation amount was ordered in her name in Award proceeding Rc.G4/55/2010 dated 30.09.2016 and the third petitioner attended the enquiry and did not object the land acquisition and hence the compensation amount was ordered in her name, however, she did not come forward to receive the amount. Hence, in the award proceeding, all the formalities laid down in the Act were followed.

7.The writ petition has been filed on the ground of violation of principles of natural justice. However, perusal of the counter affidavit reveals that 3A(1) Notification dated 20.12.2013 was issued; Notification under Section 3A(3) was published in Daily Thanthi (Tamil) on 14.01.2014, Indian Express (English) on 14.01.2014 and



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3D(1) Notification dated 09.12.2014 was also issued.

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8.Once 3D(1) Notification was issued, the land vest with the Government and the petitioners without challenging the said Notification has filed this writ petition challenging the notice issued under Section 3G(3) of the Act, which is a consequential notification, which is un-sustainable one. Hence, the prayer sought for in this writ petition cannot be granted.

9.However, considering the above facts, this Court directs the sixth respondent to disburse the compensation amount in favour of the petitioners, within a period of twelve weeks from the date of receipt of a copy of this order. After receipt of the compensation amount, the petitioners are at liberty to work out the remedy in the manner known to law with regard to enhancement of compensation before the District Collector/ Arbitrator.

10.With the above observations and directions, the writ petition stands dismissed. No costs. Consequently the connected miscellaneous petitions are closed.



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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

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