



WEB COPY



W.P.No.12277 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.12277 of 2023

P.Vajravadivel

...Petitioner

Vs.

1.The District Collector,
Kanchipuram District,
Kanchipuram.

2.The Revenue Divisional Officer,
Kanchipuram District,
Kanchipuram.

3.Special Tahsildar (Land Acquisition)
Bangalore – Chennai Highway,
Alagu – 2,
Kanchipuram.

4.National Highways Authority of India (NHAI)
Represented by its Project Director,
Tambaram, Near National Theatre,
Chennai – 6000 45.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for entire records of the 3rd respondent which culminated in impugned proceedings in



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Na.Ka.10/2014/Bangalore-Chennai Highway dated 25.11.2022 and quash the same as illegal and arbitrary and further direct to the Respondents to consider the petitioner's representation dated 24.12.2021 and grant compensation with respect to acquisition of lands comprised in S.No.138 measuring an extent of 2.01 acres situated at Ariyambakkam Village, Kanchipuram Taluk, Kanchipuram District belonging to the petitioner.

For Petitioner : Ms.K.Indu Priya
For R1 to R3 : Mr.T.Arunkumar
Additional Government Pleader
For R4 : Mr.SU.Srinivasan

ORDER

The order impugned dated 25.11.2022, relegating the petitioner to approach the competent Civil Court of Law to establish his civil rights is under challenge in the present writ petition.

2. The petitioner states that the land belonging to him was acquired by the Government for expansion of National Highways and it was handed over to the National Highways Authority of India.



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3. The learned counsel for the petitioner states that no notice was issued to the petitioner and the adjacent land owners had already received compensation in respect of the lands acquired. The authorities have not followed the procedure as far as the petitioner's land is concerned and the representation submitted by the petitioner in this regard was rejected. Thus, the petitioner is constrained to move the present writ petition.

4. The order impugned states that pursuant to the application submitted by the writ petitioner, a survey was conducted and there is an error in respect of demarcating the land with reference to the land belonging to Sri. Agobila Madam, Sri. Padmavel, Sri. Subbarayalu and Tmt.Malini.

5. At the outset, there was an error in respect of demarcation of land, which was identified by the competent authorities. Thus, they could not identify the land belonging to the petitioner. The order impugned categorically states that based on the document submitted by the petitioner, they are not in a position to identify the share of the petitioner in respect of the right claimed by the petitioner.



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6. Section 3 (H) (4) of the National Highways Act, 1956, stipulates that *“If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated.”*

7. In the present case, the authorities have conducted a survey and found that there are certain mistakes in demarcation of lands and if at all the petitioner is claiming any share, he has to approach the competent Civil Court of law for the purpose of establishing his right in the manner known to law.

8. This Court do not find any infirmity in respect of the said order. Unless the lands are demarcated and the petitioner's share is determined, the authorities would not be in a position to settle the compensation in favour of the petitioner. Thus, the petitioner is at liberty to approach the competent Civil Court of law for the purpose of establishing his portion of share in the subject property.



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9. With this liberty, the writ petition stands disposed of. No costs.

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Index : Yes
Speaking order
Neutral Citation: Yes
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S.M.SUBRAMANIAM, J.

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