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W.P.No.4752 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2025

CORAM

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.No.4752 of 2025
and WMP.No.5274 of 2025

1.M.Mirnalini
2.Subashini Kulasekaran

... Petitioners

Vs

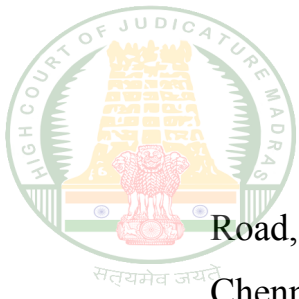
1.The Arbitrator cum District Collector
Chennai.

2.National Highways Authority of India
Rep by the Chairman
Ministry of Road Transport & Highways
New Delhi.

3.The Competent Authority / SPL.DRO (LA), (FAC)
National Highway - 4, Tiruvallur Camp Office
At Office of Tahsildar, Egmore @ Chetpet
Chennai - 600 031.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying to issue a Writ of Mandamus forbearing the second and third respondents from demolishing the petitioner's property at Door No.1045/1 (527/1) EVR Periyar



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Road, at Block No.6, T.S.No.2/8 (Part), New No.2/15, Arumbakkam, Anna Nagar,
Chennai - 600 106, till the disposal of the appeal by the first respondent.

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For Petitioner : Mr.S.Parthasarathy
For Respondents : Mr.A.Selvendran
Special Government Pleader for R1
Mrs.S.R.Sumathy
Standing Counsel for R2 & R3

ORDER

This writ petition has been filed for issue of Writ of Mandamus forbearing the second and third respondents from demolishing the petitioners' property till the disposal of the appeal that is pending before the first respondent, filed under Section 3G(5) of the National Highways Act.

2. When this writ petition came up for hearing on 20.02.2025, this Court passed the following order :

"Pursuant to the earlier order passed on 12.02.2025, the matter was listed for hearing today. The 2nd respondent has filed an affidavit and the relevant portion is extracted hereunder:

6. I am submitting the following for the kind consideration of this Hon'ble Court:



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- *The demolition process will be executed using breaker commencing from the top floor and proceeding downward. This approach will endure the building stability throughout the demolition.*
- *During the demolition, both electrical and water supply will remain inactive.*
- *Initially the walls of front bay will be dismantled at all floors. The building skeleton (Structure) will be exposed.*
- *Using the breaker, a band width of about 0.3 to 0.5 m concrete will be dismantled in the Slab, so that there is a segregation of continuity in the structure then the exposed reinforcements will be cut.*
- *After cutting the reinforcement the roof slab will be demolished. Then the beam will be cut and further the beam and column will be dismantled. After completion of the top floor, the same methodology will be followed for other floors*
- *The dismantled materials will be removed from the site and cleared for taking up the elevated road works.*
- *During the dismantling safety precautions will be made safety net will be placed to avoid the spillage of dismantling materials.*



2.The apprehension raised by the petitioners is that even if the structure which falls within the land that has been acquired is removed, that will have an impact on the entire building which is left out. Therefore, according to the petitioner, the compensation has to be fixed considering the same.

3.The learned Standing Counsel appearing on behalf the 2nd respondent seeks for some time to take instructions in this regard.

4.Post this case at the end of the motion list on 05.03.2025. The interim order already granted by this Court shall continue."

3. Pursuant to the above order, the matter was listed for hearing on 10.03.2025. On that date, the counter was filed by the second respondent, and this Court passed the following order :

"A counter as well as rejoinder has been filed in this case. The stand that has been taken by the petitioner at Paragraph No.4 of the rejoinder affidavit requires some explanation by an official. Hence, the learned counsel shall direct the official to be present before this Court during the next date of hearing.

2. Post this case on 14.03.2025 at the end of the motion list."



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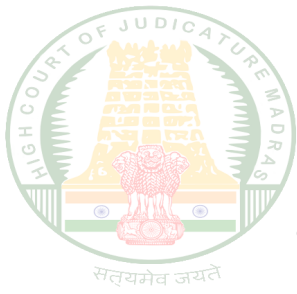
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4. Pursuant to the above order, the matter was once again posted on 19.03.2025, and the following was passed by this Court :

"Pursuant to the earlier order passed by this Court, Mr.S.Janakumaran, Project Director, Project Implementation, Koyembedu, CMRL Building, Chennai, was present.

2.The Project Director, stated that the total length of the building is 23 meters out of which the length of acquisition is only 2.3 meters. For this purpose, the length of building that will be impacted is 7 meters since the first column is available only at 7 meters. Earlier the impact length was considered as 3.5 meters by the structural valuer and the compensation was determined. Thereafter, on inspection, it was ascertained that the building length that will be impacted is 7 meters. The Project Director stated that the removal of the length of acquisition will continue to be 2.3 meters and since the impact will be for 7 meters, the compensation will be accordingly calculated. He further assured that there will be no further impact on the building beyond 7 meters. He also explained the method that is followed while demolishing the portion of the building required without impacting the remaining portion.

3.In the light of the above clarification given by the Project Director, Project Implementation Unit, NHIA, Chennai, has to file



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an affidavit in line with the above development in order to enable this Court to pass final orders in this writ petition.

4.Post this writ petition on 24.03.2025 under the same caption."

5. Pursuant to the above order, an additional affidavit came to be filed by the second respondent on 28.03.2025. The relevant portions in the additional affidavit are extracted hereunder :

"5. I humbly submit that the total length of the building is 23m., out of which the length of the acquisition is only 2.3 m. The span of the first bay is 7m. The building length impacted due to the acquisition will be 7m. Earlier the impact length was considered as only 3.5m by the structural valuer due presence of false ceiling, the beam support could not be assessed. For the same, payment has been made to the petitioner on 16.08.2024.

6. I humbly submit structure valuation for the balance length of 3.5m is under process and once assessed by the approved structure valuer the remaining compensation will be paid.

7.I am submitting the following for the kind consideration of this Hon'ble Court regarding precautionary measures taken during the demolition of acquired portion of the building:

- *The demolition process will be executed using breaker*



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commencing from the top floor and proceeding downward. This approach will endure the building stability throughout the demolition.

- *During the demolition, both electrical and water supply will remain inactive.*
- *Initially the walls of front bay will be dismantled at all floors. The building skeleton (Structure) will be exposed.*
- *Using the breaker a band width of about 0.3 to 0.5m concrete will be dismantled in the slab, so that there is a segregation of continuity in the structure then the exposed reinforcements will be cut.*
- *After cutting the reinforcement the roof slab will be demolished. Then the beam will be cut and further the beam and column will be dismantled. After completion of the top floor, the same methodology will be followed for other floors.*
- *The dismantled materials will be removed from the site and cleared for taking up the elevated road works.*

8. I humbly submit that always utmost care and caution will be taken by NHAI when a portion of the building is demolished. I humbly submit that NHAI will adopt secured measures to protect the unacquired portion of the structure/building. Further it is the usual practice that compensation will be paid till the next column from the demolishing portion of the structure.



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9. Hence in view of the facts narrated above, this Hon'ble Court may kindly be pleased to pass orders permitting this respondent to carry out the demolishing work of the acquired portion of the structures.

10. I humbly submit that subject extent of 89 sq.mtr. is urgently required to complete the construction work."

6. Heard Mr.S.Parthasarathy, learned counsel appearing for the petitioner, Mr.A.Selvendran, learned Special Government Pleader for first respondent and Mrs.S.R.Sumathy, learned Standing Counsel appearing for respondents 2 and 3.

7. When the matter is taken up for hearing today, the learned counsel for the petitioners submitted that the second respondent has now admitted the fact that the acquisition must be to an extent of 7 mtrs. and not 2.3 mtrs. as was calculated at the time of fixing the compensation. The learned counsel submitted that the Competent Engineer must be directed to conduct another inspection in the presence of the petitioners, in order to enable the petitioners to submit their objections. It was submitted that if the demolition takes place without properly fixing the extent of building length, which will be impacted due to the acquisition, the petitioners will be put to grave prejudice.

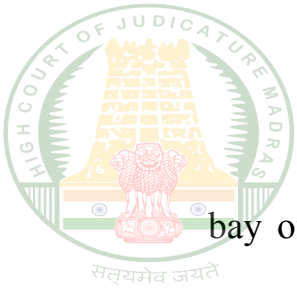


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8. In the considered view of this Court, the compensation has already been fixed in this case and the petitioners have already filed an appeal before the first respondent under Section 3G(5) of the Act, seeking for enhancement of compensation. During the pendency of this appeal, the present writ petition came to be filed before this Court. This Court, in order to ascertain the actual facts, took efforts to get the assessment once again done by the Project Director. Fortunately, after the assessment, it came to light that the total length of the building is 23 mtrs, out of which the acquisition was made only for 2.3 mtrs., and the compensation was fixed. After the re-inspection was done, it now comes to light that the span of the first bay is 7 mtrs and the building length will be impacted due to acquisition upto 7mtrs., and therefore, the compensation has to be re-fixed to that extent with respect to the value of the building.

9. The specific case of the petitioners is that there will be an impact for the entire length of the building and therefore, the compensation has to be fixed for the entire building. On the other hand, the learned Standing Counsel appearing on behalf of the National Highways Authority of India submitted that utmost care and caution will be taken, when the portion of the building is demolished upto the first



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bay of 7 mtrs. and steps will be taken to protect the unacquired portion of the building.

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10. In the considered opinion of this Court, the scope of the present writ petition is very limited and this Court only wanted to understand the extent of damage that will be caused to the building at the time of demolition. Now a technical expert has informed this Court that the building length that can be impacted due to the acquisition will be 7 mtrs and not 2.3 mtrs as was originally ascertained. In view of the same, for the balance portion of the building length, the compensation has to be fixed. The demolition process can go on and ultimately, if the petitioners are able to substantiate that the demolition has impacted the entire building, it will always be left open for the petitioners to raise that ground and seek compensation for the entire building. This clarity will sufficiently take care of the grievance expressed by the petitioners.

11. This writ petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

03.04.2025

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Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
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To:

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Rep by the Chairman
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N. ANAND VENKATESH., J

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