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WP Nos.33933 of 2019 etc b



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28-07-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP Nos.33933, 33935, 33954, 33969, 31651, 33550 of 2019, 1412, 1418, 8493, 8504 of 2020 and 2897, 2901, 16582, 17022, 17029, 18685, 10686, 10688, 18691, 18694, 18696, 18700, 18743, 18747, 18748, 18750, 18751, 18752, 18755, 18756, 18759 of 2021, 25360 of 2022

And

WMP Nos.31859, 31860, 31862, 34008, 34009, 34541, 34513, 34561, 34510 of 2019, 1666, 1669, 1677, 1680, 10255, 10256, 10270, 10271 of 2020, 3245, 3246, 3251, 3252, 11314, 11317, 17563, 17566, 18039, 18041, 18043, 18044, 18047, 19939, 19941, 19943, 19945, 19946, 19947, 19952, 19953, 19954, 19958, 19959, 19961, 19966, 19967, 19968, 20005, 20007, 20008, 20015, 20016, 20017, 20018, 20020, 20021, 20023, 20024, 20026, 20027, 20029, 20030, 20031, 20032, 20033, 20037, 20038, 20039, 20040, 20041, 20042, 20046, 20048, 20050 of 2021, 24342, 24345 of 2022 and 3513 of 2023

WP No.33933 of 2019:

Senthamaraikannan

... Petitioner

Vs.



Notification issued under Section 3(A)(1) made in Na.Ka.4862/2018/LA dated .09.2019 published on 13.09.2019 by the fourth respondent herein and consequential order passed under Section 3(C)(2) in Na.Ka.No.20/2018/L.A., dated 09.11.2019 by the fourth respondent, quash the same, so far as the petitioner's lands comprised in S.F.No.506/1 over an extent 2568 sq. meters in Virupatchipuram Village, Dharmapuri Taluk and District.

For Petitioner in WPs 33933,
33935, 33954, 33969/2019 : Mr.M.Muthappan

For Petitioner in WPs 16582,
17022, 17029/2021 : Mr.K.Murugan

For Petitioner in WPs 10686
and 10688/2021 : Mr.Thanu Madhan

For Petitioner in WP 25360 of
2022 : Mr.M.V.Seshachari

For Petitioner in WPs 1412 and
1418/2020 : Mr.M.Kartik

For Petitioner in WPs 8493 and
8504/2020 : Mr.Arun Anbumani

For Petitioner in WPs 2897 and
2901/2021 : Mr.K.Selvaraj

For Petitioner in WP 33550 of
2019 : Mr.S.C.Vishwanth



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WP Nos.33933 of 2019 etc b



For Petitioner in WP 31651 of 2019 : Mr.V.R.Annagandhi

For Petitioner in 18685, 18743, 18748, 18751, 18755, 18691, 18694, 18696, 18700, 18747, 18750, 18752, 18756 and 18759 of 2021 : Mr.K.Balu

For Respondents-1 and 2 in WPs 33933,33935, 33954, 33969/2019, R-1 and R-2 in WPs 1412 and 1418/2020, R-1 in WPs 8493 and 8504 of 2020, R-1 and R-2 in WPs 2897 and 2901/2021, R-1 and R-2 in WP 33550 of 2019,R-1 and R-2 in WP 31651 of 2019 : Mr.R.Rajesh Vivekananthan, Deputy Solicitor General of India.

For Respondents-3 and 4 : in WPs 33933,33935, 33954, 33969/2019, R-3 and R-4 in WPs 1412 and 1418/2020, R-3 and R-4 in WPs 8493 and 8504 of 2020, R-3 and R-4 in WPs 2897 and 2901/2021, R-3 and R-4 in WP 33550 of 2019,R-3 and R-4 in WP 31651 of 2019 : Mr.P.Kumaresan, Additional Advocate General, Assisted by Mr.G.Krishna Raja, Additional Government Pleader.



For R-1,R-2, R-5 and R-6 WPs 16582
17022, 17029/2021, For
R-1, R-2, R-5 to R-8 in
WP 25360/2022, R-1 to R-4 in
WPs 10686, 10688/2021

: Mr.P.Kumaresan,
Additional Advocate
General, Assisted by
Mr.T.Venkateshkumar,
Special Government
Pleader.

For R-1 to R-6 in WPs 18685, 18743,
18748, 18751, 18755, 18691, 18694,
18696, 18700, 18747, 18694, 18696,
18700, 18750, 18752, 18756 and
18759 of 2021

: Mr.P.Kumaresan,
Additional Advocate
General, Assisted by
Mr.C.Jayaprakash,
Government Advocate.

For Respondent-5 in WPs 33933,
33935, 33954, 33969/2019,
R-3 and R-4 in WPs 16582,
17022, 17029/2021/2021,
R-6 in WPs 10686 and
10688 of 2021, R-3 and R-4
in WP 25360/2022, R-5 in
WPs 1412 and 1418/2020,
R-2 in WPs 8493 and 8504
of 2020, R-5 in WPs 2897 and
2901/2021, R-5 in WP 33550
of 2019, R-5 in WP 31651/2019,
R-7 in 18685, 18743,
18748, 18751, 18755, 18691,
18694, 18696, 18700, 18747,
18750, 18752, 18756 and



18759 of 2021

: Mr.Su.Srinivasan

For R-7 in WPs 16582, 17022
17022 and 17029/2021

: Mr.C.Senapathi

COMMON ORDER

The writ petitions are filed questioning the validity of the order passed by the Competent Authority/Special District Revenue Officer under Section 3(c)(2) and 3(a)(1) of the National Highways Act.

2. The lands belonged to the petitioners were acquired for National Highways Projects by invoking the provisions of the National Highways Act.

3. The grievances of the writ petitioners are that the procedures as contemplated under the Act were not followed and more specifically, the objections raised by them regarding the necessity for the formation of link road has not been considered by the Competent Authorities at the time of passing of the orders under Section 3(c)(2) of the National Highways Act.



4. The respective learned counsels appearing on behalf of the writ petitioners mainly contended that the link road proposed to be formed would do no service to the cause of public, but would result in prejudice to the interest of the land owners. Thus non-consideration of the objections by the Competent Authorities, while disposing of the objections of the land owners under Section 3(c)(2) is improper and thus the orders are to be set aside.

5. The learned counsel appearing on behalf of the National Highways Authority of India strenuously objected the contentions raised on behalf of the petitioners by stating that the process of acquisition was already completed. In respect of the land owners Award was passed. The compensation determined by the Authorities were deposited into the joint accounts of the Special District Revenue Officer and the Project Director. Some of the land owners have failed to receive the Awards and even non-receipt of Award would not vitiate the land acquisition proceedings initiated.



6. Section 3 of the Act, provides definitions. Section 3(a) defines 'Competent Authority' means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the Competent Authority for such area as may be specified in the Notification.

7. Section 3-A provides 'Power of acquire land etc.,'. Sub Section (1) to Section 3-A stipulates that “where the Central Government is satisfied that for a public purpose any land is required for the building, maintenance, management or operation of a National Highway or part thereof, it may, by Notification in the Official Gazette, declare its intention to acquire such land”. Once the Notification was issued, the power to enter for survey etc., were provided under Section 3-B of the Act. Thereafter the objections if any from the land owners are to be heard under Section 3-C of the Act. The objections are to be submitted by the land owners within a period of 21 days from the date of publication of Notification in the local newspapers.



8. Hearing of objections are to be made in consonance with the procedures contemplated. Section 3-C(1) stipulates that “Any person interested in the land may, within twenty-one 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”.

9. The purpose of Section 3 and the scope of objections to be submitted by the land owners are unambiguously stipulated under Section 3-C(1) of the Act. It is not as if every objection submitted by the land owners are to be considered by the Competent Authority. It is the objection with reference to the use of the land for the purpose mentioned in the sub-section alone, is to be taken into consideration and the Authority is empowered to allow or disallow the objections if any submitted by the land owners. In most of these cases, the scope of objections to be considered by the Competent Authorities have been misconstrued and many such land owners are questioning the very project itself by stating that such projects are unnecessary or alternate route is to be preferred or alignments are to be



made etc. Such objections if any raised by the land owners are not falling within the ambit of Section 3-C(1) of the Act and the Competent Authorities are not obligated to consider such objections if any submitted by the land owners. Thus non-consideration of the objections falling beyond the scope of Section 3-C(1) of the Act, deserves no merit consideration from the hands of the Competent Authorities.

10. The phrase employed under Section 3-C(1) is **to the use of the land for that purpose or purposes mentioned in that section.** Therefore the objections regarding the usage of the land sought to be acquired for the purpose to which it was acquired must be entertained by the Competent Authorities, including the purposes mentioned in the sub-section in the Notification alone are to be entertained for the purpose of considering the objections. Any other objections relating to the technical aspects of the Projects or the deviations, alterations or alternate additional requirements etc., are not falling within the scope of Section 3-C(1) of the Act, as far as the land owners are concerned.



11. Certain technical objections raised by the land owners are beyond the scope of Judicial Review of the High Court under Article 226 of the Constitution of India. The High Court cannot act as an Expert Body in respect of the technical reports submitted by the Experts for the purpose of formation of National Highways or expansion or otherwise.

12. Thus the High Court can examine whether the objections submitted by the land owners are taken into consideration by the Authorities and the Authorities have scrutinised the objections, so as to understand whether such objections are falling within the ambit of Section 3-C(1) of the Act. If so, the Authorities have to consider the same and pass appropriate orders on such objections. Non-consideration of the other objections raised by the land owners relating to the projects need not be considered by the Authorities nor reasons are to be furnished in the order to be passed under Section 3-C(2) of the Act. Therefore, such grounds raised by the land owners in writ proceedings are untenable. The High Court in exercise of the powers of Judicial Review cannot intervene with such non-consideration, since it is not falling within the purview of the opportunity provided to the



land owners under Section 3-C(1) of the Act.

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13. In the present cases, admittedly objections were submitted by the petitioners and the Competent Authorities considered the same and disallowed the objections by passing orders under Section 3-C(2) of the Act, which is under challenge in all these writ petitions.

14. The nature of objections raised by the petitioners herein are relating to the very formation of Link Road Project and such an objection to cancel the Project is untenable and beyond the scope of Section 3-C(1) of the Act. Thus non-consideration of the said objection raised by the land owners for which the Competent Authorities cannot be construed as an infirmity or in violation of the provisions of the Act. Disallowing of objections without assigning any reasons are not falling under the scope of the provisions of the Act. Thus non furnishing of reasons would not vitiate the order passed under Section 3-C(2) of the Act.

15. On compliance of Section 3-C of the Act, the compliance report is to be submitted to the Central Government. On receipt of such



report from the Competent Authority, the Central Government will issue order of declaration under Section 3-D(1) of the Act. Section 3-D(2) states that “on the publication of the declaration under sub-section (1), the land shall vest absolutely in the Central Government free from all encumbrances”. Sub Section (4) to Section 3-D stipulates that “a declaration made by the Central Government under sub-section (1) shall not be called in question in any court or by any other authority”.

16. The spirit of Section 3-D of the Act is of paramount importance. The scope of the litigations to be entertained by the Courts are understood with reference to Section 3-D(4) of the Act. Once Section 3-C of the Act, has been complied with and the Central Government issued Notification under Section 3-D(1) of the Act, thereafter, the land shall vest absolutely in the Central Government free from all encumbrances. Subsequently, the declaration made by the Central Government shall not be called in question by any Court or by any other Authority.

17. All the present writ petitions are filed challenging the order passed under Section 3-C(2) of the Act.



18. The learned Standing Counsel appearing on behalf of the National Highways Authority of India and the learned Additional Government Pleader appearing on behalf of the Government of Tamil Nadu brought to the notice of this Court that consequent to the submission of report by the Competent Authority under Section 3-C(2) of the Act, the Central Government already made a declaration under Section 3-D(1) of the Act and thus the lands now vest absolutely in the Central Government free from all encumbrances and an Award was also passed. The compensation determined was deposited into the joint accounts of the District Revenue Officer and the Project Officer and thus the present writ petitions are not entertainable. Since sub section (4) to Section 3-D of the Act, contemplates that after declaration is made by the Central Government, the proceedings shall not be called in question in any Court or by any Authority.

19. Question arises whether the Competent Authorities have complied with Section 3-C of the Act, which is the issue raised by the petitioners.



20. The grievances of the writ petitioners are that the Link Road Project for which the lands acquired are not warranted, since the National Highways Road presently in existence would be sufficient to meet out the traffic congestions. Such an idea formed by the land owners are absolutely untenable and cannot be considered either by the Competent Authority under Section 3-C(1) of the Act or by the High Court in exercise of its powers of the Judicial Review.

21. In this context, the Project Director filed counter-affidavit enumerating the necessity for the formation of Link Road Project by stating as follows:-

“10. With regard to paragraph-4, it is submitted that the contentions are denied by the respondents 1 and 5. It is submitted that location of crossing of two National Highways at Km 140/100 of NH-44 and Trumpet at this crossing is designed as per IRC guidelines and finalised by the Technical Experts of the DPR Consultants. The contention that the fourth respondent cannot initiate any proceedings when already a link road



is available within 500M of distance is not acceptable, since the action to acquire the land by the fourth respondent initiated based on the Land Plan Schedule (LPS) is given by the fifth respondent, which is depended on the detailed technical examination of the all connected technical parameters and other specification of IRC. It is further submitted that this proposal along with alignment and estimates were presented by the Consultant on 14.01.2019 at New Delhi before the Project Appraisal and Technical Scrutiny Committee (PATSC). After thorough scrutiny by the said Committee, the project was approved and afterwards it was cleared by Standing Financing Committee (SFC headed by Secretary, Ministry of Road Transport and Highways, Government of India on 05.02.2019) and this project was approved for execution. The tender has been called for this package of NH-844, bids received are under scrutiny by the Competent Authorities. The pre-construction activities are in advanced stage. Hence, the averments are opposed to facts and are liable to be dismissed as not sustainable.”

“12. It is further submitted that the crossing



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at Km 140/100 of NH-44 is designed for smooth flow of traffic coming from NH-844 and also the traffic coming from NH-44 and to join NH-844. This trumpet is absolutely necessary for smooth flow of vehicles coming from opposite directions and to avoid accidents at this junction point of NH-844 and NH-44. It is pertinent to point out that the requirement of trumpet and the width and design in National Highways are prepared by the DPR Technical Experts in accordance with IRC guidelines. It is submitted that trumpet is integral part of technical design of NH-844 project and it is not necessary each and every component of the National Highway project on the 3-A Notification as contended by the writ petition. The 3-A(1) Notification states that the purpose of acquisition for building (widening/two lane with paved shoulder/four laning etc.,) maintenance, management and operation of NH-844 in the stretch of land from Km 53.500 to Km 94.600 in the District of Dharmapuri in the State of Tamil Nadu. Hence the contentions made by the writ petitioner suffer from any legal merits and are liable to be dismissed.”



22. Regarding the opinion of the Experts for the formation of Projects, the Supreme Court of India in the case of **Union of India vs. Kushala Shetty [(2011) 12 SCC 69]**, wherein in paragraph-28, it has been held as under:-

“28. Here, it will be apposite to mention that NHAI is a professionally managed statutory body having expertise in the field of development and maintenance of national highways. The projects involving construction of new highways and widening and development of the existing highways, which are vital for the development of infrastructure in the country, are entrusted to experts in the field of highways. It comprises of persons having vast knowledge and expertise in the field of highway development and maintenance. NHAI prepares and implements projects relating to development and maintenance of national highways after thorough study by experts in different fields. Detailed project reports are prepared keeping in view the relative factors including intensity of heavy vehicular traffic and larger public interest. The courts are not at all



equipped to decide upon the viability and feasibility of the particular project and whether the particular alignment would subserve the larger public interest. In such matters, the scope of judicial review is very limited. The court can nullify the acquisition of land and, in the rarest of rare cases, the particular project, if it is found to be ex facie contrary to the mandate of law or tainted due to mala fides. In the case in hand, neither has any violation of mandate of the 1956 Act been established nor has the charge of malice in fact been proved. Therefore, the order under challenge cannot be sustained.”

23. In view of the fact that the objections raised by the petitioners were considered by the Competent Authorities within the purview of Section 3-C(2) of the Act, non-furnishing of reasons for disallowing the objections cannot be construed as infirm, but in consonance with the scope of the provisions of Section 3-C of the Act.

24. Thus this Court do not find any reason to interfere with the acquisition proceedings. The petitioners are at liberty to secure the copy of



the Award from the Authorities and withdraw the compensation already deposited in the joint accounts of the Competent Authorities. If the petitioners are not satisfied with the quantum of compensation, they are at liberty to file an appropriate application under Section 3-G(5) of the Act., seeking enhancement of compensation before the Arbitrator/District Collector, in the manner contemplated.

25. With the above liberty, WP Nos.33933, 33935, 33954, 33969, 31651, 33550 of 2019, 1412, 1418, 8493, 8504 of 2020 and 2897, 2901, 16582, 17022, 17029, 18686, 18688 of 2021, 25360 of 2022 are dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

26. In respect of WP Nos.18685, 18743, 18748, 18751, 18755, 18691, 18694, 18696, 18700, 18747, 18750, 18752, 18756 and 18759 of 2021, the learned counsel for the petitioners brought to the notice of this Court that the petitioners have challenged the report submitted by the Tahsildar to the District Collector in proceedings dated 26.05.2021 stating that the patta granted in favour of the land owners were cancelled and the



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classification has been maintained as 'Meikkal Poramboke' (Annadheenam).

27. In respect of the said communication of the Tahsildar to the District Collector, the learned counsel for the petitioners states that the petitioners are the absolute owners of the properties and they have furnished the copy of the documents to establish the same, despite the fact that the documents stand in the name of the petitioners. The compensation deposited into the accounts of the petitioners were freezed without any valid reason. Thus the Authorities may be directed to reconsider the issues afresh and in this regard, the petitioners have already submitted their representations on various dates.

28. As far as the grievances of the petitioners are concerned, it is not in dispute that the subject lands were already acquired for public projects. The National Highways Authority of India has already deposited the compensation amount and the said amount has already been received by the land owners.



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29. However, the learned Additional Advocate General appearing on behalf of the Government of Tamil Nadu clarified that there were certain illegalities in claiming compensation to be paid by the National Highways Authority of India and large scale allegations of fraud, corrupt activities are noticed and criminal cases were also registered. In this regard, the learned Additional Advocate General relied on the counter-affidavit filed by the Tahsildar, Sriperumbudur and the relevant portion of the paragraph-5 of the counter-affidavit reads as under:-

“5. It is submitted that out of 36.51 acres of extent in S.No.310/1 as per 1962 Settlement 'A' Register, an extent of 27.41 acre alone has been classified as 'Meikal Poramboke' land in the subsequent updating Registry Scheme 'A' Register 1985, and the balance of 9.10 acres has been subdivided and shown as patta land and this evoked a suspicion that for the aforesaid remaining extent of 9.10 acres, pattas would have been obtained by adopting dubious methods and consequently to swindle the Government money by way of compensation towards acquisition. It is submitted that the payment of compensation for



the acquisition of the lands in S.No.310/4, 310/5A, 310/5B1 and 310/5B2 with an extent of 3.68.0 hectares or 9.10 acres by the sixth respondent was in progress and in order to safeguard the Government money from reaching the alleged pattadars of the aforesaid lands, this respondent cancelled all the pattas stood in the names of 104 private person in the lands in S.No.310/4, 340/5A, 310/5B1 and 310/5B2 by restoring them as 'Meikal Poramboke' and accordingly sent a report to the third respondent has also sent a report to the sixth respondent vide Lr.No.13838/2020/B2 dated 26.05.2021 to initiate appropriate action in the matter in line with the report of this respondent dated 26.05.2021.”

30. With reference to the claim of the petitioners for compensation, this Court cannot adjudicate the issues in these writ petitions, since it is the disputed issue between the parties. Criminal cases are pending with reference to the allegations of fraud, corruption etc., and even under the Prevention of Corruption Act, the cases are registered. Thus the petitioners have to establish their cases either before the Competent Authority or by approaching the Competent Civil Court of Law for



declaration of title or otherwise, and thereafter claim the compensation amount, which has already been deposited by the National Highways Authority of India.

31. As far as the acquisition proceedings are concerned, it was completed and the lands absolutely vest in the Central Government and the Project works are in progress.

32. Thus the compensation amount, which is in dispute in respect of the 'Meikkal Poramboke' lands and 'OSR' lands are to be settled only after resolving the issues.

33. The learned Additional Advocate General appearing on behalf of the respondents, brought to the notice of this Court that in respect of the criminal cases registered, the CBCID is in the process of investigating the entire aspects, since the Government funds to the tune of Rs.200/- crores are involved. In the event of completing the investigation, the Authorities will be in a position to take clear decisions with reference to the title and ownership as claimed by all the petitioners and the parties claiming to be



land owners not involved in these writ petitions.

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34. The learned Additional Advocate General appearing on behalf of the respondents brought to the notice of this Court that there are certain fraudulent activities in obtaining patta from the Revenue Authorities in respect of 'OSR' and 'Government Poramboke' lands. Criminal cases are registered against the miscreants and actions are in progress. In some cases arrests were made and some persons were released on bail. Therefore, the claim of the writ petitioners, if any, made for withdrawal of compensation and other entitlement would be considered by verifying the title documents by the Competent Authorities and thereafter actions are to be initiated to settle the compensation. The Authorities are expected to be cautious while settling the compensation, since large scale allegations of misappropriation of Government funds to the tune of Rs.200/- crores are noticed. Thus each case is to be decided by verifying the identity of the owners and also their entitlement to get compensation.

35. Accordingly, WP Nos.18685, 18743, 18748, 18751, 18755, 18691, 18694, 18696, 18700, 18747, 18750, 18752, 18756 and 18759 of



2021 are also dismissed. However, there shall be no order as to costs.

Consequently, the connected miscellaneous petitions are also dismissed.

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36. In the result, all the writ petitions are dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

28-07-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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To

1. The Secretary,
Government of India,
Ministry of Road Transport and Highways,
Transport Bhawan, No.1, Parliament Street,
New Delhi – 100 001.
2. The Director,
Government of India,
Impact Assessment Division,
Ministry of Environment, Forest and
Climate Change,
Indira Parayavaran Bhavan,
3rd Floor, Vagu Wing,
Job Bagh Road, Aliganj,
New Delhi – 110 003.
3. The District Collector,
Dharmapuri-636 705.
4. The The Competent Authority and Special
District Revenue Officer (Land Acquisition),
National Highways No.844,
Dharmapuri,
Dharmapuri District.
5. The Project Director,
Project Implementation Unit,
SRI Towers, 3rd Floor,
DP-34 (SP), Industrial Estate,
Guindy,
Chennai-600 032.



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WP Nos.33933 of 2019 etc b



S.M.SUBRAMANIAM, J.

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WPs 33933 of 2019 etc batch

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