



W.P.No.4071 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.4071 of 2019 &
W.M.P.No.6761 of 2019

V.Kumaresan

... Petitioner

Vs.

- 1.Project Director,
National Highways Authority of India (NHAI),
(Ministry of Road Transport and Highways),
No.19, Govindasamy Nagar,
Vazhudha Reddy Post,
Villupuram – 605 401.
- 2.The Competent Authority / Special District Revenue Officer
(Land Acquisition),
National Highways No.45-A,
District Collectorate,
Cuddalore.
- 3.District Collector,
Cuddalore District,
District Collectorate,
Cuddalore.
- 4.Asst. Director of Survey,
District Collectorate,
Cuddalore.

... Respondents



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Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus, directing the respondents 1 and 2 to Survey the alignments in Option Nos. 1, 2 and 3 along with the affected buildings on the said alignments in B.Mutlur Village for formation of four lane in Cuddalore District, National Highways No. 45-A, through the District Surveyors under the control of the respondents 3 and 4 by considering the petitioner's representation dated 23.01.2019 before taking any decision on the objections submitted by the petitioner as per the order dated 9.10.2018 in W.P. No. 27963 of 2017 passed by this Court.

For Petitioner : Mr.A.Yogeshwaran

For Respondents 1 & 2 : Mrs.S.R.Sumathy

For Respondents 3 & 4 : Mr.P.Kumaresan,
Additional Advocate General
Assisted by
Mr.D.Ravichander,
Special Government Pleader

ORDER

The relief sought for in the present writ petition is to direct the respondents 1 and 2 to survey the alignments in Option Nos. 1, 2 and 3 along with the affected buildings on the said alignments in B.Mutlur Village for formation of four lane in Cuddalore District, National Highways No. 45-A, through the District Surveyors under the control of



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the respondents 3 and 4 by considering the petitioner's representation dated 23.01.2019 before taking any decision on the objections submitted by the petitioner as per the order dated 9.10.2018 in W.P. No. 27963 of 2017 passed by this Court.

2. The land belonged to the petitioner was acquired for the purpose of expansion of National Highways (NH45A) i.e., formation of bye pass road between Villupuram, Puducherry and Nagapattinam Section NH45 A.

3. The grievances of the writ petitioner are that the alignment has been improperly made by the authorities which caused prejudice to the interest of the land owners. The comparative of alignment alternatives for B.Matlur bye pass is different, one of which had already been provided to the petitioner. It is contended that the authorities have deviated the alignment without any negotiation with the petitioner and thus, the petitioner is constrained to move the present writ petition.

4. The realignment proposed by the petitioner is not in consonance with the original alignment and in this regard, the land losers were not heard by the authorities. The agricultural lands situated in that locality



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were not taken into consideration, at the time of realignment of the Highway projects. At the outset, it is contended that the objections submitted by the petitioner for realignment were not considered objectively and subjectively, but rejected in a routine manner.

5. The learned Additional Advocate General appearing on behalf of the State of Tamil Nadu contended that the procedures as contemplated under the provisions of the National Highways Act has been scrupulously followed and the objections submitted by the petitioner was considered and accordingly, declaration was made by the Central Government under section 3D(4) of the Act and thus, the petitioner now cannot raise an issue relating to alignment.

6. Regarding alignment, the technical report submitted by the expert became final and the land owners cannot have any opinion which is to be accepted by the experts. However, such objections are considered by the authorities and an order has been passed. The ground raised by the petitioner that the reasons are inadequate, deserves no merit consideration, since section 3C of the Act provides hearing of objections. Sub Section 1 stipulates that "Any person interested in the land may, within twenty-one



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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."

7. Relying on section 3C, the learned Additional Advocate General reiterated that the objections regarding the use of land for the purpose of which it is acquired alone to be considered by the competent authorities and it is unnecessary to consider all other objections raised by the land owners regarding alignments or formation of road or other infrastructural facilities in the Highways. These aspects are falling exclusively within the purview of the technical experts which cannot be gone into by the Court nor such objections from the land owners need to be considered by the authorities.

8. In the event of entertaining such objections from the land owners, the authorities and the technical experts may not be in a position to finalise the project itself. Even if some error or otherwise identified, it is for the experts to rectify the same and certainly not at the interest of the land owners and therefore, such objections if entertained would defeat the very purpose and object of the acquisition law and the authorities may not be in



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a position to implement the projects as per the time schedule. Non implementation within the time limit would result in great financial loss to the Government and thus, such objections need not be gone into by the authorities and such objections which all are unconnected with the use of land for the purpose or purposes mentioned in sub section 2 under section 3C need not be considered.

9. Perusal of section 3C would indicate that the hearing of objections from the land owners are limited to the extent stated in the provision. Beyond the scope of section 3C, the objections if any raised need not be considered by the authorities. Therefore, the objections raised regarding the realignment, the authorities have considered and passed orders under section 3C(2) of the Act and such orders were communicated to the land owners concerned. Thus, there is no procedural violation and the petitioner cannot expect that each and every objections raised by him is to be answered by the authorities concerned. The arguments in this regard made by the learned counsel for the petitioner are beyond the scope of section 3C of the Act which stipulates procedure for hearing of objections and for passing orders.



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10. In the present case, the petitioner admittedly filed his objections and the authority competent passed an order under section 3C(2) of the Act. The said order was communicated and subsequently, a declaration under section 3D(4) was made by the Central Government and thereafter, the subject lands are vested with the Government and thus, the question of compensation alone remains.

11. Regarding compensation, the petitioner is at liberty to raise an objection before the Arbitrator / District Collector, if any grievance exists. The award has already been passed and the compensation amount has also been deposited. Thus, it is for the petitioner to receive the compensation by filing an appropriate application or by approaching the authorities. In the event of any grievance regarding compensation, the petitioner is at liberty to seek enhancement under section 3G(5) of the Act.

12. The project is already delayed for about more than ten years and such road projects if delayed to such an extent, would cause prejudice to the public interest. On account of an interim order, the projects were stalled unnecessarily. In the present case, the grounds raised by the petitioner were considered by the authorities competent and an order was



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passed based on his objections and subsequently, declaration was made and award was passed .

13. That being the factum, the petitioner is at liberty to receive the compensation by following the procedures contemplated and if he is not satisfied with the compensation, he is at liberty to approach the Arbitrator seeking enhancement of compensation or otherwise.

14. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes

Speaking Order

Neutral Citation : Yes



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WEB COPY To

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S.M.SUBRAMANIAM. J.,

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