



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.03.2022

DELIVERED ON: 01.04.2022

CORAM

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.10292 of 2020

and

W.M.P. (MD)Nos.9165 and 9168 of 2020

WEB COPY

K.N.K.Karthick

... Petitioner

vs.

1.The Union of India,
represented by its Deputy Secretary,
Ministry of Road Transport and Highways,
Transport Bhawan, No.1, Parliament Street,
New Delhi-110 001.

2.The Deputy General Manager (T) &
the Project Director,
National Highways Authority of India,
Madurai.

3.The Competent Authority and Special
District Revenue Officer,
Land Acquisition,
National Highway 785E & 85 (NEW),
Plot No.171, 8th East Cross Street,
K.K.Nagar, Madurai-625 020.

4.The Special Tahsildar (L.A.),
National Highways,
785, Unit-I, Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records related to the impugned notification issued by the third respondent in his proceedings Roc No.4489/2018/A2 dated 16.03.2020 published in the Hindu Newspaper on 20.03.2020 and the impugned second notification in Roc. No.4489/2020/A2 dated 12.05.2020 issued by the third respondent published in the Hindu Newspaper on 16.05.2020 and the consequential orders passed by the third respondent in his proceedings in Na.Ka.No.4489/2020/A2 dated 23.06.2020 and the consequential impugned notification issued by the first respondent and published in the Government Gazette of India in Gazette No.2275 dated 31.07.2020 in S.O.2569(E) dated 31.07.2020 and quash the same as illegal and contrary to the spirit of the provisions of the National Highways Act, 1956.



WEB COPY

For Petitioner
For R1
For R2
For R3 and R4

:Mr.B.Saravanan
:Mr.S.Jeyasingh
:Mr.C.Arul Vadivel @ Sekar
:Mr.M.Lingadurai
Special Government Pleader

O R D E R

The point for consideration in this Writ Petition is whether the third respondent has followed the procedure contemplated under Section 3-C of National Highways Act, 1956 (hereinafter referred to as "the Act"), before acquiring the lands belonging to the petitioner.

2.The contention of the petitioner is that the impugned notification, dated 16.03.2020 acquiring the petitioner's land issued by the third respondent has lapsed on account of the National Lockdown due to COVID-19, as it was not possible for the interested persons to submit their objection within 21 days in the office of the third respondent and on account of the cancellation of scheduled enquiry on 15.04.2020. According to the petitioner, all the consequential proceedings relating to the acquisition of the petitioner's land are illegal and non est in the eye of law.

3.It is the contention of the petitioner that the procedure contemplated under Section 3-C of the Act has not been followed and personal hearing was also not afforded to the petitioner. Therefore, it is the contention of the petitioner that declaration of acquisition under Section 3-D of the Act published in the Gazette of India dated 31.07.2020 is illegal and hence, the same is liable to be set aside.

4.However, it is the contention of the third respondent that the impugned proceedings have been issued only in accordance with the procedure contemplated under Section 3-C of the Act. According to the third respondent, the notification, dated 26.02.2020 under Section 3-A(1) of the Act, was published in the Government of India Gazette No.800, dated 27.02.2020 in S.O.874(E). It is also submitted that the notification under Section 3-A(3) of the Act was also published in "Daily Thanthi" Tamil and "The Hindu" English on 20.03.2020 inviting objection, if any, for the proposed acquisition, which disclosed the petitioner's land also.

5.According to the third respondent, the petitioner did not submit his objection and also did not appear before the third



respondent on 15.04.2020. According to the third respondent, the petitioner has not availed the opportunity given to him to raise his objection in accordance with the provisions of Section 3-D of the Act.

6. According to the third respondent, the petitioner has not raised any objection upto 12.05.2020. The third respondent has also issued another notification, which was published in "Daily Thanthi" Tamil and "The Hindu" English on 16.05.2020 requesting the land owners to submit their objection petition, if they have not submitted the same before. According to the third respondent, despite the additional notification, dated 12.05.2020, the petitioner has failed to submit his objection petition on or before 22.05.2020. According to the third respondent, the petitioner submitted his objection only on 10.06.2020, which was received by the third respondent on 12.06.2020. According to the third respondent, though the objection petition was sent to the requisitioning body, ie., the Deputy General Manager (T) and Project Director, National Highways Authority of India, Madurai, for remarks. The Project Director, NHAI, Madurai, has also sent a reply rejecting the request of the petitioner and has denied the allegations made by the petitioner.

7. It is the case of the third respondent that the land of the petitioner was surveyed as early as in the month of January 2020 and the petitioner also knows fully well that his land is going to be acquired by NHAI. The total extent of the petitioner's land is only 596 sq.mtr and out of it, only 11 sq.mtr., which is a vacant site, and a compound wall, have been acquired.

8. Heard, Mr.B.Saravanan learned Counsel for the petitioner, Mr.S.Jeyasingh, learned Counsel for the first respondent, Mr.C.Arul Vadivel @ Sekar, learned Counsel for the second respondent and Mr.M.Lingadurai, learned Special Government Pleader for R3 and R4.

9. The learned Counsel for the petitioner reiterated the contents of the affidavit filed in support of this Writ Petition. Similarly, the learned Counsel for the third respondent reiterated the contents of the counter affidavit filed by the third respondent. In addition to the contents of the counter affidavit, the learned Standing Counsel for the third respondent highlighted the importance of the project and the public interest involved.

10. The learned Standing Counsel for the third respondent also drew the attention of this Court to the following authorities in support of his contention that the acquisition of the petitioner's land has been done only in accordance with law and the procedure contemplated under the Act.

(a) Ramniklal N.Bhutta and another vs State of Maharashtra and

<https://hcservices.ecourts.gov.in/hcservices/>



others (1997 (1) SCC 134);

(b) Union of India vs Kushala Shetty (2011 (12) SCC 69);

(c) Texmo Precision Castings vs Secretary, Ministry of Road Transport and Highways (2019 (3) CTC 65);

(d) N.Tamilselvi vs Union of India (2019 (1) CTC 609); and

(e) Arunkumar and another vs the Government of India (W.A(MD) Nos.1035 and 1036 of 2019)

11. Section 3-C of National Highways Act, 1956, reads as follows:

"3C. Hearing of objections.—(1) Any person interested in the land may, within twenty-one days from the date of publication of the notification under sub-section (1) of section 3A, object to the use of the land for the purpose or purposes mentioned in that sub-section.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard, either in person or by a legal practitioner, and may, after hearing all such objections and after making such further enquiry, it may, as the competent authority thinks necessary, by order, either allow or disallow the objections.

Explanation.—For the purposes of this sub-section, "legal practitioner" has the same meaning as in clause (i) of sub-section (1) of section 2 of the Advocates Act, 1961 (25 of 1961).

(3) Any order made by the competent authority under sub-section (2) shall be final."

12. The petitioner has challenged the procedure followed by the third respondent with regard to Section 3-C of the Act. According to the petitioner, 21 days notice was not given to the petitioner to submit his objection petition from the date of subsequent notification issued by the third respondent on 12.05.2020. According to him, only 10 days notice was granted to him and hence, the notification has not been issued in accordance with Section 3-C of the Act, which mandates 21 days notice. According to him, only due to COVID-19 lockdown, the petitioner was unable to submit his objection and could not attend the hearing on 15.04.2020, which was the date fixed under the earlier notification, dated



26.02.2020, which was published in Government of India gazette on 27.02.2020.

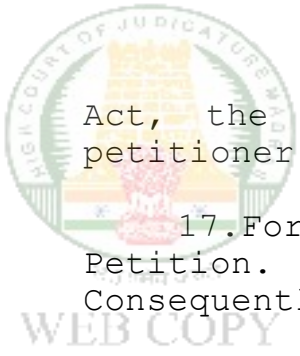
Discussion:-

13.The earlier notification dated 26.02.2020 issued under Section 3-A(1) of the Act was published in the newspapers granting the land owners 21 days time to submit their objection petition. The subsequent notification, dated 12.05.2020 was issued only to enable the land owners to submit their objection petition by granting them further time on account of COVID-19 pandemic lockdown conditions. In the subsequent notice, dated 12.05.2020, the third respondent has not mentioned that the earlier notification, dated 26.02.2020 stands withdrawn, but instead they have categorically stated that the earlier notification, dated 26.02.2020, which was published on 27.02.2020 in the Government gazette of India, is still in force and the subsequent notification, dated 12.05.2020 was issued only in continuation of the earlier notification under Section 3-A(1) of the Act. Therefore, the contention of the petitioner that 21 days notice will have to be given for the subsequent notification, dated 12.05.2020 also as contemplated under Section 3-C of the Act, is unacceptable and rejected by this Court.

14.In fact assuming the contention of the petitioner is legally tenable, even then the petitioner has also not submitted his objection petition within the time of 21 days from the date of the notification, dated 12.05.2020. He has submitted his objection petition only on 10.06.2020. Hence, the petitioner's contentions are absolutely bereft of any merit. The third respondent has rightly rejected the petitioner's objection petition, dated 10.06.2020 by its order, dated 23.06.2020.

15.The decisions relied upon by the learned Standing Counsel for the third respondent, referred to supra, reiterates the importance of public projects. In the case on hand, the respondents have acquired the lands of several land owners and are almost on the verge of completing the project. It is also contended by the learned Standing Counsel for the third respondent that award has also been passed in favour of the petitioner under which compensation payable to him has been determined. It is also contended that the land acquired from the petitioner is only 11 sq.mtr, and it is not detrimental to the petitioner's interest and in fact, it enhances the value of the petitioner's land by the laying of road, which forms part of National Highways.

16.This Court does not find any substance in the contentions of the petitioner that the procedure contemplated under Section 3-C of the Act has not been followed by the third respondent. Only in accordance with the procedure contemplated under Section 3-C of the



Act, the respondents have acquired the land belonging to the petitioner.

17. For the foregoing reasons, there is no merit in this Writ Petition. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Competent Authority and Special
District Revenue Officer,
Land Acquisition,
National Highway 785E & 85 (NEW),
Plot No.171, 8th East Cross Street,
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2.The Special Tahsildar (L.A.),
National Highways,
785, Unit-I, Madurai.

+1 CC to M/s.C.ARUL VADIVEL @ SEKAR, Advocate (SR-15974[F] dated 01/04/2022)

+1 CC to M/s.S.JEYASINGH, Advocate (SR-16186[F] dated 01/04/2022)

Order made in
W.P. (MD) No.10292 of 2020
01.04.2022

PA(11.04.2022) 6P 5C