



W.P.No.1994 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.02.2024

PRONOUNCED ON : 03.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE **P.VELMURUGAN**

W.P.No.1994 of 2024 and
W.M.P.Nos.2117 & 2119 of 2024

John Edison

...Petitioner

VS.

1. Union of India
Rep. by Director,
Ministry of Shipping,
Road Transport and Highways,
Shastri Bhavan, R.P.Road, New Delhi.
2. District Collector,
Thiruvallur District.
3. The Competent Authority & Spl.Revenue Officer (L.A.)
National Highways (Schemes) No.48,
Lal Bhagdhadur Shastri Street,
Periyakuppam, Near Thulasi Theatre,
Tiruvallur – 602 001.



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4. Tahsildar,
Thiruvallur Taluk,
Thiruvallur District.

5. The Project Director,
National Highways Authority of India (NHAI)
Rep. by its Project Director,
Project Implementing Unit,
Kancheepuram.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus to call for the records of the first respondent in S.O.5786(E) dated 12.12.2022 issued under Section 3(A) of the National Highways Act, 1956, quash the same as illegal, incompetent and unconstitutional and further forbear the respondents from acquiring the petitioner land concern in Old Survey No.1228/7 Part, New Survey No.1409/1B situated at No.126, Mappedu “B” Village, Hussain Nagaram, Thiruvallur Taluk, Thiruvallur District.

For Petitioner : Mr.K.V.Muthu Visakan

For Respondents : Mr.V.Chandrasekaran,
Senior Panel Counsel for R1

Mr.T.Arunkumar, AGP for R2 to R4

Mrs.S.R.Sumathy, Standing Counsel for R5



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ORDER

The writ petition has been filed to quash the proceedings of the first respondent in S.O.5786(E) dated 12.12.2022 issued under Section 3(A) of the National Highways Act, 1956, (in short 'NH Act') and to forbear the respondents from acquiring the petitioner's land concern in Old Survey No.1228/7 Part, New Survey No.1409/1B situated at No.126, Mappedu “B” Village, Hussain Nagaram, Thiruvallur Taluk, Thiruvallur District.

2 It is the case of the writ petitioner that since 1976 the petitioner's mother has been in possession and enjoyment of a house site located at Door No.3/660, Madha Koil Street, Mappedu, Thiruvallur Taluk, Thiruvallur District, in Old.Survey No.1228/7 Part, New Survey No.1409/1B of Village No.126, Mappedu B-Village, Thiruvallur Taluk, Thiruvallur District. On 20.08.1991, The Special Tahsildar of Thiruvallur assigned a house site patta, bearing No.38, with an extent of 223 square meters to the petitioner's mother. In the meantime, on 06.01.2017, a portion of the land measuring 1154½ square feet in the subject land was conveyed



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to the petitioner through a registered settlement deed vide Doc.No.19 of 2017 by the petitioner's mother. Thereafter the petitioner initiated mutation process under proceedings in TK/8A/2748/1430 and RPT No.154/1430 dated 24.12.2020. The land was further sub-divided as Survey No.1409/1B by the fourth respondent and now the petitioner is in absolute possession and enjoyment of the subject property. Further the petitioner also obtained building approval from Kadampathur Panchayat Union and constructed a residential house.

2.1 Thereafter the petitioner became aware of a decision of the first respondent to establish a spur road from NH-48 to access the upcoming Private Multiplex Logistics Park. A notification, SO No.1274(E) dated 20.03.2023, was subsequently published in the Gazette of India, granting powers to the Special District Officer, Land Acquisition National Highways, Thiruvallur. The authority was conferred to carry out the functions of the Competent Authority Land Acquisition (CALA)/respondent No.3 under Section 3(A) of the National Highways Act, 1956 Specifically for the stretch of land from Km 0 to Km 15.6 of NH-48(Spur). The Ministry



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of Road, Transport, and Highways, in exercise of powers conferred under Section 3A(1) of the NH Act, issued notice, which was published in Gazette of India on 12.12.2022, but, no notice was served on the petitioner. The petitioner sent representation on 22.06.2023, but, there was no response and hence the petitioner again sent representation on 26.09.2023. Thereafter the third respondent sent a memo on 13.12.2023 stating that the lands in S.Nos.1105, 1228/2 and 1128/7 are village natham and falsely stated that the petitioner requested compensation, for which the petitioner also sent suitable reply on 15.12.2023 refuting the inaccuracies in the memo.

2.2 The petitioner made search on the website and found that the nature of land in S.No.1228/7 is erroneously mentioned as Government (Natham), but it is really the petitioner's patta land. The petitioner made several representations, but the respondents having received the same, did not reply. Hence this present writ petition.

3 The third and fifth respondents filed counter stating that the Government of India issued notification U/S 3(A) of NH Act in



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S.O.No.5786(E) dated 12.12.2022 and published the details of lands in the Gazette of India No.5550 (Part-II-Sec 3 – Sub Section (ii) dated: 12.12.22 to acquire lands for NH48. Survey No.1228/7 of Hussain Nagaram village is classified as Government Natham after change of classification during natham settlement in the year 1991. The petitioner's mother was issued natham house site patta for an extent of 223 sq.mtr (2400 sq.ft.) in new Survey No.1409/1 by the Special Tahsildar, Natham Settlement, Tiruvallur which was published as S.No. 1228/7 part Natham Poramboke.

3.1 The petitioner's mother executed settlement deed registered in the Sub Registrar Office, Perambakkam vide document Nos. 19/2017 dated 06.01.2017 in favour of the petitioner for one portion. In the documents produced by the petitioner it has been clearly mentioned that the classification of the house sites are “Grama natham”. No objection has been received from the land owners within 21 days from the date of the notification and hence the Government of India under Section 3(D) of NH Act, issued Notification in S.O.No.1274(E) 17.03.2023, which was published in the Gazette No.1225 (Part-II-Sec3-Sub Section (ii) dated:



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20.03.2023 declaring the lands vest absolutely in the Central Government free from all encumbrances. The above notification was for acquiring lands to improve the road NH48 to NH standards which will cater the traffic of all industries/factories logistics parks etc., to cater all along the NH and not only for Private Multimodal Logistics Park as contented by petitioner.

3.2 Through the notification under Section 3A(1) published on 12.12.2022, the land in Survey No. 1228/7 has been notified as Government Natham. Since the lands covered under natham settlement has not been incorporated in the village accounts of Hussain Nagaram village, notices were not served on the petitioner who has been issued natham patta. The improved NH-48 will serve as Spur road will cater the need for transport of the heavy vehicles carrying goods to and from the major industrial hubs viz. Sriperumbudur, Oragadam, Irunkattukottai, Hussain Nagaram and Sengadu in Tiruvallur and Kancheepuram Districts. After the publication of 3A (1) notification, no land owner of Hussain Nagaram village filed their objections within the stipulated time i.e. 21 days from the date of publication of the notification under 3A(1) of the NH Act before the third



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respondent. After publication of 3(D) notification the third respondent conducted enquiry under Section 3G (3) of NH Act, in which the writ petitioner also appeared on 26.4.2023 and has given his consent for the acquisition and requested compensation for his house site and building. During the enquiry the petitioner submitted copies of natham house site patta, settlement deeds and encumbrance certificate.

3.3 The land owners have been given 21 days time to file their objection through the notification of the Government of India Gazette under Section 3(A)(1) and subsequently substance of the notification was also published in the Tamil and English dailies on 22.12.2022. None of the land owners filed objection against the land acquisition till the conduct of 3G(3) enquiry on 26.4.2023. After completion of the above enquiry the third respondent proceeded to pass award to determine the compensation to the land owners and called for the land records available with them. The land owner who had been issued Grama Natham patta appeared for the enquiry on 26.04.2023. During the 3G(3) enquiry the petitioner submitted copies of encumbrance certificate, from which, it is observed that after the assignment



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of the house site in the year 1991 in favour of the petitioner's mother, the petitioner's mother executed two settlement deeds infavour of her sons in the year 2017 and the petitioner was not inherited the house site prior to 1991 and it is not their patta land till it was assigned to the petitioner's mother on free of cost during the natham settlement.

3.4 Under the NH Act, the Land Acquisition Officer can proceed acquisition proceeding when the objection from the land owners are not valid and feasible. The alignment and design for the improvement of the entire stretch of NH-48 spur road from Km 0 to 15.6 km will not be fulfilled without acquiring the petitioner's land. Construction of drainage along with the NH-48, shifting the electrical poles, telephone cables and felling of trees with the approval of Green Committee are in progress. Award has been passed on 29.12.2023 by the third respondent to issue compensation which include basic land value of land, trees value, structures value, 100% solatium and additional market value at 12% of the basic land value for the period from the date of publication of 3A(1) notification to the date of passing of award. Even though the petitioner's mother was issued free house



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site patta by the Revenue Department, they are entitled for fair compensation as per Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

3.5 Adequate compensation will be paid to the petitioner which will be around 2 times along with structures value and trees values and interest from the date of publication to the date of receiving compensation will be paid to the petitioner. The proposed improvements to the existing road to make it National Highways Standard cannot be achieved without this land. Therefore the writ petition is liable to be dismissed.

4 Learned counsel for the writ petitioner would submit that the subject property is a house site measuring an extent of 1154½ sq.ft. and the same was conveyed by the writ petitioner's mother through settlement deed registered as Doc.No.19 of 2017. Originally the land with larger extent of 2400 sq.ft. located at Door.No.3/660, Madha Koil Street, Mappedu, Thiruvallur Taluk, Thiruvallur District, covered under the Grama Natham was assigned to the petitioner's mother under Free House Site Patta scheme



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on 20.08.1991. Thereafter the writ petitioner's mother executed a settlement deed in favour of the petitioner on 06.01.2017, wherein a portion of the land measuring 1154½ sq.ft. was conveyed to the petitioner. The writ petitioner initiated mutation process and as per the sub-division, the petitioner's portion was sub-divided as S.No.1409/1B and now the petitioner is in possession and enjoyment of the property. The petitioner came to know about the acquisition of land by the respondent viz. National Highways to establish a spur road from NH-48 to access upcoming Private Multiplex Logistics Park.

4.1 Even though the writ petitioner sent representation on 22.06.2023, there was no response from the respondents and hence he again sent representation on 26.09.2023. Thereafter the third respondent sent a memo on 13.12.2023 stating that the lands in S.Nos.1105, 1228/2 and 1128/7 are Village Natham and falsely stated that the petitioner requested for compensation, for which, the petitioner also sent suitable reply on 15.12.2023 refuting the contentions of the respondent in the memo.



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4.2 The learned counsel would further submit that since the properties covered under the Grama Natham and the petitioner's mother executed settlement deed in favour of the petitioner conveying the small portion of land to extent of 1154½, the petitioner applied for approval of plan for constructing house in that land. The respondents without considering the representations of the petitioner and the above facts, acquired the lands and the same is needs to be quashed.

5 Learned standing counsel for the respondents 3 and 5 would submit that the lands in S.No.1228/7 was allotted to the mother of the petitioner under free house site patta scheme in the year 1991. The petitioner's mother executed settlement deed in favour of the petitioner conveying portion of lands to the petitioner, which was sub divided as 1409/1B. Notification under Section 3(A) of the NH Act was made in the year 2022 and as per the Act, the aggrieved/interested parties should submit their objections within 21 days from the date of publication. In this case the petitioner has not made any objection within the stipulated time as prescribed in the statute. Declaration under Section 3(D) of the NH Act was



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also made in the year 2023 i.e. within one year and there was no response

from the petitioner and therefore the enquiry under Section 3(G) of the NH

Act was conducted. At that time, the petitioner also participated in the

enquiry and made submissions. The respondent considered the same and

rejected based on the public interest. The petitioner's land is a small extent

of 1154½ sq. ft. and without passing his land, the road cannot be laid. The

objections raised by the petitioner was considered and the respondents

found the objections raised by the land owners are not valid and feasible

The alignment and design for the improvement of the entire stretch of NH-

48 spur road from Km 0 to 15.6 km will not be fulfilled without acquiring

the petitioner's land. Construction of drainage along with the NH-48,

shifting the electrical poles, telephone cables and felling of trees with the

approval of Green Committee are in progress. Award has been passed on

29.12.2023 by the third respondent to issue compensation which include

basic value of land, trees value, structures value, 100% solatium and

additional market value at 12% of the basic land value for the period from

the date of publication of 3A(1) notification to the date of passing of award.

Even though the petitioner's mother has been issued free house site patta by



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the Revenue Department, they are entitled for fair compensation as per Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

5.1 In this case, free house site patta was issued to the mother of the petitioner by the Revenue Department, however, mother executed settlement deed conveying portion of lands to the writ petitioner and hence the writ petitioner is entitled to only for compensation under the Act. If at all the petitioner has got any grievance, he can workout his remedy under Section 3(G) of the NH Act and he has no authority to challenge the land acquisition. Therefore the writ petition is liable to be dismissed.

6 Heard the learned counsel on either side and perused the materials available on record.

7 Admittedly the subject land covered in Old Survey No.1228/7 Part, New Survey No.1409/1B is situated at No.126, Mappedu “B” Village, Hussain Nagaram, Thiruvallur Taluk, Thiruvallur District. Originally the



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land with an extent of 223 sq.meters was assigned to mother of the petitioner and she conveyed the portion of the land measuring to an extent of 1154½ sq.ft. by way of settlement deed on 06.01.2017. However, the first respondent to establish spur road from NH-48 to access the upcoming Private Multiplex Logistics Park, published a notification, SO No.1274(E) dated 20.03.2023, in the Gazette of India, granting powers to the Special District Officer, Land Acquisition National Highways, Thiruvallur. The Ministry of Road, Transport, and Highways, in exercise of powers conferred under Section 3A(1) of the NH Act, issued notice, which was published in Gazette of India on 12.12.2022. Declaration under Section 3(D) of the NH Act was also made on 20.03.2023.

8 The respondents have not received any objections from the petitioner within 21 days from the date of notification under Section 3(A)(1) of the NH Act. The petitioner himself admitted that he sent representation on 12.06.2023 and 26.09.2023, which itself clearly shows that the objections was not made within 21 days from the date of notification. However, the representation of petitioner was considered and the same was



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rejected assigning valid reasons.

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9 The respondents have filed their counter, wherein they have clearly stated that though the petitioner has not made objections within 21 days from the date of notification under Section 3(A)(1) of the NH Act, enquiry was conducted under Section 3(G) on 20.06.2023, in which the petitioner also participated and made his submissions. After completion of enquiry, the third respondent proceeded to pass award determining the compensation to the land owners.

10 Considering the needs of the land of the petitioner, the objections of the petitioner was rejected as the same is not valid and possible. Even as per the report of the technical expert, the request of the petitioner could not be considered. It is seen that after enquiry Award was passed on 29.12.2023 under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.



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11 The petitioner's representation was well considered by the respondents and since the respondent could not accept his requested, passed the Award. Even otherwise also during the Award enquiry, the petitioner request was considered and without the subject land of the petitioner, road could not be laid and object of the acquisition will not be fulfilled.

12 Therefore a perusal of the entire materials would clearly show that the respondents have meticulously followed the statutory provisions and after giving opportunity to the petitioner during the Award enquiry, passed the Award. This Court does not find any irregularity or arbitrariness in the award and hence the petitioner is not entitled to the relief sought for in the writ petition. However, the petitioner is at liberty to workout his remedy under Section 3(G)(5) of the NH Act, if the petitioner is not satisfied with the quantum of Award.



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13 For the foregoing observations and reasons, the writ petition stands dismissed. No costs. Consequently connected miscellaneous petitions are closed.

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Index: Yes/No
Neutral citation : Yes/No
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P.VELMURUGAN, J.,

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Pre-Delivery Orders in
W.P.No.1994 of 2024 and
W.M.P.Nos.2117 & 2119 of 2024

03.06.2024