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W.A.Nos.1320 to 1322 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2023

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.Nos.1320 to 1322 of 2014

1. The Secretary to Government
Public Works Department
Secretariat
Fort St.George
Chennai 600 009
2. The Principal Chief Engineer
Water Resources Department
Chepauk, Chennai 600 005
3. The Chief Engineer
Public Works Department
Water Resources Organisation
Madurai Region
Madurai 625 002
4. The Assistant Executive Engineer
Public Works Department/WRO
Manimuthar Basin Sub Division
Karaikudi 630 001



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5. The Assistant Engineer
Public Works Department
Water Resources Organisation
Irrigation Section
Kandanur 630 104

6. The Assistant Engineer
Public Works Department
Water Resources Organisation
Irrigation Section
Karaikudi 630 001

.. Appellants in WA.1320/2014

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Trichy 620 020

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Middle Cauvery Basin Circle
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Public Works Department
Water Resources Organisation
South Vellar Basin Division
Pudukkottai

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Public Works Department
Water Resources Organisation
Irrigation Section
Keeranur, Pudukkottai District

.. Appellants in WA.1321/2014

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Water Resources Department
Chepauk, Chennai 600 005

3. The Chief Engineer
Public Works Department
Water Resources Organisation
Trichy Region
Trichy 620 020

.. Appellants in WA.1322/2014

v.

1. National Highways Authority of India
through its Project Director
Project Implementation Unit
No.1, 2nd Floor
Subramaniapuram 3rd Street
Karaikudi 630 002

Sole Respondent in WA.1320,
1321/2014 & 1st Respondent
in WA.1322/2014

..



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2. New Kattalai Canal and Aerie
Pasana Vivasayigal Welfare
Association K.Sathanoor
rep by its Secretary G.Angamuthu
19/1, West Street
K.Sathanoor and Post
Trichy

.. 2nd Respondent in WA.1322/14

Writ Appeals filed under Clause 15 of the Letters Patent, against the common order dated 06.01.2014 made in W.P.Nos.1856 to 1858 of 2013.

For Appellants :: Mrs.Geetha Thamaraiselvan
Special Government Pleader

For Respondents :: Mrs.S.R.Sumathy
Standing Counsel for NHAI/R1
in WA.1320 to 1322/14
No appearance for R2 in
WA.1322/14

COMMON JUDGMENT

(Judgment of the Court was made by D.KRISHNAKUMAR,J.)

These intra-Court appeals, at the instance of the State, are directed against the common order dated 06.01.2014 passed in Writ Petition Nos.1856 to 1858 of 2013.

2. Heard both sides.



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3. The brief facts necessary for the disposal of these writ appeals are that the respondent, National Highways Authority of India, after identifying the congested built-up areas in South India, particularly in Trichy and neighbouring districts, delving into various aspects to provide free flow of vehicular traffic, initiated the project of upgradation of 2 lane with paved shoulders of Trichy-Karaikudi Section of National Highways (NH) 210 from Km.10/000 to Km.94/000 including Trichy Bypass on NH-67 from Km.110/016 to Km.135/930 with total length of 107.45 Kms., in the State of Tamil Nadu on BOT (Build, Operate and Transfer) Annuity Basis under the National Highways Development Project (NHDP) Phase-III. The said project, initiated in terms of the Central Government's Policy decision to connect States, Cities and Districts at an estimated cost of Rs.374 crores, included construction of a new Bypass to Trichy city branching near Thuvakudi on NH-67 at Km.110/016 intersecting NH-210 in Mathur at Km.124/671 and merging on NH-45B at Km.135/930 near Panchappur besides new bypass for Keeranur, Pudukkottai, Thirumayam and Karaikudi on NH-210. In the total length involving 107.45 Kms., 67 Km., is new formation, of which a length of 5.674 Kms., is passing through water



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bodies, namely, (a) Trichy Bypass in Trichy District on NH-67 from Km.110/016 to Km.135/930 coming under the jurisdiction of Chief Engineer, PWD, Trichy is intersected by 6 water bodies i.e., Thuvakudi-Paranthankulam, Thuvakudi-Periyakulam, Palaganagudi-Nilamuttikulam, Kumbakudi-Kumbakudi tank, K.Sathanoor-Kannakkankulam and K.Sathanoor-Periakulam; (b) Trichy-Karaikudi Section of NH-210 from Km.10/000 to Km.94/000 in Pudukkottai District under the jurisdiction of the same authority, is intersected by 6 water bodies i.e., Kulathur-Periakulam, Keeranur-Periakulam, Kundaru River, Vellaru River, Thirumayam-Thamaraikanmoi and Thirumayam-Vengaikanmoi and (c) the project stretch in Sivagangai District coming under the jurisdiction of Chief Engineer, PWD, Madurai Region is intercrossed by 4 water bodies i.e., Kanadukathan Tank, Kovilur-Koneri Tank, Sankarapuram Tank and Senjai-Nattar Tank. Since the project alignment had to pass through the aforesaid water bodies, the Project Director, NHAI, by letter dated 17.07.2008, requested permission/NOC from the PWD authorities concerned to enter into the lands to commence the road works.



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4. Now the status report dated 28.07.2023 filed by the Project

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Director of NHAI before this Court clearly reveals that though the Chief Engineer, PWD, WRO, Madurai Region vide letter dated 17.07.2012 has recommended to the Secretary to Government, PWD, Chennai for issuance of NOC for the formation of road through the four tanks in Sivagangai District, the Secretary to Government, PWD, Chennai, by letter dated 27.09.2012, rejected the request of NHAI for issuance of NOC for the reasons stated therein. Similarly, the Assistant Engineer, PWD, WRO, Irrigation Section, Keeranur, by letter dated 09.11.2012, requested NHAI to stop the construction work in Kulathur and Keeranur Tanks falling in Pudukkottai District. Based on the above proceedings dated 27.09.2012, the Chief Engineer, PWD, WRO, Trichy Region, by letter dated 03.10.2012, has also withdrawn the NOC granted to the NHAI for formation of the road in the water bodies falling in Trichy District. When the aforesaid orders were challenged by the NHAI in the writ petitions, the writ Court has allowed all the writ petitions, quashing the entire proceedings, permitting the NHAI to complete the remaining project subject to the condition that they should not contravene the undertaking given to this Court in respect of preservation of



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water bodies and further, in respect of the completed project and the undergoing project, if any deepening or desilting or any other restoration work is required, NHAI should carry out the same by incurring the entire expenditure required therefor. According to the respondent, NHAI has constructed the works in the above said tanks by duly following the directions of this Court and as well the opinion given by the experts Dr.S.Mohan & Dr.Boominathan from the Department of Civil Engineering, IIT, Madras and Shri.R.Sivasamy, Chief Engineer & Administrator (Retd.) and it is further submitted that the construction works have been completed in all the 16 water bodies duly ensuring free flow of water and opened for traffic.

5. Placing on record the aforesaid status report filed by the respondent, we observe that if any condition has not been complied with by the NHAI for preservation of the water bodies in question as undertaken before this Court, the appellants are entitled to issue suitable instructions to the NHAI to rectify the defects pointed out by the appellants and ensure their compliance at the cost of NHAI. With this observation, all the writ



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appeals shall stand disposed of. Consequently, M.P.Nos.1 & 2 of 2014 are closed. There shall be no order as to costs.

(D.K.K.,J.) (P.B.B,J.)
01.08.2023

Index : yes/no
Neutral citation : yes/no

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