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W.P.No.3640 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2024

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

**W.P.No.3640 of 2023
and WMP No.3721 of 2023**

M.Thanikachalam

.... Petitioner

Vs

The Divisional Engineer- (H),
Chennai Kanyakumari Industrial Corridor Project,
State Highways Department,
No.24, Door No.7,
Ramasamy Nagar,
Kancheepuram
E.mail: deckipm@gmail.com

.... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records of the impugned order of the respondent in its order in Letter No.51/2022/Uo.Po/dated 05.09.2022 and quash the same and thereby direct the respondent to construct the proposed Bus-Stop in an alternate place without affecting the petitioner's easement rights.

For Petitioner : Mr.P.S.Kothandaram

For Respondent : Mr.M.R.Gokul Krishnan
Additional Government Pleader



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ORDER

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2.It is true that the erstwhile property of the petitioner in Survey No.218/2-B had been acquired for road widening and compensation was duly received by the petitioner in that regard. Subsequently, the petitioner appears to have purchased the property in Survey No.205/16 in Pinnavaram Village, Arakkonam Taluk and has been running a hardware shop therein.

3.Administrative sanction had been accorded vide G.O.No.28 Highways and Minor Ports (HS2) Department, dated 06.03.2018 for acquisition of land for widening of the Kancheepuram- Arakkonam-Tiruttani Road (SH-58: Part-II) from Km 66/940 to Km 108/719



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including Arakkonam Bypass from Km 86345 to Km 103260. A uniform portion of land has been acquired throughout the stretch and the schematic representation indicates the provision for a bus bay. This is set out in the diagram at page 2 of typed set dated 22.02.2023 filed by the learned Additional Government Pleader.

4.The respondent had issued the land plan schedule and paper publication under Section 15(2) of the Tamil Nadu Highways Act, 2001 on 26.12.2019 in Namadhu Amma and Sunday Express. Those advertisements show the purpose of acquisition as road widening for easing congestion of traffic. The schematic representation reveals the presence of a bus stop at an odd position near the junction of the road and while streamlining the Highway, the bus stop has been shifted to the bus bay on the newly acquired land.

5.The petitioner was called for enquiry by way of notices under Section 19(2) dated 21.08.2020 and 26.09.2020 and had attended the proceedings on 07.09.2020 and 12.10.2020. Proof of his attendance has also been placed on record by the respondent. The compensation was computed at a figure of Rs.4,32,810/-, deposited by way of ECS to the petitioner's bank account under proceedings dated 26.06.2021 and additional compensation of a sum of Rs.49,466/- on 24.09.2021. The



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awards have become final and the petitioner did not challenge the same.

Thus, the entirety of the proceedings have come to fruition as on 24.09.2021 and 02.11.2021.

6.It is relevant to note that none of the above facts have been placed on record by the petitioner. He does not refer to the acquisition proceedings where he has participated or the receipt of the compensation amounts as early as in 2021. Out of the blue, a representation has come to be filed by the petitioner seeking a change of location of the bus stop which has been rejected on the ground that the location is as per the grant proposal. The affidavit is silent as to mention when it was filed.

7.Hence, this writ petition, seeking a quash of order dated 05.09.2022 rejecting the representation of the petitioner and directing the respondent to move the location of the proposed bus stop to an alternate place without affecting his easement rights.

8.Mr.P.S.Kothandaram, learned counsel for the petitioner would submit that the placement of the bus stop outside the shop has caused the petitioner great inconvenience.

9. The writ affidavit is wholly bereft of any details relating to the present acquisition, the participation of the petitioner in the proceedings and the receipt of compensation. A pointed query were put to the learned



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counsel in this regard.

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10.The peculiar response received is that such facts are not relevant for the purposes of the present writ petition as the challenge arises only from the rejection of representation for shifting of the shop. The response is dis-satisfactory, the Court is of the view that the petitioner has not come to the Court with clean hands.

11.As far as the defence of the respondent is concerned, they state that proper procedure has been followed in regard to the acquisition. They also point out that the bus stop has always featured on that road and the proposed plan included the shifting of the bus-stop to the present location in order to ease congestion of traffic. The schematic diagram also indicates that once the bus shelter is sequestered into the shoulder of the road by way of the new bus bay, the main artery of the road would remain free and clear for movement of traffic.

12.I have heard learned counsel and have also examined the relevant materials on record.

13.At the outset, I reiterate my observation that the writ affidavit is bereft of any material particulars. That apart, the suppression of the material is conscious, as the explanation now put forth by the learned counsel is that such materials were thought irrelevant to the prayer that is



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sought. This Court does not accept this explanation for the reason that it was incumbent on the petitioner to have made a full and true disclosure of all the materials leading to the acquisition in question.

14.It is incorrect to truncate the facts and present only that portion of the facts that the petitioner relies on, and in all fairness the entire background to the matter including the facts that (i) the proper procedure has been followed for acquisition, (ii) the petitioner has participated in the proceedings for acquisition and has received the compensation ought to have been disclosed by the petitioner. This is not been done. This is on the one hand.

15.Coming to the merits of the matter, this Court finds nothing untoward in the manner in which the land has been acquired for widening of the road and for setting up of the bus shelter. Such widening and the re-location of the bus stop to the bus shelter, are all matters that have been undertaken in the larger interests of the public. The petitioner cannot, at his whims and fancies, seek shifting of the bus stop to an alternate location merely because it is located before his shop. While it may be a harsh circumstance to have been the target of two acquisitions, this would not justify the cause of action sought to be espoused in this writ petition.



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16. Though tempted to put the petitioner to terms, on the aspect of suppression. I desist. Dismissed. No costs. Connected miscellaneous petition is closed.

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vs

Index:Yes/No

Speaking order:Yes

Neutral Citation:Yes

To

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