



Order dated 04.03.2024
in W.P.Nos.27923 and 28160 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.03.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.Nos.27923 and 28160 of 2017
and
W.M.P.Nos.30295 and 29965 of 2017
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R.Tamilarasa .. Petitioner in W.P.No.27923 of 2017
U.R.Murugesan .. Petitioner in W.P.No.28160 of 2017

Vs.

1. Additional Chief Secretary to Government,
Highways & Minor Ports Department,
Fort St.George,
Secretariat,
Chennai-600 009.

2. Land Acquisition Officer-cum-District Revenue Officer,
District Collector Office,
Namakkal District.

.. Respondents 1 and 2 in W.P.No.27923 of 2017
and respondents in W.P.No.28160 of 2017

3. Dr.S.Gunasekaran
(Third respondent impleaded as per order dated 29.01.2024
in W.M.P.No.30398 of 2019 in W.P.No.27923 of 2017)

.. Third respondent in W.P.No.27923 of 2017

Writ Petition No.27923 of 2017 filed under Article 226 of the Constitution
of India, praying for issuance of a Writ of Certiorari to call for the records
pertaining to the order passed by the second respondent, dated 28.09.2017, vide

Page No.1/11



Order dated 04.03.2024
in W.P.Nos.27923 and 28160 of 2017

Na.Ka.16702/2016(H2) in respect of Unjannai Mariamman Temple land, comprised in S.No.98/4-12 in Unjannai Village, Thiruchengode Taluk, Namakkal District and quash the same.

(S.No.96/4-12 amended as S.No.98/4-12, as per order dated 07.12.2023 in W.M.P.No.33725 of 2023 in W.P.No.27923 of 2017)

Writ Petition No.28160 of 2017 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records pertaining to the order passed by the second respondent, dated 28.09.2017, vide Na.Ka.17963/2016(H2)-10 in respect of the petitioner's land comprised in S.No.98(6) in Unjannai Village, Thiruchengode Taluk, Namakkal District and quash the same.

For petitioners : Mr.SP.Chockalingam in both the Writ Petitions

For respondents : Mr.T.Arun Kumar, Addl.G.P. for RR-1 and 2
in both the Writ Petitions

Mr.J.Jayamalan for Mr.S.Nedunchezhiyan for R-3
in W.P.No.27923 of 2017

COMMON ORDER

W.P.No.27923 of 2017 is filed praying for issuance of a Writ of Certiorari to call for the records pertaining to the order passed by the second respondent, dated 28.09.2017, vide Na.Ka.16702/2016(H2) in respect of Unjannai Mariamman Temple land, comprised in S.No.98/4-12 in Unjannai Village,



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Thiruchengode Taluk, Namakkal District and quash the same. (S.No.96/4-12 amended as S.No.98/4-12 as per order dated 07.12.2023 in W.M.P.No.33725 of 2023 in W.P.No.27923 of 2017).

2. W.P.No.28160 of 2017 is filed praying for issuance of a Writ of Certiorari to call for the records pertaining to the order passed by the second respondent, dated 28.09.2017, vide Na.Ka.17963/2016(H2)-10 in respect of the petitioner's land comprised in S.No.98(6) in Unjannai Village, Thiruchengode Taluk, Namakkal District and quash the same.

3. Learned counsel for the petitioners submitted that respondents 1 and 2 have not followed the procedures as contemplated under the Tamil Nadu Highways Act, especially they have violated Section 15 of the said Act and Rule 5 of the Tamil Nadu Highways Rules. Further, the authorities have not issued any notice and no opportunity of hearing was also given. While acquiring the lands, they have not followed the procedures and also in order to favour one Gunasekaran and to avoid the property from being acquired, they had shifted the alignment of the proposed widening of the Road leaving out of the acquisition on the left side of the road, and had entirely shifted widening proceedings on the right side of the land and started acquiring the lands thereon. Further, the



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District Collector has to conduct enquiry and pass orders, whereas, in this case, the District Collector has not conducted any enquiry. The land owners/losers have to be given an opportunity of hearing and also wide publication in the local dailies and due procedures had not been followed. Further, after conducting enquiry, the District Collector has to submit a report before the Government, and the Government has to decide the matter and it is not for the Collector or the District Revenue Officer to decide the matter. All the procedures have been violated only in order to favour a person who is politically influenced, but even they have gone to the extent of removing the Government Offices like the Office of the Village Administrative Officers and other places. They have also even intended to remove the Temple and they are only with mala-fide intention and to safeguard the third party interest, and therefore, the impugned orders may be quashed.

4. Learned Additional Government Pleader appearing for respondents 1 and 2 submitted that the alignment of land is done only by the expert and it is not decided by the Land Acquisition Officer. Based on the recommendation given by the Expert Committee on the alignment, they have marked as if the land(s) had been notified and the land owners have been served with notice personally as well as by other mode as contemplated under the said Act. They



Order dated 04.03.2024
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have also been given an opportunity of hearing and they have also participated in the enquiry every stage and also made their objections, which were considered and rejected by the impugned orders. Since there was an order of status-quo granted by this Court, the authorities could not proceed further. The petitioners' lands and other lands have been acquired and the road had been widened and based on the alignment prescribed by the Expert Committee and not as stated by the petitioners that it was done by the Land Acquisition Officer.

5. Learned Additional Government Pleader appearing for the respondents 1 and 2 further contended that every procedures/formalities have been duly complied with and opportunity of hearing was duly given to the petitioners and they have also been heard and their objections had been considered and due to inevitable circumstances, the alignment cannot be changed, and therefore, there is no option except to acquire the lands of the petitioners and the same has also been expressed in the impugned orders. Hence, there is no merit in the Writ Petitions.

6. The learned Additional Government Pleader appearing for the respondents 1 and 2 further submitted that the allegation regarding safeguarding the individual, is without any substance and they are only going with the



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alignment as fixed by the Expert Committee and not with the influence of any individual and therefore, there is no substance in the contentions of the learned counsel for the petitioners and prayed that the Writ Petitions may be dismissed.

7. This Court also heard the learned counsel for the third respondent in W.P.No.27923 of 2017 on the above aspects.

8. Heard both sides and perused the materials available on record.

9. Admittedly, the lands were acquired and the Notification was issued for acquisition of lands for widening to four-way from two-way lane system of the road and the publication had also been made in the Gazette and the land owners were called for enquiry and they have also participated in the enquiry and submitted their objections. The Land Acquisition Officer (second respondent) has given opportunity of hearing to all the land owners and conducted enquiry.

10. The learned Additional Government Pleader appearing for respondents 1 and 2 also submitted by relying upon the typed set of papers filed along with the Writ Petitions, that they have meticulously followed all the procedures contemplated under the said Act. Further, Rule 5 of the Tamil Nadu Highways



Order dated 04.03.2024
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Rules had also been followed and the same had also been notified. The land owners have also made objections which were also considered and they have passed orders. Now, except the lands of both the petitioners, the other places have also been identified and the road has also been widened and due to the pendency of the present Writ Petitions and the interim order of status-quo granted in the inception, in these Writ Petitions, they could not proceed further with the process of widening of road. As far as the compensation is concerned, the authorities have also subsequently sent a notice to the petitioners and they have also participated in the enquiry and therefore, when once the petitioners participated in the proceedings, after disposal of these Writ Petitions, they will conduct enquiry in the manner known to law and pass appropriate orders regarding payment of compensation.

11. Though the learned counsel for the petitioners placed reliance on the judgments of this Court reported in MANU/TN/7319/2021 (V.K.Sasikala Vs. The State of Tamil Nadu and others) and MANU/TN/9253/2022 (Division Bench) (M.Karthikeyan and others Vs. State of Tamil Nadu and others), there is no quarrel over the proposition of law laid down therein by this Court. But, each case has got its own merits. In this case, the Government has issued Gazette publication and subsequently, the second respondent initiated the proceedings



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and also issued notice to all the parties and the land owners have also participated in the enquiry and they have understood the purpose for which the lands were acquired and the purpose for which they have been appearing for the enquiry also.

12. Though the main contention of the petitioners is that, in order to facilitate one Gunasekaran, the authorities are changing the alignment, whereas, the petitioners have not submitted any substantive materials to prove the same. The Court is not expert regarding the alignment. It is only for the Expert Committee to fix the alignment and only based on that alignment, necessary report would be submitted before the acquisition body and based on the report/alignment given by the Expert Body, the acquisition body would proceed.

13. As far as the acquisition body is concerned, the authorities have to follow the procedures contemplated under law meticulously and give an opportunity of hearing to the land owners and after giving opportunity of hearing at every stage, they have to consider and pass appropriate orders, whereas, in this case, the petitioners have been given opportunity and they have also participated and raised their objections, which were also considered and rejected and the reasons have also been assigned for rejection. Therefore, in the above



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circumstances, the decisions referred to by the learned counsel for the petitioners are not applicable to the present case on hand. However, except the petitioners' lands, the other lands have also been acquired and the road has already been widened. Further, during the pendency of these Writ Petitions, this Court granted an order of status-quo for two weeks.

14. For the reasons stated above, both the Writ Petitions are dismissed. However, the respondents 1 and 2 are directed to give notice of Award enquiry and after hearing the petitioners, they have to pass Award in accordance with law. Further, the petitioners have to work out their remedy in the manner known to law in respect of passing the Award is concerned and the respondents 1 and 2 are directed to proceed with the Award enquiry and pass Award in the manner known to law.

15. There shall be no order as to costs. The miscellaneous petitions are closed.

04.03.2024

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in W.P.Nos.27923 and 28160 of 2017

P. VELMURUGAN, J

CS

W.P.Nos.27923 and 28160 of 2017

04.03.2024

Page No.11/11