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W.P.No.29617 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.29617 of 2022
and W.M.P.No.28997 of 2022

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... Petitioner

Vs.

1.The Government of India,
Represented by its Secretary,
Ministry of Road Transport and National Highways,
New Delhi.

2.The District Collector,
Office of the Collectorate
Vellore District.

3.The Special Tahsildar, (L.A.)
Land Acquisition,
Office of the Collectorate,
4th Floor, Vellore – 9.

4.The Project Director,
The National Highways Authority of India,
Office of the NHAI, No.7E, 5th Cross,
Jakkanpan Nagar, Krishnagiri 635 001.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a
Writ of Certiorari, to call for the records relating to the impugned notification



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of the 1st respondent published in Daily Thanthi, dated 08.11.2011 and the consequential Notice in Na.Ka.No.64 10/2012 dated 08.05.2012 issued by the 3rd respondent in respect of the land in Survey Nos.325/7B and 325/8D, situate at Pallikonda Village, Anaicut Taluk, Vellore District and to quash the same.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.N.Siva Bharathi for R1
Central Government Counsel

: Mr.K.Karthik Jaganathan for RR2 & 3
Government Advocate

: Mr.Su.Srinivasan for R4

ORDER

The petitioner has filed this writ petition seeking issuance of a Writ of Certiorari, to call for the records relating to the impugned notification of the 1st respondent published in Daily Thanthi, dated 08.11.2011 and the consequential Notice in Na.Ka.No.64 10/2012 dated 08.05.2012 issued by the 3rd respondent in respect of the land in Survey Nos.325/7B and 325/8D, situate at Pallikonda Village, 08.11.2022 Anaicut Taluk, Vellore District and to quash the same.



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2.The case of the petitioner is that the petitioner is the owner of the property measuring to an extent of 310 Sq.m. S.No.325/7 and 8. The said land was sought to be acquired under the National Highways Act and Notification under Section 3(a)(1) was issued on 08.01.2011 and 3D notification was published on 04.05.2012. Objecting the said land acquisition proceedings, the petitioner and her son filed a Writ Petition before this Court in W.P.No.6497 of 2013 and this Court vide its order dated 05.02.2020, issued direction to the petitioner to file a fresh representation to the 3rd respondent therein in respect of the property and on filing of the same, the 3rd respondent therein was directed to consider and pass appropriate orders. Another Writ Petition in W.P.9623 of 2020 was closed on 17.08.2020. The representation of the petitioner was rejected on 10.08.2020. As against the said rejection order the petitioner and her son filed a Writ Petition in W.P.Nos.23264 of 2016, 23265 of 2016 and 13091 of 2020 before this Court and this Court vide its order dated 12.07.2022, without interfering the order therein, disposed the matter directing the petitioner as well as the 4th respondent to make joint request before the jurisdictional Tahsildar for Taluk and Survey for resurveying the subject property of the petitioner which is in



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dispute within a period of four weeks and the jurisdictional Tahsildar Taluk and Survey was directed to measure the property in presence of the petitioner and the National Highways Authority and handover the acquired portion of the land to the National Highways Authority as per the 3D notification and handover the balance land to the petitioner as early as possible. Thereafter, the petitioner came to know that the entire land was acquired by the National Highways Authority for the purpose of National Highways and therefore, the petitioner filed a Writ Petition challenging the 3D notification issued in the year 2012.

3.The learned counsel appearing for the petitioner submits that a smaller portion of the land was acquired from the petitioner. However, after the field inspection, as per the direction of this Court, the petitioner came to know that the entire extent of the land was acquired by the National Highways Authority which is against the spirit of the order. Accordingly, he prays for allowing the Writ Petition.

4.Learned Additional Government Pleader appearing for the respondents submits that though as on date, the petitioner has not challenged



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the 3D notification and that in the earlier two rounds of litigation, the petitioner filed the petition challenging the rejection of his objection and the measurement of the property, however, in the present Writ Petition, the petitioner is challenging the 3D notification, which is not sustainable as the land was acquired way back in the year 2012 and the compensation amount was deposited, as the petitioner has not come forward to receive the compensation amount and the same was deposited as per the provisions of the Act. However, the present Writ Petition is filed challenging the 3D notification after a lapse of 12 years, which is not a sustainable one. Hence, the Writ Petition suffers from delay and laches and accordingly, he prayed for dismissal of the Writ Petition.

5.Learned Additional Government Pleader further submits that the petitioner has not come forward to receive the compensation amount and further submitted that the compensation amount will be disbursed in favour of the petitioner as per the direction of this Court.

6.The facts in the present case is not in dispute. Admittedly, the petitioner's land was acquired under the National Highways Act and after



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issuance of the 3(a)(1) notification, 3D notification was issued in the year 2012. However, subsequently, the petitioner and her son filed several writ petitions challenging the impugned communication issued by the respondent. However, the fact remains that the petitioner has not challenged the 3D notification earlier in point of time and only after a lapse of 12 years the petitioner has challenged the 3D Notification. No proper reason or explanation has been tendered to explain the delay of 12 years in challenging the 3D Notification. In the absence of any explanation, challenging the 3D Notification after a lapse of 12 years is wholly impermissible, when the acquisition proceedings has culminated in an Award and compensation has also been deposited. Hence, the present Writ Petition is dismissed on ground of delay and laches.

7.However, considering the facts and circumstances of this case, till date the compensation amount having not been received by the petitioner, this Court directs the respondents to disburse the compensation amount to the petitioner after satisfying his title of the property through the documents, within a period of six weeks from the date of receipt of a copy of this order



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with applicable interest.

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8.This Writ Petition is accordingly is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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for The Government of India,
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- 2.The District Collector,
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Vellore District.
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M.DHANDAPANI,J.

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