



W.A(MD)No.333 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2023

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN

W.A(MD)No.333 of 2019
and
C.M.P(MD)Nos.2658 to 2660 of 2019
and
C.M.P(MD)Nos.3200 & 3555 of 2020
and
W.P(MD)No.2680 of 2021
and
W.M.P(MD)Nos.2210 & 2211 of 2021
and
W.M.P(MD)No.12520 of 2022

W.A(MD)No.333 of 2019

M/s.Lan Spintex Private Ltd.,
(Formerly M/s.Best Lan Spintex Private Ltd.,)
Rep. by its Authorized Signatory,
No.89/2, Padmavathipuram,
Avinashi Road,
Tiruppur-641 603.

... Appellant/Petitioner

.Vs.



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- 1.The Union of India,
Rep. by its Principal Secretary,
Ministry of Road Transport and Highways,
New Delhi-110 001.
- 2.The Chairman,
National Highway Authority of India,
G-5 & 6, Sector 10, Dwaraka,
New Delhi-110 075.
- 3.The District Collector,
Office of the District Collector,
Dindigul,
Dindigul District-624 004.
- 4.The Authorized Officer &
Special District Revenue Officer,
(National Highways-Land Acquisitions),
D.No.567, APJ Abdul Kalam Road,
Sennamanaickanpatti,
Dindigul-624 004.
- 5.The Deputy General Manager & Project Director,
(Project Implementation Unit),
National Highways Authority of India,
Aishwaryam Heights,
Indhira Nagar.
Sennamanaickanpatti,
Dindigul-624 004.
- 6.The Regional Officer,
National Highways Authority of India,
Regional Office,
Madurai.



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7.The Technical Manager,
Bye-Pass-NH 209,
Dindigul to Pollachi,
Regional Officer,
Madurai.

... Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent Act, to set aside the order dated 07.02.2019 in W.P(MD)No.17116/2018 passed by this Court.

For appellant	: Mr.N.Manokaran
For R1	: Mr.S.Jeyasingh Senior Panel Counsel
For R3 & R4	: Mr.D.Sasikumar Additional Government Pleader
For R2, R5 & R6	: Mr.P.Karthick Standing Counsel

W.P(MD)No.2680 of 2021

M/s.Lan Spintex Private Ltd.,
Rep. by its Authorized Signatory,
89/2, Padmavathipuram,
Avinashi Road,
Tiruppur-641 603.

... Petitioner

.Vs.

1.The Union of India,
Rep. by Principal Secretary to Govt.,
Ministry of Road Transport and Highways,
New Delhi-110 001.



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2.The National Highway Authority of India,
Rep. by its Chairman,
G-5 & 6, Sector 10, Dwaraka,
New Delhi-110 075.

3.The District Collector,
Dindigul District,
Dindigul -624 004.

4.The Authorized Officer -cum-
Special District Revenue Officer,
(Land Acquisitions),
D.No.567, APJ Abdul Kalam Road,
Sennamanaickanpatti,
Dindigul-624 004.

5.The Deputy General Manager (Tech)
Cum Project Director,
National Highways Authority of India,
Project Implementation Unit,
Dindigul-624 004.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned Gazette Notification in S.O.1670 (E) dated 29.04.2019 published in the Gazette of India Extraordinary No.1485, Part II Sec.3 Sub Sec.II, dated 01.05.2019 issued by the first respondent under Sec.3 D (1) of the National Highways Act, 1956, quash the same and consequently directing the respondents to proceed with the alternative, convenient and less expensive straight line as pointed out by the petitioner in its representation dated 07.10.2020.



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For petitioner	: Mr.N.Shanmugaselvam
For R1	: Mr.S.Jeyasingh Senior Panel Counsel
For R3 & R4	: Mr.D.Sasikumar Additional Government Pleader
For R2 & R5	: Mr.P.Karthick Standing Counsel

COMMON JUDGMENT

DR.G.JAYACHANDRAN,J.
AND
K.K.RAMAKRISHNAN,J.

M/s. Lan Spintex Private Limited is the petitioner in W.P(MD)No.2680 of 2021 and appellant in W.A(MD)No.333 of 2019 arising out of the order passed in W.P(MD)No.17116 of 2018.

2. The sum and substance of the lis revolves around that the land acquisition project for the development of Dindigul to Pollachi Section of NH 209 which crosses the land of the M/s.Lan Spintex Private Limited, where, they have located their Textile Park Industry.



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3. The grievance of the petitioner/appellant is that the proposed NH 209 highway project literally bisect their mill premises in two part leading to incidental complication due to the location of the factory premises and the other portion of the property which will fall on the other side of the proposed road.

4. The writ petition in W.P(MD)No.17116 of 2018 was filed to quash the impugned notification published under Section 3A(1) of the National Highways Act, 1956 came to be disposed on 07.02.2019 taking into account the grievance expressed by the land owner, namely, the petitioner and the alternative suggestion proposed by the acquisition authority, namely, the Highways Department to the effect that they will put up a vehicle under pass for smooth functioning of the mill and utilisation of the land on either side of the road. Recording the undertaking given by the Highways Department, the writ petition was dismissed. Not being satisfied with the direction of vehicle under pass will mitigate their grievance writ appeal in W.A(MD)No.333 of 2019 was filed.

5. Pending the said writ appeal, M/s.Lan Spintex Private Limited filed writ petition in W.P(MD)No.2680 of 2021 challenging Section 3D(1) of the National



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Highways Act, 1956, dated 29.04.2019 to quash the same and consequently direct the respondents to proceed with the alternative, convenient and less expensive straight line as requested by the petitioner in his representation, dated 07.10.2020.

6. Pending writ appeal as well as the writ petition for the prayer stated above, now, the land owner and the second respondent NHA have arrived at amicable settlement. The memorandum of understanding been signed by the petitioner/land owner and the 5th respondent/the Project Director, National Highways Authority of India. The memorandum of understanding reads as below:-

“3. It is submitted that in the above circumstances, the second respondent who is the contesting respondent in the above said writ petition and the petitioner has come forward to arrive a settlement amicably relating to the subject matter involved and challenged in the writ petition and both parties agrees to settle the issue amicably in the following terms.

a. The writ petitioner has no objections to go ahead with the original plan as per the impugned notification in S.O.1670 (E) dated 29.04.2019 published in the Gazette of India extraordinary No.1485,



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Part-II Sec.3 Sub.Sec.II, dated 01.05.2019 issued by the first respondent under sec.3 D (1) of the National Highways Act, 1956. As per original profile without any alignment changes.

b. The National Highways Authority/2nd respondent undertakes to establish a SVUP passing from south to north in additional to original plan admeasuring 7m x 4m of size for enabling free movement of workers and vehicles from south to north end for crossing the road at a suitable place. The NHAI/2nd respondent had already obtained approval of the NHAI Head Quarters for providing VUP of size 12m x 5.5 m for the smooth function of the petitioner's mill, now the petitioner has requested for providing a SVUP instead of VUP, which will be cost effective and it will reduce the construction period to complete the project, therefore it will be beneficial for both the parties.

c. The writ petitioner also undertakes to withdraw the writ appeal in W.A(MD)No.333 of 2019 pending before this Hon'ble Court.”

7. The land which is required for a public purpose cannot acquire following the principle of eminent domain. Further, the land owner need to be compensated adequately and also the said acquisition should not be arbitrary or malafide exercise of power. In this case, the petitioner/land owner had tried to expose his



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cause and difficult in the alignment of the road and now after deliberation, parties have arrived at settlement which reflected in the terms of memorandum of understanding which is extracted above.

8. In view of the settlement between the land owner and the Highways Department nothing survives in this writ appeal as well as the writ petition which is directed against the notification leading to acquisition proceedings.

9. Hence, the writ appeal and the writ petition are disposed of in terms of the compromise entered between the parties as stated above. The memorandum of understanding shall form part of the order. No costs. Consequently, connected miscellaneous petitions are closed.

[G.J.,J.] [K.K.R.K.,J.]
01.03.2023

Index : Yes / No
Internet : Yes / No
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To

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New Delhi-110 001.
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G-5 & 6, Sector 10, Dwaraka,
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DR.G.JAYACHANDRAN, J.
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