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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.NO.27643 OF 2021

AND

WMP NO.29182 OF 2021

Sri Venkateswara Educational and Health Trust
Represented by its Secretary
Prof. M.Sivanandham

...Petitioner

Versus

- 1.The Project Director & General Manager
The National Highway Authority,
No.DP 34, Sri Towers South Phase,
3rd Floor, Guindy, Chennai,
Tamil Nadu - 600 032.
- 2.The Divisional Engineer (Highways)
Tamil Nadu State Highways Department
Tiruvallur,
Tiruvallur District.
- 3.The District Collector,
Tiruvallur District
Tiruvallur.
- 4.The Special District Revenue Officer (LA)
National Highways Schemes,
Kancheepuram District and Tiruvallur District,
Kancheepuram.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Mandamus forbearing the respondents authorities from acquiring or taking away the petitioner's land comprised in S. No.133/3B of Chembarapakkam village, Poonamallee Taluk, Tiruvallur District and the building constructed therein without following the due process of law and without paying compensation to petitioner in current market value of the property.

For Petitioner : Mr.P.Gurusamy

For Respondents : Mr.P.Sathish, AGP



ORDER

This writ petition has been filed to forbear the respondents authorities from acquiring or taking away the petitioner's land comprised in S. No.133/3B of Chembarapakkam village, Poonamallee Taluk, Tiruvallur District and the building constructed therein without following the due process of law and without paying compensation to petitioner in current market value of the property.

2. The case of the petitioner Trust is that they purchased land measuring an extent of 8.5 cents comprised in S. No.133/3B of Chembarapakkam village, Poonamallee Taluk, Tiruvallur District and they are in continuous possession and enjoyment of the said land from the year 1991 and accordingly mutation of records were also effected in the name of the petitioner's Trust. While so, on 13.12.2021, some third parties claiming to be road contractors threatened the petitioner/Trust stating that some extent of the subject properties were acquired by them and also tried to demolish their building, without any notice. Hence, the petitioner/Trust submitted a representation, dated 18.12.2021 to the respondents narrating the aforesaid facts and requested for issuance of acquisition proceedings, to proceed further in accordance with law, and the same evoking no response, has led to filing of this present writ petition with the aforesaid prayer.

3. The learned counsel for the petitioner submitted that the petitioner Trust is the owner of the entire property. However, an extent of 68 sq. mts of the petitioner's property were alleged to be acquired by the respondents for the purpose of widening of road. But the respondents are trying to take over the excess portion of the petitioner's property. Hence, he prays before this Court for issuance of a direction to the respondents not to interfere the petitioner's possession of property beyond the acquisition limit.

4. Per contra, Mr. P. Sathish, learned Additional Government Pleader appearing for the respondents reiterating the counter affidavit, particularly paragraph No.7 submitted that the respondents / authorities have not entered upon the private land of the petitioner. Further, conceding with the submission of the learned counsel for the petitioner, he submitted that an extent of 68 sq. mts was acquired and a sum of Rs.28,125/- was awarded as compensation for the land only and not for the construction. However, he also submits that the respondents will take possession only of the acquired land of the petitioner and not over and above the acquisition, that too after following the due procedures contemplated under the National Highways Act,



1956. Further, he has no objection for issuance of appropriate orders to the respondents

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

6. On perusal of records, it is admitted that an extent of 68 sq. mts of petitioner's land have been acquired by the respondents under the National Highways Act, 1956 and Award to that extent was also determined.

7. In view of the fair stand taken by the learned Additional Government Pleader, without going into the merits of the case, this Court disposes of this writ petition by directing the respondents to take possession of the petitioner's land only to the extent of the admitted acquired portion i.e., 68 sq mts., after following the due procedures contemplated under the Act. It is made clear that the respondents shall not interfere with the petitioner's land beyond the acquired extent, as noted above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

vsi2

To

- 1.The Project Director & General Manager
The National Highway Authority,
No.DP 34, Sri Towers South Phase,
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Tamil Nadu - 600 032.
- 2.The Divisional Engineer (Highways)
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Tiruvallur,
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4.The Special District Revenue Officer (LA)
National Highways Schemes,
Kancheepuram District and Tiruvallur District,
Kancheepuram.

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+1cc to Mr.S.Sithirai Anandam, Advocate Sr.No.26864

+1cc to the Government Pleader Sr.No.27167

W.P.No.27643 of 2021

SV(CO)
RVM(06/06/2022)