



W.P.(MD)No.27995 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **18.03.2025**

Delivered on : **21.03.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.27995 of 2023

and

W.M.P.(MD)Nos.24107 & 24108 of 2023

Vijayakumar.S

... Petitioner

/Vs./

1. The District Collector
Nagercoil, Kanyakumari District.
2. The National Highways Authority of India, s
Ministry of Shipping Rural Transport Highway,
G5 and 6, Section - 19, Dwarka, New Delhi.
3. The Planning / Project Director,
Land Acquisition National Highway
Authority of India, Near Ayyapan Temple,
Parvathypuram, Nagercoil, Kanyakumari District.
4. The Special District Revenue Officer,
Land Acquisition National Highway,
Tirunelveli District.



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5. The Special District Revenue Officer,
Land Acquisition National Highway,
Nagercoil, Kanyakumari District.
6. The Special Thasildhar
National Highway Land Acquisition,
Mathar Sangam Road, Ramanputhoo, Nagercoil,
Kanyakumari District. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in NHAI/PIU/NGL/NH-47 and 47B/LA/2023/1102 dated 05.06.2023 on the file of the respondent No.3 and quash the same as illegal and consequently forbear the respondent No.2 from evicting the petitioner without following the due process of law and pass further orders within the time frame stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy
for M/s.Lajapathi Roy Associates

For Respondents : Mr.B.Saravanan
Additional Government Pleader for R1,4-6
: Mr.Su.Srinivasan for R2&3



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ORDER

The writ petitioner challenges the order of the third respondent dated 05.06.2023 and consequently seeks to forebear the second respondent from evicting the petitioner, without following due process of law.

2. I have heard Mr.T.Lajapathi Roy, learned Senior counsel for the petitioner, Mr.B.Saravanan, learned Government Pleader for the respondents 1, 4 to 6 and Mr.Su.Srinivasan, learned counsel for the respondents 2 and 3.

3. The learned Senior Counsel appearing for the petitioner, Mr.T.Lajapathi Roy, would submit that the lands belonging to the petitioner to an extent of 32 cents approximately was acquired for forming four way road and since meagre compensation was paid to the petitioner, the petitioner filed an appeal before the authorities. However, he would fairly submit that the said appeal had been dismissed.



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4. The learned Senior Counsel for the petitioner would further contend that at the time of formulation of the road, the authorities shifted the road alignment by about 400 meters east of the petitioner's property and therefore, the petitioner's land had not been made use of for the formation of the four way road. The learned Senior Counsel would further submit that the four way road project has already been completed and there is enough land to the eastern of the petitioner's land, to even provide for further widening to even six way road, without requiring the petitioner to surrender any portion of the property. The learned Senior Counsel would therefore submit that in view of the above mentioned circumstances, the petitioner has been repeatedly knocking the doors of authorities for return of his land as it is of no use to the respondent. Finally, the petitioner's representation dated 30.05.2023 was disposed of by the third respondent by refusing to consider the petitioner's request.

5. The learned Senior Counsel placing reliance on a judgment of the Hon'ble Division Bench of this Court in W.A.Nos.173 to 181 & 183 of 2023 (*Albert Emmanuel V. The Union of India*), dated 11.04.2023,



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contenting that the petitioner is also entitled to reconveyance / return of his lands as was directed by the Hon'ble Division Bench.

6. The learned Senior Counsel would further contend that admittedly the petitioner's lands have not been made use of for the four laning of the Highways and it would be a financial burden on the exchequer to pay compensation for such unutilized lands. The learned Senior Counsel would also invite my attention to the order of the Hon'ble Supreme Court in Special Leave Petition (Civil) Diary No. 28922/2023, where the Hon'ble Supreme Court has admitted the Special Leave Petition and also granted status quo on the appeal preferred by the Project Director as against the judgment of the Division Bench in *Albert Emmanuel's* case, referred herein supra. The learned Senior Counsel would therefore, pray for the writ petition being allowed as prayed for.

7. Referring to the impugned order, the learned Senior Counsel would submit that even the Project Director has only stated that the lands of the petitioner are likely to be utilized for further improvement of the Highways. Placing reliance on the said statement of the third respondent,



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the learned Senior Counsel would submit that the respondents have categorically admitted the non utilization of the petitioner's property for the purposes of the acquisition and therefore, if at all there is any requirement in the future, the lands can be acquired at that point of time and as on date, there is no impediment for the lands being released from acquisition and possession being handed over to the petitioner.

8. Per contra, Mr.Su.Srinivasan, learned counsel for the respondents 2 and 3 would contend that as rightly and fairly conceded by the learned Senior Counsel for the petitioner, the judgment of the Division Bench of this Court has been stayed by the Hon'ble Supreme Court by granting an order of status quo. However, he would contend that the facts of the case before the Division Bench of this Court was on an entirely different factul matrix and the said decision would be of no avail to the petitioner in the present case.

9. The learned Counsel for the respondents 2 and 3 Mr. Su.Srinivasan, would also place reliance on the decision of this Court in W.P.(MD)Nos.15354 and 15358 of 2020 (*T.Thomas Abraham V.*



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National Highways Authority of India) dated 29.11.2023, where this Court has clearly held that there is no provision under the National Highway Act, 1954, to reconvey acquired lands to the land owners. In fact, reference is made to an earlier decision of this Court W.P.(MD)No. 16186 of 2011 dated 16.09.2020, the learned counsel would therefore, pray for dismissal of the writ petition.

10. Mr.B.Saravanan, learned Additional Government Pleader, appearing for the respondents 1, 4 to 6 would submit that in the absence of any specific provision to reconvey the acquired lands and the acquired lands likely to be utilised for further improvement of the Highway, like, wayside amenities, truck lay park, toilet facilities and medical facilities etc., the petitioner's request has been rightly turned down in and by impugned order. He would also seeks for dismissal of the writ petition.

11. I have carefully considered the submissions advanced by the learned counsel on either side.



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12. It is not in dispute that the property of the petitioner measuring about 32 cents has already been acquired in respect of which, compensation has also been paid. However, the specific contention of the petitioner is that the lands that have been acquired by the petitioner have not been utilized for formation of the four laning of the Highway.

13. I am unable to countenance the submission of the learned Senior Counsel for the petitioner. Admittedly, unlike the provision for reconveyance, which was available under the Land Acquisition Act, which has now been repealed, there is no provision for reconveyance of lands once acquired by following the due process of law, under the National Highways Act, 1956. The said position is settled by decisions of this Court which have been discussed in the earlier part of this order. Therefore, when the petitioner has no right to seek for reconveyance, the petitioner cannot invoke the Writ Court jurisdiction of this Court under Article 226 of the Constitution of India and seek for such reconveyance when such an avenue is not at all available. With regard to the reliance



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being placed on the Division Bench in Albert *Emmanuel's* case, though one aspect is that the orders of this Court has been stayed by the Hon'ble Supreme Court, however, even on facts, I find that there was a mistake committed by the field authorities even while issuing the notification under Section 3(A) as well as declaration under Section 3(D) of the Act and finding that was a clear mistake and based on the report of the Advocate Commissioner, the Division Bench found that malice was writ at large in the conduct of the authorities and an attempt was made to perpetuate the mistake committed originally in requiring the petitioner's land, only under said circumstances, the Division Bench also finding that possession had not been taken from the writ petitioner, set aside the acquisition proceedings in respect of the petitioner's lands and the land owners were directed to deposit the compensation amount received by them with interest. The facts of the said case cannot be applied to the facts of the present case, which is a simple and clear case of lands already acquired being sought to be returned. I have already found that there is no statutory provision available to come to the aid of the writ petitioner.



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14. Therefore, I do not find any merit in the writ petition. In fine, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
NCC : Yes / No
LS

21.03.2025

TO:-

1. The District Collector
Nagercoil, Kanyakumari District.
2. The National Highways Authority of India,
Ministry of Shipping Rural Transport Highway,
G5 and 6, Section - 19, Dwarka, New Delhi.
3. The Planning / Project Director,
Land Acquisition National Highway
Authority of India, Near Ayyapan Temple,
Parvathypuram, Nagercoil, Kanyakumari District.
4. The Special District Revenue Officer,
Land Acquisition National Highway,
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5. The Special District Revenue Officer,
Land Acquisition National Highway,
Nagercoil, Kanyakumari District.



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6. The Special Thasildhar

National Highway Land Acquisition,

Mathar Sangam Road, Ramanputhoo, Nagercoil,

Kanyakumari District.



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P.B. BALAJI, J.

LS

Pre-delivery Order made in
W.P.(MD)No.27995 of 2023

Dated:
21.03.2025