



W.P. (MD).Nos.17109 to 17111 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH Court

WEB COPY

DATED: 09.11.2023

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD).Nos.17109 to 17111 of 2021

P.Lakshmi

... Petitioner in W.P(MD)No.17109 of 2021

P.Prem Anand

... Petitioner in W.P(MD)No.17110 of 2021

P.Jegannath

... Petitioner in W.P(MD)No.17111 of 2021

Vs

1. The National Highways Authority of India,
Rep. by its Project Director,
Ministry of Road Transport and Highways,
O/o. the Project Director,
Project Implementation Unit, No.54, First Floor,
Natarajapuram North Colony,
Madurai College Road, Thanjavur – 613 004

2. The District Collector,
District Collectorate,
Tiruchirappalli District, Tiruchirappalli.

3. The Competent Authority and
Special District Revenue Officer,
Land Acquisition, National Highways 67,
Old Collectorate Complex, Tiruchirappalli.

... Respondents



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Prayer in WP(MD)No.17109 of 2023: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to remove the boundary stones laid in the petitioner's unacquired land in Survey Nos.18/5A1 and 18/5A2, Ellakudi Village, Thiruvarumbur Taluk, Tiruchirappalli by considering the petitioner's representation, dated 30.03.2021 within the time that may be stipulated by this Court.

Prayer in WP(MD)No.17110 of 2023: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to remove the boundary stones laid in the petitioner's unacquired land in Survey Nos.72/1B1 and 77/7B2, Agaram Village, Thiruvarumbur Taluk, Tiruchirappalli by considering the petitioner's representation, dated 30.03.2021 within the time that may be stipulated by this Court.

Prayer in WP(MD)No.17110 of 2023: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to remove the boundary stones laid in the petitioner's unacquired land in Survey Nos.18/6A Ellakudi Village, Thiruvarumbur Taluk, Tiruchirappalli by considering the petitioner's representation, dated 30.03.2021 within the time that may be stipulated by this Court.



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In all the petitions:

For Petitioner : Ms.Jesima Yasmin
For Ajmal Associates

For Respondents : Mr.S.Srinivasan (R1)

Mr.A.K.Manikkam (R2, R3)
Special Government Pleader

COMMON ORDER

The issues involved in these writ petitions are common in nature. Hence, they are heard together and disposed of through this common order.

2.The petitioners have approached this Court for the issue of a writ of Mandamus directing the respondents to remove the boundary stones that have been laid in their lands by considering the representations given by the petitioners.

3.The case of the petitioners is that they are the absolute owners of the subject properties and that the respondents, without following any procedure and without complying with due process of law, proceeded to lay boundary stones in the lands belonging to the



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petitioners. The petitioners were not even informed as to why such an exercise is being undertaken and therefore, the petitioners made representations to the respondents pointing out the fact that their lands were sought to be taken away without following due process of law. Since the representations made by the petitioners did not evoke any response, these writ petitions have been filed before this Court.

4.The second and third respondents have filed three separate counter affidavits. However, it will suffice to take note of counter affidavit in W.P(MD) No.17109 of 2021, since the contents are the same in the other two counter affidavits also. For proper appreciation, the relevant portions in the counter affidavit are extracted hereunder.

“I respectfully submit that on receipt of LPS, for Thuvakudi - Palpannai Service Road of NH-67 in Tirchirappalli District from NHAI represented by the Project Director, PIU, NHAI, Thanjavur for acquisition of certain Private land in Ellakudi Village of Thiruverumbur Taluk in Tiruchirappalli District including the petitioner's land. The details of Survey numbers including petitioner land in S.F. No. 18/5A1, 18/5A2 and extent proposed to be acquired have been notified in the Gazette of India No. 1210, S. 0. 1365(E) dt: 24.5.2013 under section 3A(1) of National Highways Act 1956 (48/1956) The substance of the notification was also published in two local dailies viz., Daily Thanthi (Tamil) and the



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New Indian Express (English) on 22.08.2013 under section 3A(3) and inviting objections from the interested persons in the said land may, within 21 days from the date of publication in the Local dailies, under section 3C(1), for the proposed acquisition of lands mentioned therein.

I respectfully submit that, Petitioner land have been notified in the above notification as detailed below

Name of the Village	S.F.No.	Classification	Extent Sq.mt
Ellakudi	18/5A1	Private Wet	962
	18/5A2	Private Wet	552

I respectfully submit that, by the said notification, 85 objection petitions have been received from the land owners. The enquiry under section 3C(1) have been conducted and after perusal of the petition the request of the petition had been rejected and issued necessary orders under Section 3C(2) of NHAI Act, 1956.

I submit in this regard the Petitioner had not objected under this above section of act for said land acquisition.

I, respectfully submit that subsequently, after preparation of necessary sub-division records duly got pre scrutinized, the Notification under section 3D(1) of the above said Act was notified in the Government of India Gazette No. S.O. 1338 (E) Extraordinary No. 1109 Part II Section 3 sub-section (ii) dated 21.5.2014. Declaring that the lands mentioned below therein, shall absolutely vest with the Central Government free from all encumbrances on and from the date of its publication in Government of India Gazette, under the section 3D(1) of the above said Act.

Also, I, respectfully submit, following the above National Highways legal action, lands are proposed to be acquired in the



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schedule annexed as per judgement of the Honourable High Court of Madras at Madurai Bench in W.P.(M.D.) No.8211 of 2016 and W.M.P(M.D.) No. 6673 and 6674 of 2016 and W.P.(M.D.) No. 1824 of 2014 and M.P. (M.D.) No. 3 of 2014 and 1 of 2015 Dated ::15.10.2019 except the survey number of the petitioner which was not notified due to modification in the present LPS. In Pursuance of the directions of Hon'ble Court, meetings were convened and the decision was taken to reduce the road width from 60 meters to 45 meters according to the necessity of the various locations and to ensure the safety of the Road users. Accordingly an extent of 170000 Sq.meters of land alone were decided to be acquired for the formation of service road with reduced width in NH67 with road length of 14,5 Kilometres from Thuvakudi to PaulPannal Roundana. It is submitted that due to this reduction of the width of the proposed road, an extent of 141907.5 Sq.meters lands were excluded from the land acquisition proceedings at present. According to Revised LPS received from NHAI after the Court direction the particular survey numbers of the petitioner is not included in section 3D paper Publication. Presently survey marking only is going on in the ocalitios along the existing NH Road 67. The petitioner is under wrong prosumption that his/her lands are notified for acquisition. But as per revised LPS new survey numbers and additional extent of exiting survey numbers and other necessary extent of land shall he acquired along the road viz; including the lands of the petitioner after following the necessary notification of the proposed acquisition for land for pulic purpose viz,. NH road formation. In this present stage the claim of the petitioner is baseless.



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It is also submitted that the Government in their G.O. .54 dated 16.3.2020 have sanctioned the post of Special Tahsildar and other staff for the land acquisition works and they have joined duty and have commenced their works.

It is also submitted that, NHAI officials have resurveyed and demarcated of the revised boundaries of the relevant subdivisions of Survey No. 18, verified with the existing documents of the village Taluk records and provided the land plan schedule in cur office. Based on that record, Service Road related works is going under the National Highways Act 1956 without interruption continuously.

Due to corona pandemic and continuous lock down the progress of work was slowed down. Steps are also being taken to prepare the valuation estimate for each and every building involved in this project and to get the same approved by the technical authorities concerned. The authorities have been taken sincere and effective steps to complete the work. I also respectfully submit that, in respect of land Acquisition proceedings further some time is definitely needed to fulfill the legal formalities,

I respectfully submit that the Service road work have been started for the welfare of the Public through National Highways. So acquisition land boundaries were marked in colour by the Surveyor on the Road mentioned in the notification. This fact has been informed to the petitioner. The authorities involving in the Land Acquisition proceedings are functioning as quasi judicial officers and they are acting in an open and transparent manner and are implementing the provisions of the National Highways Act in letter and spirit. It is respectfully submitted that, boundary stones had been laid on unoccupied land, property had been confiscated as alleged by the petitioner was false. and I also submit



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that, necessary reply has been sent to petitioner representation dated on 31.3.2021 and there is no violation of the Articles 300-A of the Constitution of India as alleged by the petitioner“.

5.Heard, the learned counsel appearing for the petitioner, the learned Standing Counsel appearing for the first respondent and the learned Special Government Pleader appearing for the second and third respondents.

6.The learned counsel for the petitioner submitted that the petitioners were never put on notice at any stage and that they were not aware of the acquisition proceedings that were initiated under the National Highways Act, 1956.

7.Per contra, the learned Special Government Pleader appearing on behalf of the second and third respondents submitted that the present acquisition proceedings was repeatedly challenged before this Court and therefore, the petitioners cannot claim ignorance of the proceedings that were initiated by the second and third respondents. The learned Special Government Pleader further submitted that the entire



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process has been completed and what remains is only the enquiry that has to be conducted under Section 3G(3) of the National Highways Act. The learned Special Government Pleader also reiterated the stand that has been taken in the counter affidavit filed by the second and third respondents.

8.The learned Standing Counsel appearing on behalf of the first respondent submitted that the entire acquisition proceedings has been completed in the year 2015 itself and the petitioners have knocked the doors of the Court only in the year 2021, as if, they were not aware of the acquisition proceedings and hence, the petitioners are not entitled for the relief sought for in these writ petitions. The learned Standing Counsel sought for dismissal of these writ petitions.

9.In the considered view of this Court, it is clear from the counter affidavits filed by the second and third respondents that the acquisition proceedings were initiated under the National Highways Act and it is now at the stage of enquiry under Section 3 G(3) of the National Highways Act. In view of the same, the relief as sought for in these writ



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petitions cannot be granted by this Court. The only exercise that has to be undertaken in these cases is to see whether the lands belonging to the petitioners fall within the lands that were acquired under the proceedings initiated under National Highways Act. If the lands fall within the notification issued under the said Act, then the petitioners will be entitled to be heard only from the stage of enquiry under Section 3 G(3) of the Act. On the other hand, if the lands of the petitioners do not fall within the notification, then the boundary stones in the lands will have to be removed and the petitioners must be permitted to continue their possession and enjoyment in those lands without any interference.

10. In view of the above, there shall be a direction to the second respondent to depute a Surveyor to conduct a survey of the lands belonging to the petitioners. While undertaking the survey, the surveyor shall identify as to whether the lands belonging to the petitioners fall within the notification issued under the Act for acquisition. A report shall be submitted before the second respondent, after the completion of this exercise, within a period of four weeks from the date of receipt of copy of this order. The survey shall be conducted in the presence of petitioners



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and the officials belonging to the National Highways Authority. On receipt of report from the Surveyor, the second respondent shall ascertain whether the lands belonging to the petitioners fall under the notification issued for acquisition under the Act and if so, the procedure has to be followed under section 3 G (3) of the National Highways Act and the petitioners can always participate in the enquiry. On the other hand, if the lands belonging to the petitioners do not fall within the notification for acquisition under the Act, the boundary stones that have been laid in those parts of the lands shall be removed and the petitioners will be entitled to enjoy those lands absolutely without any disturbance. This clarity will sufficiently take care of the grievances expressed by the petitioners.

11. These writ petitions are disposed of in the above terms. No costs.

09.11.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
PNM



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To

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N.ANAND VENKATESH, J.

PNM

**COMMON ORDER IN
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09.11.2023