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W.P.No.5113 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.5113 of 2014

M/s.Chokhani Investments Ltd.,
Rep. by its Director,
No.21, Spur Tank Road,
Chetpet, Chennai – 600 031

... Petitioner

Vs.

- 1.Union of India, represented by
Secretary to Government of India,
Ministry of Shipping, Road Transport and Highways,
New Delhi.
- 2.The General Manager (Tech) & Project Director,
National Highways Authority of India,
Plot No. G-5 & 6, Sector – 10,
'Dwarka',
New Delhi – 110 075.
- 3.The National Highways Authority of India &
Ministry of Shipping, Road Transport and Highways,
Office of the General Manager (Tech) & Project Director,
No.8, 29th Cross Street, Indira Nagar,
Adyar, Chennai – 600 020.
- 4.The Competent Authority &
Special District Revenue Officer (LA),
National Highways, Lakshmipuram and
Tiruvellore Districts, Kanchipuram.



5. The Manager (Tech) & Project Director (I/C)
National Highways Authority of India,
No. 7-E, 5th Cross Street, Jakkappan Nagar,
Krishnagiri – 635 001, Tamil Nadu.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, quashing the decision taken by the 3rd respondent refusing to re-convey the unutilized lands measuring an extent of 31,546 sq. metres in Survey Nos.5/1B, 5/3B, 5/4B and 5/5, at Santhavellore Village, Kanchipuram District which was communicated by the 5th respondent in his letter NHAI/PIU-K' GIRI/RTI/2005/1285 dated 20.07.2012 on the application under the Right to Information Act and consequently direct the respondents to release and reconvey the said unutilized lands to the petitioner on receiving back the sum of Rs.8,56,758/- together with such reasonable interest as may be decided by this Court and restore possession of the said lands to the petitioner and in compliance with the order passed by the High Court, Madras in W.P.No.29/2012 dated 10.02.2012.

For Petitioner	: Mr.C.Harsha Raj For M/s.Raj & Raj Associates
For R1	: Mr.P.R.Ramesh Babu
For R2, R3 & R5	: Ms.S.R.Sumathi
For R4	: Given Up



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ORDER

The reply given under the Right to Information (RTI) Act to the petitioner in letter dated 20.07.2012 is the basis for filing the present writ petition seeking the relief of re-conveyance of the land, which was acquired by the National Highways Authority of India (NHAI).

2. The petitioner was the absolute owner of the vacant lands comprised in S.Nos.5/1, 5/3, 5/4 and 5/5 respectively and in New Survey Nos.5/1B, 5/3B, 5/4B and 5/5, at Santhavellore Village, Kanchipuram District (totally in all 43,700 Sq. Meters equivalent to 12.74 Acres). The 4th respondent issued a Notification dated 15.07.2003 under Section 3A of the National Highways Act for acquisition of the said lands belonged to the petitioner and also for acquisition of other lands belonged to other persons for laying four lane National Highways (NH4) and thereafter, called for objections from the owners of the said lands. The petitioner had also submitted his objections for acquisition of lands for various reasons. However, it not in dispute that the acquisition proceedings ended with an award and the compensation was also granted.

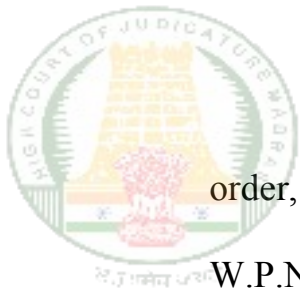


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3. The learned counsel for the petitioner mainly contended that right from the day on which the petitioner submitted his objections for acquisition of his lands, he is agitating for re-conveyance, since his portion of lands were not utilised for the expansion of National Highways. The petitioner is continuously submitting representation to recall the land, which was acquired from him.

4. The learned counsel for the petitioner reiterated that a major portion of the land belonged to him has not been utilised by the National Highways Authority of India and kept vacant even today and thus, the petitioner is entitled for re-conveyance. Pertinently a portion of the land had been re-conveyed to the petitioner. Since a portion of the land had been re-conveyed to the petitioner, the remaining portion of the land un-utilised is to be re-conveyed.

5. The petitioner earlier filed W.P.No.16261 of 2009 and this Court passed an order on 12.08.2009 directing the authorities to consider the representation submitted by the writ petitioner to re-convey the lands and pass appropriate orders. Since the respondents had not complied with the



order, the petitioner again submitted a representation and filed another W.P.No.29 of 2012. This Court again passed an order on 10.02.2012 as follows:

“4. It is represented by the learned counsel appearing for the petitioner that already the authorities concerned decided to re-convey the lands and to that effect, there was a communication by the National Highways Authority dated 20.7.2005. However, it is brought to my notice that the third respondent, the National Highways Authority of India now requires the lands for future expansion. Since the petitioner has not been communicated about the same, it is open to the third respondent to communicate the same to the petitioner as to whether the lands which have been acquired from the petitioner could be re-conveyed in its favour or not giving reasons thereof.

5. With the above observations, the writ petition is ordered. No order as to costs.”

6. The said order also has not been implemented by the respondents.

However, the petitioner submitted an application under the Right to



Information (RTI) Act and by way of reply the respondents National Highway Authority of India vide letter dated 20.07.2012 informed to the learned counsel for the petitioner that the lands cannot be transferred to the petitioner. Thus, the petitioner has no option except to file the present writ petition based on the reply given by the respondents under the Right to Information (RTI) Act.

7. That apart, in order dated 08.11.2013, this Court clarified that the said order passed under the Right to Information (RTI) Act can be taken as a reply on the side of the respondents and that being the factum, the present writ petition is filed.

8. The core contention of the petitioner is that the land acquired has not been utilised for the purpose for which it was acquired and therefore, the said land is to be re-conveyed. Portion of the land had already been re-conveyed and thus, the balance land is also to be re-conveyed.

9. The learned counsel appearing on behalf of the respondents 2, 3 and 5 objected the said contention by stating that the land was admittedly



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acquired for widening the National Highways i.e., NH4 and therefore, the land is to be utilised for expansion of road project. It is stated that the 4th respondent vide individual payment proceedings dated 16.09.2010, paid compensation of Rs.8,56,758 for the extent of 31,546 Sqm of land after deducting the extent of 12,154 Sqm earmarked for providing access to the writ petitioner to reach his lands. As there is no provision to de-notify or to re-convey the land acquired under the provision of the National Highways Act, 1956, it has been made clear through the National Highways Head Quarter's letter dated 28.03.2005 to the 1st respondent i.e., Central Government that it is not possible to de-notify the land belonging to the writ petitioner and the said decision has been taken after a decision at the highest level in the Central Government. In the meantime, the petitioner had received a compensation amount of Rs.8,56,758/- from the 4th respondent for the area of 31,546 Sqm against the awarded area of 43,700 Sqm on 29.10.2010.

10. The learned counsel for the respondents made a submission that the portion of the land was not re-conveyed to the petitioner and that the land was left over for the purpose of reaching the petitioner's land and thus, the



balance acquired lands are to be utilised for the expansion of road and other infrastructure facilities to be provided in the National Highways.

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11. It is not in dispute that the land belonged to the petitioner was acquired. Further, the petitioner had already received compensation awarded along with the interest and the request for re-convey the land was declined on the ground that the National Highways Authority required the acquired land for the purpose of expansion of road project.

12. This being the factum, at this length of time the land acquired in the year 2003 for expansion of road project cannot be re-conveyed, since the road project has been further developed and expansion programmes were already approved by the Government of India, since the acquired lands vested with the Government of India.

13. In view of the facts and circumstances, the claim of the writ petitioner to re-convey the lands cannot be considered. However, the learned counsel for the petitioner made a submission that his right to seek enhancement of compensation is to be affirmed, since the petitioner is



agitating all along to get re-conveyance of the land. Right to seek enhancement need not be denied to the petitioner, since he is fighting to re-convey his land and therefore, the petitioner is at liberty to submit an appropriate application / petition before the competent authority / Forum for the purpose of seeking enhancement of compensation.

14. In the event of filing any such application seeking enhancement the said application is to be considered on merits and in accordance with law and by affording an opportunity to all the parties concerned. In view of filing any such application, the period during which the writ petition was pending before the High Court is to be taken into consideration for the purpose of condoning the delay, if any arises.

15. With these observations, this Writ Petition stands disposed of. No costs.

20.04.2023

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



To

- 1.The Secretary to Government of India,
Union of India,
Ministry of Shipping, Road Transport and Highways,
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- 2.The General Manager (Tech) & Project Director,
National Highways Authority of India,
Plot No. G-5 & 6, Sector – 10,
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