



W.P.No.32410 of 2018etc.,batch

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.Nos.32410 & 32418 of 2018 &
W.P.No.6705 of 2019 & W.P.No.8064 of 2023 &
W.M.P.Nos.37611 & 37615 of 2018

In W.P.No.32410 of 2018

A.Kalyanasundaram

... Petitioner

Vs.

1.National Highways Authority of India (NHAI),
Rep. by its Chairman,
No.G 5 & 6, Sector – 10, Dwarka,
New Delhi – 110 075.

2.Project Director,
National Highways Authority of India (NHAI),
(Ministry of Road Transport and Highways),
No.19, Govindasamy Nagar,
Vazhudha Reddy Post,
Villupuram – 605 401.

3.The Competent Authority / Special District Revenue Officer
(Land Acquisition),
National Highways No.45-A,
District Collectorate,
Cuddalore.

4.District Collector,
Cuddalore District,
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 certiorarified mandamus, calling for the records relating to the impugned order dated 26.3.2018 made in Na.Ka.Thay.Nay.Nee A/A1/13/2017 passed by the 3rd Respondent quash the same and forbear the respondents from forming four lane in Cuddalore District, National Highways No 45-A, From Km 37/450 to Km 38/650; Km 39/950 to Km 42/350; Km 47/225 to Km 48/400 and Km 50/610 to Km 108/860(Villupuram-Puducherry- Cuddalore-Nagapattinam) through the Petitioner's properties comprised in S.N0.6/8, S.No 113/1D1 and extent of 3465 Sq. Mt instead of expanding the existing road marked in Blue colour in the sketch annexed in the petition originally aligned by the respondent.

For Petitioner : Mr.K.Balu

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

In W.P.No.32418 of 2018

R.Rajendran

... Petitioner

Vs.

1.National Highways Authority of India (NHAI),
Rep. by its Chairman,
No.G 5 & 6, Sector – 10, Dwarka,
New Delhi – 110 075.



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2.Project Director,
National Highways Authority of India (NHAI),
(Ministry of Road Transport and Highways),
No.19, Govindasamy Nagar,
Vazhudha Reddy Post,
Villupuram – 605 401.

3.The Competent Authority / Special District Revenue Officer
(Land Acquisition),
National Highways No.45-A,
District Collectorate,
Cuddalore.

4.District Collector,
Cuddalore District,
District Collectorate,
Cuddalore.

... Respondents

Prayer in W.P.No.32418 of 2018:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus, calling for the records relating to the impugned order dated 26.03.2018 made in Na.Ka.Thay.Nay.Nee A/A1/13/2017 passed by the 3rd Respondent quash the same and forbear the respondents from forming four lane in Cuddalore District, National Highways No 45-A, From Km 37/450 to Km 38/650; Km 39/950 TO Km 42/350; Km 47/225 TO Km 48/400 and Km 50/610 TO Km 108/860(Villupuram-Puducherry-Cuddalore-Nagapattinam) through the Petitioners properties comprised in S.No.24/7B C.Mutloor Village instead of expanding the existing road marked in Blue colour in the sketch annexed in the petition originally aligned by the respondent.



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For Petitioner : Mr.K.Balu
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

In W.P.No.6705 of 2019

G.Narayanasamy

... 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



W.P.No.32410 of 2018etc.,batch

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 31/01/2019 before taking any decision on the objections submitted by the petitioner as per the order dated 09/10/2018 in W.P.No.27963 of 2017.

For Petitioner : Mr.K.Balu

For Respondents 1 : Mrs.S.R.Sumathy

For Respondents 2, 3 & 4 : Mr.P.Kumaresan,
Additional Advocate General
Assisted by
Mr.D.Ravichander,
Special Government Pleader

1.V.Kumaresan
2.R.Rajendran
3.Rahamadhunnisa
4.R.Vinothraja
5.K.P.Reguraman
6.P.Panneerselvam

... Petitioners

vs.

1.Union of India,
Represented by its Secretary,
Ministry of Road, Transport and Highways, Government of India,
No.10, Rai Sena Road,
New Delhi – 100 001.



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2.The Competent Authority / Special District Revenue Officer
(Land Acquisition),
National Highways No.45-A,
District Collectorate,
Cuddalore.

3.Project Director,
National Highways Authority of India (NHAI),
(Ministry of Road Transport and Highways),
No.19, Govindasamy Nagar,
Vazhudha Reddy Post,
Villupuram – 605 401.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari, calling for records relating to the impugned notification issued by the 1st respondent published in the Gazette of India in S.O.1846 (E) dated 08.03.2017 the consequential impugned order passed by the 2nd respondent dated 26.03.2018 Na.Ka A1 / 11 / 2017 and the consequential impugned notification issued by the 1st respondent in S.O. 1996 (E) dated 18.05.2018 published in the Gazette of India and quash the same.

COMMON ORDER

W.P.Nos.32410 & 32418 of 2018 have been filed challenging the impugned order dated 26.3.2018 made in Na.Ka.Thay.Nay.Neea/A1/13/2017 passed by the 3rd Respondent and forbear the respondents from forming four lane in Cuddalore District, National Highways No 45-A, from Km 37/450 to Km 38/650; Km 39/950



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to Km 42/350; Km 47/225 to Km 48/400 and Km 50/610 to Km 108/860

(Villupuram-Puducherry-Cuddalore-Nagapattinam) through the Petitioners' properties comprised in S.No.6/8 & S.No 113/1D1 to an extent of 3465 sq. mt and comprised in S.No.24/7B C.Mutloor Village, instead of expanding the existing road marked in Blue colour in the sketch annexed in the petition originally aligned by the respondents.

2. W.P.No.6705 of 2019 has been filed for a direction to the 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 31/01/2019 before taking any decision on the objections submitted by the petitioner as per the order dated 09/10/2018 in W.P.No.27963 of 2017.

3. W.P.No.8064 of 2023 has been instituted questioning the validity of the notification issued by the first respondent published in the Gazette of India S.O. 1846 dated 08.06.2017, the consequential impugned order passed by the second respondent dated 26.03.2018 and the consequential



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notification issued by the first respondent dated 18.05.2018 published in the Gazette of India.

4. The lands belonged to the petitioners were acquired. Notification was issued. The petitioners have filed their objections under section 3C of the Act. The Land Acquisition Officer considered the objections and passed orders under section 3C(2) of the Act. Thereafter, declaration under section 3D(1) was made by the Central Government. Pursuant to the declaration, the subject lands are vested with the Government and the compensation due to the land owners were already deposited by the authority competent.

5. The writ petitions are filed challenging the orders passed under section 3C of the Act mainly on the ground that their objections were not considered subjectively and objectively and the orders impugned were passed in a mechanical manner and thus, the proceedings are to be set aside.

6. The learned counsel for the petitioners mainly contended that the objections regarding realignment and the other alternatives provided by the



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petitioners were not taken into consideration by the competent authorities.

Non consideration of the objections objectively becomes fatal, in view of the judgment of the Division Bench of this Court in the case of ***R.Natarajan & 10 others vs. Union of India & 2 others*** reported in **2010**

(6) CTC 337. The petitioners relied on to the following paragraphs:

“22. After having gone through the entire facts of the case and giving our anxious consideration in the matter, we are of the considered view that the objections filed by the Appellants have not been considered in its right perspective and has not been disposed of by giving reasons as contemplated under section 3-C(2) of the Act. Moreover, admittedly, the copy of the order was neither server nor was communicated to the Appellants. The learned Single Judge, therefore, failed to consider this aspect of the matter.

23. For the reasons aforesaid, these Appeals and the Writ Petitions are allowed. The impugned order passed by the learned Single Judge is set aside. Consequently, the order passed by the Competent Authority under Section 3-C(2) of the Act and the consequential orders are quashed. The matter is remanded back to the Competent Authority of the Respondent to consider the objections filed by the Appellants under Section 3-C(2) of the Act, and the



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Competent Authority is directed to dispose of the same in accordance with law by passing a reasoned order. Needless to say that after complying with the requirements of law, the Respondents shall proceed in the matter.”

7. The learned counsel for the petitioners further states that the existing two lane roads were converted as four lane roads and therefore, the necessity for bye pass road is to be determined by the competent authorities. In the absence of taking any decision, the acquisition became unnecessary and the authorities failed in their duty to consider the objections in this perspective.

8. The learned counsel appearing on behalf of the National Highways Authority objected the said contention by stating that the proposed projects are in progress. The projects are planned on long term basis and the objections raised in this regard are beyond the purview of the provisions of the Act and the land owners cannot raise such objections for the purpose of stalling the entire projects. The projects are planned, considering the future developments and therefore, the widening of the existing road will not have any implication with reference to the proposed bye-pass road. These aspects are within the exclusive purview of the



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experts and the objections submitted by the land owners cannot be considered by the authorities and the authorities have considered the other objections raised by the land owners falling within the purview of section 3C of the Act.

9. The learned counsel for the National Highways contended that the compensation has already been deposited and now, the lands vested with the Government and the project works are in progress. Thus, the petitioners are at liberty to receive the compensation and approach the arbitrator, if any grievance exists regarding the quantum of compensation or otherwise.

10. The learned Additional Advocate General appearing on behalf of the Government of Tamil Nadu raised an objection by stating that this Court with reference to the scope of objections, considered the issue in the case of ***Titanium Equipment & Anode Manufacturing Company Ltd., vs. The State of Tamil Nadu & 3 others*** reported in ***2018 (4) CTC 814*** and the relevant paragraphs are as follows:

“11. If the arguments of the petitioners' counsel is scanned for its merit, it must be said that they never



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came forward with a case that they have not been heard under Rule 5(2) and Rule 5(3). And it is also their case that they have volunteered to present 100 plus documents in support of their objections. As stated already, no authority is required to hold an enquiry in the nature of a judicial proceeding to decide on the merit of the objections of the land owners or the quality of materials provided by them. From the Government's stand point, notwithstanding the merit of the objections of the land owners, there may still be a larger public interest the might outweigh the merit of the land owner's objection. The Government, vested with power of eminent domain, for advancing a larger public purpose cannot be restricted by the objections of the land owners alone. Within the limited space provided for pre-acquisition hearing contemplated under Rule 5, the respondent has fulfilled their statutory obligations. On this score, the petitioners are bound to file W.P.No.27438 of 2014.

12. Turning now on the point of passing of the interim award, the respondents justify it on the strength of G.O.(Ms). No.88, Revenue [LA-I(1)] dated 21.02.2014, whereunder the Government took note of the advent of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30/2013), and directed an interim award be passed in terms of the Land Acquisition Act,



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1894, and a final Award to be passed in terms of the Central Act Right to Fair Compensation Act. This G.O. (Ms). No.88 came for consideration in a batch of writ petitions in W.P.Nos,27550 to 27553/2014 and others, and this Court vide its Common Order dated 05.08.2015 had held:

“31. The Special Tahsildar (Land Acquisition), MRTS Phase – II Extension, Chennai – 600 004, has passed the draft/interim award dated 15.09.2014 and while arriving at the quantum of interim compensation, the Special Tahsildar adopted the provisions of the old Act and for that purpose, has relied upon G.O.(Ms).No.88, Revenue [LA-I(1)] dated 21.02.2014, which he/she is under mandate to follow. Para 3(i) of the said Government Order would state among other things that the interim compensation should be determined based on the procedures already in vogue subject to additional compensation being paid as per the Right to Fair Compensation Act (new Act). In the considered opinion of the Court, in terms of Section 114(2) of the new Act, land acquisition proceedings already initiated under the old Act by invoking



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emergency provision is saved and admittedly, no award under section 11 of the Act has been passed and the new Act came into force on 01.01.2014. Before taking possession, the Collector including Deputy Collector and any other officer specially designated by the Government to perform the functions of the Collector defined under section 3(g) of the new Act, is bound to follow Section 40(3) of the new Act and thereafter, he is under mandate to follow Section 40(5) and other provisions relating to rehabilitation and resettlement.””

11. A counter filed by the Special District Revenue Officer, Land Acquisition states that the notification under section 3D of the National Highways Act, 1956 for formation of B.Mutloor Village was published in the Govt. of India Gazette No.1843 of S.O.No.1996(E) dated 18.05.2018 and the same was published in the local Daily Newspaper on 21.07.2018 stating that all the land owners / interested persons are requested to appear before the 3rd Respondent/ Competent Authority on the scheduled date and time and to produce all the relevant records for determining the ownership of the acquired land under section 3G(3) of the National Highways Act and



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the petitioner in W.P.No.32418 of 2018 has not attended enquiry under section 3(G)(3) of NH Act 1956, which was conducted by the third respondent/Spl. DRO (LA) NH 45A, Cuddalore on 13.08.2018, 14.08.2018, 16.08.2018 & 18.08.2018. After completion of 3G(3) enquiry the awards for Manjakuzhi, B.Mutloor and C.Mutloor villages were passed by the Competent Authority / SDRO Cuddalore.

12. In the context of the grievances of the petitioners/land owners, the procedures contemplated is to be applied in its letter and spirit. The road projects are of paramount importance for economic and developmental activities of our nation. Therefore, the courts have to verify, whether the objections submitted by the land owners are considered within the ambit of the provisions of the National Highways Act and any objection raised beyond the scope of the Act need not be considered by the competent authority. It is not as if each and every objections raised by the land owners is to be considered by the authorities.

13. In the context of the above perspective, let us now consider the scope of section 3C of the National Highways Act which speaks about hearing of objections. Sub section 1 stipulates "Any person interested in



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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." Therefore, the scope of objections, to be raised by the land owners are specifically stipulated under section 3C(1) of the Act. When the statute contemplates the nature of objections, which is to be considered by the authorities, the authorities are not expected to consider the other objections, which all are not falling within the ambit of section 3C(1) of the Act. The said provision unambiguously indicates that the objections of the land owners must be regarding to the use of the land for the purpose or purposes mentioned in that sub section.

14. Thus, beyond the scope of section 3C(1) of the Act, if any other objections regarding alignment, alternative suggestions or planning if any submitted by the land owners, need not be considered by the competent authorities as such objections are beyond the scope of section 3C(1) of the National Highways Authority Act. In the event of considering those objections, the land owners are virtually entering into the arena of the scheme of the report of the technical experts, which is impermissible. The High Court, while exercising the powers of judicial review, cannot



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ordinarily interfere with the experts opinion, which became final. High court cannot act as an expert body.

15. The power of judicial review under Article 226 of the Constitution of India is to ensure the processes through which a decision has been taken by the competent authorities in consonance with the statutes and rules in force, but not the decision itself. Thus, the expansion of the scope of the provisions relating to the objections to be made by the land owners would cause prejudice to the interest of the public projects to be executed as per the time durations.

16. In the present case, the petitioners have submitted their objections which were considered by the authority competent and admittedly an order under section 3C(2) was passed by the authorities and communicated to the land owners. Thereafter, the authorities have issued a declaration under section 3D(1) of the Act and thus, the land is vested with the Government. Section 3D(4) of the Act unambiguously 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." Thus, the declaration issued by the Central Government becomes final and therefore, the parties are at liberty to raise objections, if any relating to the quantum



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of compensation under section 3G(5) of the Act. In the present case, admittedly the declaration was already made under section 3D(1) of the Act and the amount of compensation determined was also deposited.

17. This being the factum, the petitioners are at liberty to receive the compensation by approaching the authorities and therefore, if any grievance exists regarding the quantum of compensation, they are liberty to file an application under section 3G(5) of the Act before the Arbitrator who in turn shall conduct an enquiry in the manner contemplated under the Act.

18. In respect of the Judgment relied on by the petitioners, in the said case, the copy of the order passed under section 3C(2) was not communicated to the land owners therein. In the said context, the Division Bench of this Court has considered the grounds raised by the appellants therein. However, in the present case, the objections were considered with reference to section 3C(1) of the Act and admittedly, the order was passed by the authority under section 3C(2) and the said order was communicated to the land owners. Thus, the said judgment is not applicable to the petitioners.

19. In view of the facts and circumstance, this Court do not find any



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infirmity with the land acquisition proceedings and consequently, the **writ petitions are dismissed**. No costs. Consequently, connected miscellaneous petitions are closed.

20. It is clarified that the compensation amount has already been deposited in the account of Special DRO, Land Acquisition.

21. The learned counsel for the petitioner states that the petitioners have not received the award. However, the learned counsel for the respondents states that it was communicated. If at all, such awards are not received by the petitioners, they are at liberty to collect a copy of the same from the authorities concerned.

28.07.2023

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Index : Yes
Speaking Order
Neutral Citation : Yes

To



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