



W.P.(MD)No.15348 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2025

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.15348 of 2023
and WMP(MD) Nos.12942 & 16718 of 2023

1. G.Balamurugan

2. E.Venkateshwaran

... Petitioners

Vs

1. The District Collector,
Virudhunagar, Virudhunagar District.

2. Competent Authority / Special District Revenue Officer (LA),
National Highways -744, Virudhunagar Town and District.

3. The Project Director,
National Highways Authority of India,
Madurai.

4. The Project Director,
National Highways Authority of India,
PIU, Nagercoil, Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents herein from taking possession of the petitioners land and building situated in



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Plot No.299 in S.No.693A, Ayyan Nathampatti Village, Watrap Union, Virudhunagar District, for expansion of the National Highway 744 four-way lane from Madurai to Kollam, without providing alternative site as per Section 31, second schedule appended to Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioners : Mr.M.Thirunavukkarasu

For Respondents : Mr.B.Saravanan (R1,R2)
Additional Government Pleader

Mr.Su.Srinivasan (R3, R4)
Standing Counsel

ORDER

This writ petition has been filed for issuance of a writ of Mandamus to forbear the respondent from taking physical possession of the petitioner's land and building situated at Plot No.299 in S.No.693A, Ayyan Nathampatti Village, Watrap Union, Virudhunagar District, for the purpose of expansion of the National Highway 744 four-way lane from Madurai to Kollam without providing an alternative site as per Section 31, second schedule appended to Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to 'RFCTLARR Act, 2013').



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2.Heard, Mr.M.Thirunavukkarasu, learned counsel appearing for the petitioners, Mr.B.Saravanan, learned Additional Government Pleader appearing for the respondents 1 and 2 and Mr.Su.Srinivasan, learned Standing Counsel appearing for the respondents 3 and 4 and perused the materials available on record.

3.The learned counsel appearing for the petitioners would take me through various provisions of RFCTLARR Act, 2013, which warrants an opportunity by way of rehabilitation to the people either displaced or if their livelihood is affected because of acquisition. In this regard, he would refer to Section 31 r/w Schedule 2 of RFCTLARR Act, 2013.

4.The learned counsel would further submit that even under the National Highways Act, 1956 (hereinafter referred to as 'the Act, 1956') the procedure under Sections 3E and 3G have not been followed and hence, without complying with Section 3G, the respondents are attempting to pass orders. Hence, the petitioners have been constrained to file this writ petition.



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5.Per contra, the learned Standing Counsel appearing for the Highways/R3, R4 would straight away submitted that none of the provisions of the RFCTLARR Act, 2013 will apply to the acquisition in the present case, which is for the expansion of the National Highways. He would refer to both the schedules of RFCTLARR Act, 2013 and submitted that the National Highways Act, 1956, has specifically been exempted from the purview of the RFCTLARR Act, 2013 and though subsequently the schedules 1 to 3 have been made applicable with effect from 01.01.2015, as on date, the 4th schedule has not been made applicable. Hence, there is no question of applying the provisions of RFCTLARR Act, 2013.

6.Insofar as the non-compliance of provisions of Sections 3E and 3G of the Act, 1956, the learned Standing Counsel would submit that Section 3G of the Act, 1956 has been scrupulously followed and as contemplated under Section 3G, the competent authority has caused publication in Hindu/English daily and Dinakaran/Tamil daily and invited claims from all interested persons. According to the learned



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Standing counsel, the petitioners did not appear and submit their claim and therefore, the amount has been deposited in a joint account, as per the prevailing Rules.

7.Meeting the argument of the learned counsel for the petitioners that Section 3E of the Act, 1956 has not been complied with, the learned Standing Counsel would submit that the said stage has not arisen, since the petitioners had approached this Court and obtained an interim order on 27.06.2023. He would further submit that in view of the express mandate of Section 3E of the Act, 1956 without following the letter and spirit of the said provision, the respondent will not take any possession. He would refer to the provision itself and contend that the very object of giving 60 days is to only enable the persons, whose lands are sought to be surrendered or delivered, to be given some breathing time to make alternative arrangement to surrender the property and thereafter, it shall be open to the authorities to take possession. Therefore, he submitted that even now, the respondents are willing to give 60 days time to the petitioners to vacate and surrender vacant possession, which would satisfy the requirement of Section 3E of the



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Act, 1956.

8.The learned Standing Counsel would also invite my attention to the proceedings of the competent authority, dated 30.08.2022 and also the photographs filed to show the lay of the petitioners' shop building, which is used for sale of crackers during the festival season alone. He would submit that the Highway project has been completed, except for removal of the petitioners' building, which is situated within the boundary line of the land acquired for the purpose of National Highway, viz., four-way lane of Vadukapatti to Therkuvenganallur Section.

9.The petitioners have not been able to show any violation of Section 3G of the Act, 1956 and on the contrary, the respondents have demonstrated that the said provision Section 3G of the Act, 1956 requiring causing of publication in a vernacular language and English language has been duly complied with and despite the same, the petitioners did not appear and lodge their claims before the competent authorities.



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10. In view of the same, I did not find any violation of the provisions of the statute to entail the petitioners to forbear the respondents from physically dispossessing the petitioners. If at all the petitioners are aggrieved by the compensation that has been awarded for the acquired lands belonging to the petitioners, it is always open to them seek for enhancement of the Award under 3G(5) of the Act, 1956 by seeking a determination, by way of arbitration before the District Collector.

11. The learned counsel for the petitioners, at this juncture would submit that the petitioners had no notice about the compensation awarded and hence, they were not in a position to seek for enhancement and he seeks a direction to the competent authority to release the compensation awarded, under Award No.29, which has been deposited in a joint account as per the prevailing Rules. There is no difficulty for the 2nd respondent to release the compensation amount already awarded to the petitioners, since the petitioners' name have been reflected in the Award passed and it is only procedural irregularities that have been brought to the notice of the Court, which too, are found to be incorrect.



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12.In view of the above, the following order is passed:-

1. *The petitioners shall vacate and surrender the vacant possession of the property to the respondents within a period of 60 days from the date of receipt of copy of the order.*
2. *The petitioners shall produce the relevant title documents to satisfy the entitlement to the compensation amount and on production of satisfactory documents, the 2nd respondent shall release the compensation awarded under Award No.39 in respect of the petitioners' shop building. If the petitioners are aggrieved by the compensation awarded, it is open to the petitioners to make an application to the first respondent seeking enhancement of compensation, who shall thereafter, follow the provisions of Section 3G(5) and determine the entitlement of petitioners for enhancement of compensation.*



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13. With the above directions and observations, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

18.02.2025

Index : Yes / No

NCC : Yes / No

Note : Issue order copy on 20.02.2025

PNM

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P.B. BALAJI, J.

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