



W.A.No.1181 of 2023

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.A.No.1181 of 2023

1. The Chief General Manager
Chennai Region
1/54-28, Butt Road
St. Thomas Mount, Chennai 600 016.

2. The Project Director
National Highway Authority of India
No.51/2 50 feet Road
Krishnaswamy Nagar, Ramanathapuram
Coimbatore.

.. Appellants

Vs.

1. K.Ramanathan
2. R.Sugunalatha

3. The Competent Authority & Special DRO (LA)
NH-47 & 67, Coimbatore.

4. The National Highways Authority of India
Rep. by the Chairman
Corporate Office, G5 & 6, Sector 10
Dwaraka, New Delhi 110 075.

.. Respondents



W.A.No.1181 of 2023

WEB COU

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 08.02.2022 made in W.P.No.34565 of 2012.

For the Appellants : Mr.G.Adithyaraj
For M/s. Wilson Associates

For the Respondents : Mr.K.V.Muthu Visakan
for Respondent-1

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.G.Adithyaraj, learned counsel for the appellants and Mr.K.V.Muthu Visakan, learned counsel for the first respondent.

2. The respondents 1 and 2 had filed writ petition before this Court seeking compensation of Rs.21,50,933/- regarding the well.

3. The learned Single Judge allowed the said writ petition directing the appellants and the third and fourth respondents to pay the compensation amount. Aggrieved thereby, the present appeal has been filed.

Page 2 of 8



W.A.No.1181 of 2023

WEB COPY

4. Learned counsel for the appellants submits that the National Highways Authority of India on 13.08.2012 recommended that it is not necessary to acquire the well in S.No.117/2 at Velayuthampalayam Village. The Project Director, Coimbatore was directed to barricade all along the well with W beam, metal crash barrier to ensure the safety of the road users.

5. According to learned counsel, the learned Single Judge could not have entered into the debate whether it is necessary to barricade well or could have directed payment of compensation exercising writ jurisdiction. Merely on the basis of photograph, the learned Single Judge ought not to have arrived at any conclusion.

6. Expert opinion is relied upon by the learned Single Judge to come to the conclusion that the well is abutting the Highways and if the well is not acquired, it will cause great danger to the road users, especially in the night time and it is essential to acquire the well



W.A.No.1181 of 2023

WEB COPY

also and directed compensation to be paid. The compensation amount cannot be paid without an award. No award has been passed.

7. Learned counsel for the first respondent supports the order and submits that there are three reports of the experts which suggest that it is utmost necessary to acquire the well or close down the well. The compensation awarded is the expenses required for closing down the well.

8. We have considered the submissions.

9. It appears that the learned Single Judge has directed payment of compensation on the basis of expert opinion that the well is abutting the highway and is required to be acquired. If it is not acquired, it will cause danger to the road users. Certainly, the Court, under Article 226 of the Constitution, could not have embarked upon such reasoning. However, an award dated



W.A.No.1181 of 2023

WEB COPY

09.03.2012 has been pointed out bearing Award No. 48 of 2011, wherein the competent authority has passed an award valuing the well on the basis of the estimate received from the Executive Engineer, PWD (WRO) at Rs.21,50,933/- and directed payment of the same to the writ petitioners.

10. Though it is submitted by learned counsel for the appellants that the award is not properly passed, the appellants have not challenged the said award for a period of 11 years. Now, it will be too late in the day for the appellants to contend that the award is not properly passed.

11. We could have considered the submissions of learned counsel for the appellants with regard to the legality of the award had the appellants challenged the award. In the absence of challenge to the Award No. 48 of 2011, the appellants as well as the writ petitioners are bound by the said award.



W.A.No.1181 of 2023

WEB COPY 12. In the light of that, no case for interference is made out.

The learned Single Judge had directed the appellants to deposit the amount within six weeks from the date of the order. Period of six weeks has come to an end long back. By way of an indulgence, we permit the present appellants to deposit the said amount within six weeks from today, failing which, the amount will carry interest at 9% per annum from the date of the order of the learned Single Judge.

The writ appeal is disposed of. There will be no order as to costs.

(S.V.G., CJ.)

(P.D.A., J.)
13.06.2023

Index : Yes/No

Neutral Citation : Yes/No

kpl

To

1. The Competent Authority & Special DRO (LA)
NH-47 & 67, Coimbatore.

Page 6 of 8



W.A.No.1181 of 2023

2. The National Highways Authority of India
Rep. by the Chairman
Corporate Office, G5 & 6, Sector 10
Dwaraka, New Delhi 110 075.



WEB COPY



W.A.No.1181 of 2023

THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESEVALU, J.

(kpl)

W.A.No.1181 of 2023

13.06.2023