



W.P(MD)No.8261 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.04.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.8261 of 2024
and
W.M.P(MD)No.7456 of 2024

Maneeswaran

... Petitioner

Vs.

1.The National Highway Authority of India,
Through its Project Director,
Plot No.1, Aishwaryam Heights,
Indira Nagar,
Sennamanayakkanpatti (PO),
Thadikombu Road,
Dindigul – 624 004.

2.The Competent Authority cum
Special District Revenue Officer,
Land Acquisition for National Highways (NH-209),
D.No.567, APJ Abdul Kalam Street,
Chennamanayakkanpatti,
Dindigul – 624 004.

3.The Special Tahsildar,
Land Acquisition,
Bypass NH07 & NH – 209,
Indira Nagar,
Dindigul – 624 004.

... Respondents



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Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from interfering with the petitioner's possession of his land in S.No.646/14 of Palakanoothu Village, Dindigul West Taluk, Dindigul District, without following the due process of law under the provisions of the National Highways Act, 1956 in respect of his property, under the guise of four laning and widening work in NH - 209 km 0 to Km 117.072 in the District of Dindigul, I.e., Dindigul to Pollachi.

For Petitioner : Mr.H.Lakshmi Shankar

For Respondents : Mr.P.Karthick
Standing Counsel for R.1

Mr.D.Sasi Kumar
Additional Government Pleader
for R.2 & R.3

ORDER

Heard both sides.

2.The Ministry of Road Transport and Highways issued notification dated 16.03.2018 under Section 3A (1) of the National Highways Act, 1956 setting out brief description of the land to be acquired with or without structures forming NH 209 in the stretch of land from Km 0 to Km 117.072 in the District of Dindigul in the State of Tamil Nadu. The petitioner had purchased 589 Sq.mts of land in Survey



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No.646, Palakkanoothu Village in Dindigul West. Copy of the sale deed dated 29.04.2011 executed in favour of the petitioner has been enclosed in the typed set of papers. The land purchased by the petitioner was parcelled into 6 plots even at the time of sale. Interestingly, the schedule to the sale deed mentions the Survey No as 646/4. The grievance of the petitioner is that when sub division had taken place even in the year 2011, notification issued under Section 3A(1) could not have contained the original survey number, namely, 646 alone. It is true that the petitioner applied for further sub division only in the year 2018. At present, the petitioner's lands are comprised in Survey No.646/14. There is considerable merit in the contention of the petitioner's counsel that except stating that 0.5023 of land is to be acquired in survey number 646, the notification is bereft of any other detail. It does not state who will be affected and where exactly the acquired portion will come. More than anything else after the writ petition was filed, a sum of Rs.3,03,291/- was remitted in the bank account of the writ petitioner.

3.The learned counsel appearing for the petitioner would point out that he had purchased 6 plots of land which means that they are house sites. But the lands have been dealt with as if they are agricultural lands.



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I called upon the learned Additional Government Pleader to inform me as to when notice of enquiry was issued and whether award copy was served on the petitioner. There is absolutely no material on record to show that enquiry notice was served on the petitioner. Even the copy of the award was not served on the petitioner. Section 3G of the National Highways Act, 1956 provides for determination of amount payable as compensation. It reads as follows:

“3G. Determination of amount payable as compensation.—(1) Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

(2) Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition an amount calculated at ten per cent, of the amount determined under sub-section (1), for that land.

(3) Before proceeding to determine the amount under sub-section (1) or sub-section (2), the competent authority shall give a public notice published in two local newspapers, one of which will be in a vernacular



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language inviting claims from all persons interested in the land to be acquired.

(4) Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-section (2) of section 3C, before the competent authority, at a time and place and to state the nature of their respective interest in such land.

(5) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government--

(6) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to every arbitration under this Act.

(7) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration—

(a) the market value of the land on the date of publication of the notification under section 3A;

(b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;



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(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;

(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.”

Since in this case, the procedure laid down above was not followed, I direct the second respondent to issue fresh notice of enquiry to the petitioner. The petitioner will be given opportunity to place all the relevant materials to show the market value of the property. Thereafter, award shall be passed and the award amount shall also be disbursed to the petitioner. The amount already disbursed to the petitioner can be accordingly adjusted. This entire exercise shall be completed by the second respondent within a period of four weeks from the date of receipt of a copy of this order.

4. Section 3E(1) of the National Highways Act, 1956 reads as follows:

“3E. Power to take possession.—(1) Where any land has vested in the Central Government under sub-



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section (2) of section 3D, and the amount determined by the competent authority under section 3G with respect to such land has been deposited under sub-section (1) of section 3H, with the competent authority by the Central Government, the competent authority may by notice in writing direct the owner as well as any other person who may be in possession of such land to surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within sixty days of the service of the notice.”

The first respondent will intimate the petitioner the extent of land and its exact location to be taken possession. But before taking possession, the award amount should be remitted by the second respondent in the petitioner's bank account.

5.At this stage, the learned Standing Counsel appearing for National Highway Authority of India submitted that road laying works have substantially been completed and that if Section 3E(1) of the Act is applied, public interest will eventually suffer. Taking note of the said submission, I direct the second respondent to hold the enquiry on **29.04.2024 at 03.00 p.m.** The petitioner is obliged to appear before the second respondent on the said date and time. The petitioner will not be given any independent notice. The first respondent will inform the



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petitioner in writing by 26.04.2024 about the extent of land to be acquired. The petitioner is at liberty to place all the materials regarding valuation. It is entirely up to the second respondent to fast track the process. The moment the amount is remitted in the petitioner's bank account, physical possession can be taken by the first respondent. The petitioner can accept the amount offered by the second respondent without prejudice to his claim to seek enhancement thereafter.

6.This writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

23.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
MGA

Note: Issue order copy on 24.04.2024.

To

1.The National Highway Authority of India,
Through its Project Director,
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