



W.P.No.36360 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.36360 of 2023

and

W.M.P.Nos.36346, 36347 & 36348 of 2023

1.Santhana Therasa @ Santhana Marry
2.Dr.David Stanley

... Petitioners

versus

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,
Periyakuppam, Thiruvallur District.



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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

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent Notification 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 petitioners' land concern in Old Survey No.1228/7 Part, New Survey No.1409/1 situated at No.126, Mappedu 'B' Village, Hussain Nagaram, Thiruvallur Taluk, Thiruvallur District.

For Petitioners : Mr.K.V.Muthuvisakan

For Respondents : Mr.V.Ashokkumar
Central Government Standing Counsel
for R1



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Mr.T.Arun Kumar
Additional Government Pleader
for R2 to R4

Mr.Su.Srinivasan
Standing Counsel for NHAI
for R5

ORDER

This writ petition has been filed to quash the Notification in S.O.5786(E) dated 12.12.2022 issued under Section 3-A of 'the National Highways Act, 1956' [hereinafter referred to as 'the Act'] by the first respondent as illegal, incompetent and unconstitutional and consequently, forbear the respondents from acquiring the petitioners' land in Old Survey No.1228/7 Part, New Survey No.1409/1 situated at No.126, Mappedu 'B' Village, Hussain Nagaram, Thiruvallur Taluk, Thiruvallur District.

2. The case of the petitioners is that since 1976, the first petitioner has been in possession and enjoyment of a house site located at Door No.3/660,



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Madha Koil Street, Mappedu, Thiruvallur Taluk. The property is encompassed in Old S.No.1228/7 Part, New S.No.1409/1 of Village No.126, Mappedu B-Village, Thiruvallur Taluk, Thiruvallur District, measuring an extent of 223 sq.mts, which was assigned to the first petitioner by the Special Tahsildar, Thiruvallur on 20.08.1991. While so, on 06.01.2017, a portion of land measuring an extent of 1156 sq.ft in the aforementioned survey number, was conveyed to the second petitioner through a registered settlement deed, vide Doc.No.20 of 2017. Subsequently, the second petitioner mutated the Revenue Records and the land was sub-divided as S.No.1409/1A by the fourth respondent and the same was under the absolute possession and enjoyment of the second petitioner. While that being so, the first respondent issued a Notification under Section 3-A(1) of the Act to acquire the lands for forming the Spur road and the said Notification was published in the Gazette of India on 12.12.2022. Without issuing notice to the petitioners regarding the acquisition of Old S.No.1228/7 Part, New



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S.No.1409/1 and without conducting enquiry, the said Notification was published in the Gazette. Hence, the petitioners have given a representation dated 26.04.2023 to the second respondent to refrain the petitioners' Patta land from the acquisition proceedings. Subsequently, the said representation was forwarded to the third respondent for enquiry, but no enquiry has been conducted till date. The reminders sent by the petitioners also did not yield any fruitful result. Further, the third respondent, vide memo dated 11.12.2023 mentioned that S.Nos.1105, 1228/2 and 1228/7 are Government Natham lands and the land owners have requested compensation for the acquisition. Further, in the said Notification, under Sr.No.43, the nature of land in respect of the subject property is erroneously mentioned as "Government Natham" land. Hence, the petitioners are constrained to file the present writ petition.

3. The learned Standing Counsel appearing for NHAI the fifth



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respondent, by referring to the counter affidavit, submitted that in Notification under Section 3-A of the Act published on 12.12.2022, the land in S.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 petitioners, who have been issued with "Natham Patta". He further submitted that, after publication of Notification under Section 3-A of the Act, no land owners of Hussain Nagaram Village have filed objections within a stipulated time. After publication, the third respondent conducted an enquiry and the second petitioner herein also appeared for enquiry on 26.04.2023 and given his consent for the acquisition and requested compensation for his house site and hut. Subsequently, Award enquiry was conducted and the second petitioner also appeared for enquiry on 15.12.2023. During enquiry, it revealed that the subject property is not the petitioners' Patta land and it was assigned to the petitioners on free of cost during the "Natham settlement".



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After the Award enquiry, the amount was arrived in accordance with law.

Since the petitioners have not produced relevant records to prove their real ownership, the compensation amount is kept in CALA/Project Director, NHAI Account and compensation amount would be payable to them after the enquiry.

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

5. It is seen that the respondents themselves have admitted that the mistake has occurred in the Revenue Records. The second petitioner herein has already participated in the Award enquiry, thereby, Award was also passed. Since the petitioners have not produced relevant records to prove their real ownership, the compensation amount is kept in CALA/Project Director, NHAI Account and compensation amount would be payable to them after conducting the enquiry.



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6. Considering the submissions made by the learned Standing Counsel appearing for NHAI, the petitioners are directed to appear before the third respondent for enquiry. The third respondent is directed to issue enquiry notice to the petitioner and interested parties if any, and conclude the proceedings in accordance with law.

7. With the above directions, the writ petition is disposed of. However, there shall be no order as to costs. Consequently, connected W.M.P.Nos.36347 and 36348 of 2023 are closed.

8. W.M.P.No.36346 of 2023 is ordered on payment of separate Court fees by each of the petitioners.

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Index: Yes/No

Speaking Order : Yes/No

Neutral Citation Case : Yes/No

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To

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Union of India,
Ministry of Shipping, Road Transport and
Highways, Shastri Bhavan,R.P.Road, New Delhi.
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P.VELMURUGAN, J.

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