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W.A No. 2885 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-09-2025

CORAM

THE HON'BLE MR JUSTICE R. SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.A No. 2885 of 2025 AND

CMP NO. 23322 OF 2025

1.Paramasivam

S/o.Gengatharan, Senthil nagar, 15th Cross Street,
Chennai-99.

2.P.Gayathri

D/o.Paramasivm, Senthil Nagar, 15th Cross Street,
Chennai - 99.

..Appellants

Vs

1. The Assistant Engineer(Highways) office
Construction and maintenance, Chennai corporation
Road Dviision III, Chennai - 600 015.

2. Divisional Engineer(Highways)
Construction and Maintenance ,Chennai Corporation
Road Sub-Division, chennai-600 015.

3. Assistant Divisional Engineer (Highways)
Construction and Maintenance, Chennai Corporation
Road Sub-Division, Chennai-600 015.

..Respondents

Prayer : Writ Appeal under Clause XV of the Letters Patent to set aside the order dated 01-09-2025 in WP.No.8370 of 2020.



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For Appellants : Mr.P.Muthu Kumar
for M/s.Paul And Paul

For Respondents : Mr.E.Veda Bagath Singh
Special Government Pleader

Judgment

(Judgment of the Court was delivered by R.Suresh Kumar J.)

This intra Court appeal has been directed against the order passed by the Writ Court dated 01-09-2025 made in WP.No.8370 of 2020.

2. In respect of the land at S.No.16/2 situated at No.4, Senthil Nagar, 15th Cross Street, Chennai, it is the case of the appellants / writ petitioners that, it was purchased in the name of the wife of the first appellant by a valid sale deed. However, in the year 1985 the land in question belongs to the wife of the first appellant since was required for road expansion program of the respondent department they wanted to acquire the land and acquisition proceedings went on. Ultimately the land has been acquired by the respondents and compensation also had been paid to the first appellant's wife.

3. Even though the entire stretch of the land had been acquired by the respondents, only a part of the land has been utilized for the Highways project and the remaining land, may be a piece of land, has been left out unutilized.



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Since the appellants' family had been left in lurch without a dwelling house, as the house which had already been constructed had been demolished during acquisition proceedings, the appellants' family put up a small hut in the unutilized land and has been residing there. After some years ie., in the year 2013, Patta also had been issued in their name and after getting permission from the local authorities, when the appellants started constructing a dwelling house in the small piece of land, the Highways Department authorities questioned them saying that the presence of the appellants and their family members in the land in question is nothing but an encroachment and therefore they should be removed. That is how the issue has come up in the year 2020, where a notice under Section 28(2) of the Tamil Nadu Highways Act, 2001 has been issued.

4. On receipt of the said notice, the appellants sent a detailed representation dated 04.06.2020, explaining all these details and also stating further that when the appellants wanted the remaining land, where they wanted to put up construction of their dwelling house, the land be returned back to them for consideration, which was in principle accepted by some lower level officers of the Highways Department that, if the current market rate for the said land is paid by the appellants, the plea of the appellants can be considered and that extent, some move though has taken place, but subsequently nothing moved. It was further stated that pressure has been given by the Highways Department to



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remove the appellants as if they are encroachers of the land belonging to the Highways Department and only at that juncture, in order to consider the representation dated 04.06.2020, the appellants have moved the said writ petition with a prayer of mandamus and that writ petition since was dismissed through the impugned order dated 01.09.2025, the present intra Court appeal has been preferred.

5. Heard the learned counsel for the appellants and the learned Additional Government Pleader for the respondents.

6. When a question has been posed to the learned Additional Government Pleader as to whether the small piece of land where the appellants have already put up some small hut and where they wanted to construct a dwelling house, for which already they got permission from the local authorities, is still wanted for the sake of further expansion of the road project by the Highways Department, the learned Additional Government Pleader submits that the said aspect would be examined and based on which, the representation given by the appellants dated 04.06.2020 would be considered objectively and a decision to that effect would be taken and communicated to the appellants in due course.



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7. In that view of the matter, especially the stand taken by the learned

Additional Government Pleader, we are inclined to dispose of this writ appeal with the following orders.

(a) The order impugned dated 01.09.2025 passed by the learned Writ Court is hereby set aside.

(b) As a sequel, there shall be a direction to the respondents to consider the representation dated 04.06.2020 submitted by the appellants and pass orders thereon on merits and in accordance with law.

(c) In this context, if the land in question, where the appellants want to put up their dwelling house, is not required for any further expansion of the road project, we feel that there would not be any impediment for the respondents to reconvey the said land in favour of the appellants, ofcourse after collecting the market value of the land concerned.

(d) Such a decision can be taken and communicated to the appellants within a period of three months from the date of receipt of a copy of this order.

(e) Till such time, the present physical possession of the appellants in the land in question shall not be disturbed.



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8. With the above directions, this writ appeal is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

(R.S.K.,J.) (H.C.,J.)
23-09-2025

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
KST



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