



WEB COPY

W.P(MD)No.10570 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2022

CORAM

THE HONOURABLE **MR. JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MRS. JUSTICE S.SRIMATHY**

W.P(MD)No.10570 of 2020

and

W.M.P.(MD)Nos.9328 and 11307 of 2020 and 4345 of 2022

- 1.Palanikumar
- 2.Seenivasan
- 3.Dhanasekar
- 4.Nagarajan
- 5.Thanga Muneeswaran
- 6.Soundira Pandian
- 7.Rathina Pandian
- 8.Balamurugan
- 9.Pandiarajan
- 10.Balakrishnan
- 11.Kalyanasundaram
- 12.Ganesamoorthy
- 13.Theivendran
- 14.Subramani
- 15.Vasanthakumar
- 16.Murugamalai
- 17.Murugavel
- 18.Kalimuthu
- 19.Veeru Chinnammal
- 20.Saroja
- 21.Pandi
- 22.Chinnammal
- 23.Andi
- 24.Ganapathy
- 25.Paramasivam
- 26.Palpandi
- 27.Paramasivam
- 28.Thangavel
- 29.Arumugam

... Petitioners

Vs.

1.The District Collector,
Theni District.

2.The District Adi Dravidar Welfare Officer,
Office of the District Collector, Theni.



- 3.The Competent Authority &
Special District Revenue Officer,
(Land acquisition),
National Highways 45E & 220, Theni.
- 4.The District Revenue Officer,
Theni District, Theni.
- 5.The Special Tahsildar (Land Acquisition),
National Highways 45E & 220, Phase-I,
Theni, Theni District.
- 6.The Special Tahsildar,
Adi Dravidar Welfare, Theni, Theni District.
- 7.The Revenue Divisional Officer,
Periyakulam, Theni District.
- 8.The Tahsildar, Taluk Office,
Periyakulam, Theni District.
- 9.The Block Development Officer,
(Village Panchayat),
Periyakulam at Vadugapatti, Theni District.
- 10.The Panchayat President,
Mela Endapulali Village, Periyakulam Taluk,
Theni District.
- 11.The Deputy General Manager (Tech) &
Project Director,
National Highways Authority of India,
Project Implementation Unit,
Aishwaryam Heights, Indira Nagar,
Thadikombu Road, Dindigul - 624 004. ... Respondents

(R11 impleaded vide order of this Court,
dated 14.06.2022 in W.M.P. (MD) No.11039 of 2022)

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the fifth respondent in Na.Ka.No.53/2020, dated 20.08.2020 and to quash the same and consequently, to direct the respondents herein to take expeditious action to clear all the standing tamarind trees, plot out house site, fix boundaries to each house site, construct house in each house site with all minimum basic amenities of road, drainage, street light, individual drinking water connection, electricity to each house, sanitation and toilet as mandatorily required under law in Survey Nos.142/4 & 142/2B Endapulali Village, Periyakulam Taluk,



For Petitioners :Mr.K.Appadurai
For R1 to R10 :Mr.S.P.Maharajan
Special Government Pleader
For R11 :Mr.C.Arul Vadivel @ Sekar

WEB COPY

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the fifth respondent, dated 20.08.2020 and to direct the respondents to take action to clear all the standing tamarind trees, plot out house site, fix boundaries to each house site, construct house in each house site with all minimum basic amenities of road, drainage, street light, individual drinking water connection, electricity to each house, sanitation and toilet, etc., in Survey Nos.142/4 & 142/2B Endapuli Village, Periyakulam Taluk, Theni District.

2.Heard Mr.K.Appadurai, learned Counsel for the petitioners, Mr.S.P.Maharajan, learned Special Government Pleader appearing for R1 to 10 and Mr.C.Arul Vadivel @ Sekar, learned Counsel for the respondent No.11.

3.Brief facts that are necessary for the purpose of disposal of this Writ Petition are as follows:

4.The petitioners state that they are residing in a small dwelling units in S.No.370/2 situated in Mela Endapuli, Devathanapatti, Theni District. It is the case of the petitioners that the lands were originally assigned by the Adi Dravidar Welfare Department in favour of the petitioners or their predecessors-in-interest for their residential purpose. It is also admitted that the petitioners' land in S.No.370/2 was acquired by the National Highways Authority of India for implementation of a project of laying four lane road.

5.At the time of acquisition of lands from the petitioners in 2012, the first respondent has made arrangements to give alternative accommodation to the petitioners. Though some of the persons, whose lands were acquired, were issued with patta to an extent of one cent, it is the case of the petitioners that no layout was formed and no road or basic amenities, like, drinking water, toilet, etc., was provided to those beneficiaries, who got assignment. When the fifth respondent issued the impugned notice directing the petitioners to vacate the premises indicating that on failure, the encroachments will be removed by 28.08.2020, the above Writ Petition is filed by the petitioners, who are residing in the small houses put up by them in the acquired land.



6.It is the case of the petitioners that the fifth respondent has passed the impugned order without following due process and the mandatory procedures established by law. Further, it is stated that the lands belong to the petitioners were acquired for the public purpose under the National Highways Act, 1956. But, no alternative accommodation with basic amenities is provided to the petitioners, whose lands were acquired for a National Highways project.

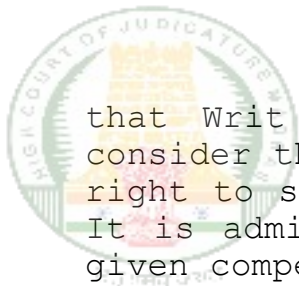
7.Though the petitioners have filed a Writ Petition earlier and the same was disposed of by directing the first respondent herein to consider the grievance of the petitioners in their representations, it is stated by the learned Counsel for the petitioners that no further action was taken by the respondents to give alternative accommodation by providing basic amenities. Though the petitioners have admitted that they were given vacant site, it is the grievance of the petitioners that they are not able to shift their residents, as no construction is commenced nor basic infrastructure is provided to the layout, which was assigned in favour of the petitioners.

8.This Court is unable to appreciate the contentions of the petitioners, as the acquisition proceedings under the National Highways Act, 1956, are completed long back and absolutely, there is no provision under the National Highways Act, 1956, to provide alternative accommodation to the persons, from whom the lands were acquired. When the National Highways Authority of India undertakes a development project, it is for the benefit of public and the obstruction caused by the petitioners would not only against the public interest, but also affect the project itself in terms of escalation of cost.

9.The lands were acquired for the project vide notification under Section 3A(1) of the National Highways Act, 1956 dated 09.06.2010. The notification under Section 3D(1) of the Act was also published on 25.05.2011 and gazetted on 26.05.2011. The substances of the notification were published in two local dailies on 21.07.2010 and 19.07.2011 respectively. After conducting enquiry, as contemplated under Section 3G(3) of the Act, the Land Acquisition Officer, namely, the Special District Revenue Officer, passed an award, dated 30.01.2012, fixing a sum of Rs.59,53,738/- as compensation.

10.It is now put on record that out of 19 persons, 18 land owners have received compensation in full and the amount, which is earmarked for the land acquired from one person, is kept in the bank account for want of relevant records by the concerned individual to show his title.

11.Though the petitioners have earlier filed Writ Petition, seeking a direction to the respondents to provide alternative sites



that Writ Petition with a direction to the first respondent to consider the petitioners' representation, as the petitioners have no right to seek alternative accommodation or to get individual house. It is admitted in the course of hearing that the petitioners were given compensation for the buildings in which they were residing.

WEB COPY

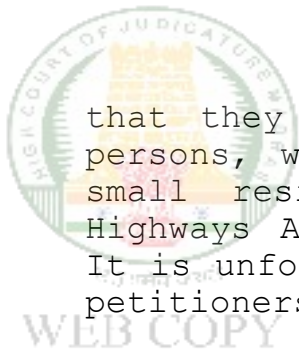
12.Though acquisition was completed by paying compensation to 18 land owners out of 19 land owners, the learned Special Government Pleader appearing for the respondents 1 to 10 states that the assignment of lands was made in favour of 31 persons. It is in these circumstances, this Court is unable to find any absolute right in favour of the petitioners to seek alternative accommodation or construction of houses, as a matter of right. Since there is no provision for providing alternative lands or to construct houses to shelter the affected land owners, the petitioners' claim, merely because they belong to Adi Dravidar Community, cannot be entertained. Hence, the main contention of the petitioners in the affidavit filed in support of the Writ Petition cannot be countenanced in view of the specific stand taken by the respondents and the admitted case of the petitioners.

13.Though the lands were acquired in 2011, the petitioners are still in occupation of the lands. After declaration, as contemplated under Section 3D of the Act, the lands vest with the Central Government and therefore, it is lawful for any person authorised by the Central Government, to enter and do other act upon the land, which is necessary to carry out the operation towards the implementation of the project of National Highways Authority of India. In this case, the lands though were acquired in 2011, the petitioners states that they are still in possession and resisted to vacate the premises on the ground that they are entitled to get alternative accommodation with all infrastructures. After the entire compensation is being settled in the manner provided under the Act, the petitioners have no right to resist dispossession and hence, the impugned notice issued by the fifth respondent is perfectly in order and it is unfortunate that the matter is pending from 2011 without any progress and the petitioners are giving pressure to the respondents, particularly, the National Highways Authority of India to provide alternative accommodation with all infrastructure by keeping the acquired lands under their control. The petitioners are not entitled for any indulgence having regard to their conduct.

14.The learned Counsel for the petitioners seeks indulgence of this Court to give atleast three months time to vacate the residential units and handover possession of the site with building to the National Highways Authority of India.

15.Though some of the land owners were given alternative accommodation and they also moved on to the alternative

<https://www.mca21.com.in/>



that they are not in a position to demolish the houses, as the persons, who got allotment, are still holding possession over the small residential units and they have prevented the National Highways Authority of India from moving forward with the project. It is unfortunate to state that due to recalcitrant attitude of the petitioners, a project for the benenefit of public is stalled.

16.Though the learned Counsel for the petitioners has given an undertaking that the petitioners will vacate the premises within a period of three months, this Court is unable to accept the conduct of the petitioners. Hence, the learned Counsel for the petitioners is directed to get an affidavit of undertaking from each and every individual, who are seeking three months time to vacate the premises and a further undertaking that they will not resist forcible eviction on the expiry of three months time. The petitioners, who had already got assignment/alternative accommodation, are not entitled to seek time. Similarly, the persons, who fail to give an affidavit of undertaking before this Court, as undertaken by the learned Counsel for the petitioners, shall be evicted from the premises without giving them any time. The petitioners/individuals shall file an undertaking affidavit on or before 20.06.2022. The respondents shall ensure that the possession of the property is taken from the encroachers/land owners on the expiry of time, in case an undertaking affidavit is filed.

17.This Writ Petition is dismissed with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

18.Post the matter on 20.06.2022 for filing undertaking affidavit.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

17/06/2022

Sub Assistant Registrar(CS)

cmr

To

1.The District Collector,
Theni District.

2.The District Adi Dravidar Welfare Officer,
Office of the District Collector, Theni.

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



- 3.The Competent Authority &
Special District Revenue Officer,
(Land acquisition),
National Highways 45E & 220, Theni.
- 4.The District Revenue Officer,
Theni District, Theni.
- 5.The Special Tahsildar (Land Acquisition),
National Highways 45E & 220, Phase-I,
Theni, Theni District.
- 6.The Special Tahsildar,
Adi Dravidar Welfare, Theni, Theni District.
- 7.The Revenue Divisional Officer,
Periyakulam, Theni District.
- 8.The Tahsildar, Taluk Office,
Periyakulam, Theni District.
- 9.The Block Development Officer,
(Village Panchayat),
Periyakulam at Vadugapatti, Theni District.
- 10.The Panchayat President,
Mela Endapuli Village, Periyakulam Taluk,
Theni District.
- 11.The Deputy General Manager (Tech) &
Project Director,
National Highways Authority of India,
Project Implementation Unit,
Aishwaryam Heights, Indira Nagar,
Thadikombu Road, Dindigul - 624 004.

COPY TO:

THE SECTION OFFICER,
WRIT SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI
(For Posting the matter)

- +1 CC to M/s.C. ARUL VADIVEL @ SEKAR, Advocate (SR-25625[F]
dated 14/06/2022)
+1 CC to M/s.K. APPADURAI, Advocate (SR-25664[F] dated 14/06/2022)
+1 CC to M/s.SPL.GP (SR-25788[F] dated 15/06/2022)

W.P(MD)No.10570 of 2020
14.06.2022

SB(CO)