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W.P.(MD)No.31290 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :21.11.2025

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.31290 of 2024

and

WMP (MD) Nos.26210 & 26212 of 2024

S.K.Revimaniyen

... Petitioner

Vs.

1. The Secretary,
Ministry of Road Transport and Highways,
New Delhi.

2. The Project Director,
National Highways Authority of India,
Thovalai Taluk,
Nagercoil,
Kanyakumari District.

3. The Competent Authority and
Special District Land Revenue Officer,
Land Acquisition - National Highways 47b,
Thovalai Taluk,
Kanyakumari District.

4. The District Collector,
Kanyakumari District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorarified Mandamus, to call for the
records of the impugned Notification in S.O.399(E) dated 16.02.2010



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and the Notification in S.O.264(E) dated 07.02.2011 and quash the same in so far as the unutilized lands in S. Nos.360/3, 360/6, 360/9, 361/7, 361/8, 361/9, 364/5, 365/5 and 365/4 of Thirupathisaram Village, Nagercoil, Kanyakumari District measuring an extent of 3.86 acres and to further direct the respondents to deliver the possession of the same to the petitioner.

For Petitioner : Mr.G.Prabhu Rajadurai
for Mr.N. Karthikkanna

For Respondents :Mr.M.Karunanithi for R1
Mr.Su.Srinivasan
Standing Counsel for R2
Mr.K.R.Badurus Zaman
Government Advocate for R3, R4

ORDER

The petitioner owned 3.86 acres of land in the survey numbers mentioned in paragraph 1 of the affidavit. The said lands were acquired under the National Highways Act, 1956 (the NH Act). Upon issuance of the notification under Section 3A of the NH Act, the petitioner had filed objections under Section 3C(1) thereof. The said objections were overruled. Thereafter, the subsequent notification was issued on 07.02.2011. Both these notifications are the subject of challenge in this writ petition.



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2. Learned counsel for the petitioner assails the said notification primarily on the ground that the lands have not been put to use in spite of the lapse of about 15 years from the date of the notification under Section 3A of the NH Act. By referring to the site plan, learned counsel submits that the unused land has been shown on the plan. He also submits that the said lands lie beyond the existing tollgate facility and therefore, there is no scope to put the land to use for any of the purposes mentioned in Section 3A. By referring to Section 3A, learned counsel contends that acquisition under the NH Act is permissible only if it is in relation to building, maintaining, managing or operating a National Highway or a part thereof. By contrasting this with acquisition under general statutes such as the Land Acquisition Act, 1894 or Act 30 of 2013, he contends that lands acquired under the NH Act cannot be put to any use unconnected with the National Highways.

3. He places strong reliance on the judgment dated 11.04.2023 of a Division Bench of this Court in *Albert Emmanuel v. the Union of India and others*, W.A.No.174 of 2023 and related cases (Albert Emmanuel). By referring to the questions framed in the said case at paragraph 6



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thereof, learned counsel contends that the court specifically considered the question whether a writ petition challenging the acquisition proceedings is maintainable after the award is passed and after receipt of compensation and answered the said question in the affirmative. He also submits that in substantially similar circumstances, the Division Bench of this Court concluded that the lands had been acquired by mistake and not on account of a genuine requirement for any of the purposes mentioned in Section 3 of the NH Act. In those circumstances, learned counsel submits that the writ appeals were allowed and the impugned notifications were set aside. While he agrees that the judgement of the Division Bench has been challenged before the Hon'ble Supreme Court, he submits that only a *status quo* order has been issued and that the judgement has not been interfered with otherwise.

4. In response to these contentions, Mr.Su.Srinivasan, learned Standing Counsel for the NHAI, made the following submissions:

(i) The land is required for future extension of toll lanes in Thirupathisaram Toll Plaza, shifting of utilities, construction of drains, weigh bridge and formation of wayside amenities for the road users.



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Paragraph 1 of the reply to grounds was also relied upon in this connection.

(ii) The petitioner had challenged the section 3A notification by raising objections in relation thereto on 08.04.2010. The said objections were rejected by order dated 15.07.2010. The petitioner did not challenge the same.

(iii) The petitioner requested for enhancement of compensation and has challenged the arbitral award under section 34 of the Arbitration and Conciliation Act 1996, by filing O.P.No.7 of 2014, which is pending as on date. In these circumstances, the petitioner cannot blow hot and cold by seeking enhanced compensation, on the one hand, and also seeking to strike down the notifications for acquisition.

(iv) The petitioner had availed of a loan from the State Bank of India by creating a mortgage over lands previously owned by him. As a consequence, the lender is asserting rights as a mortgagee and the compensation has not been paid till date to the petitioner for such reason.



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(v) The judgment of the Division Bench of this Court in *Albert Emmanuel* is distinguishable on facts. Paragraph 8.3 of the said judgment discloses that the fact situation in that case was that a 4-lane highway already existed between 0/000 kms to 3/600 kms and, in that factual context, the Division Bench of this Court entered the factual conclusion that the relevant lands were not required for purposes of NHAI.

(vi) Reconveyance is not permissible under the NH Act as held by the Division Bench of this Court in *C.Rajendran v. National Highways Authority of India and others*, judgment dated 10.10.2025, in W.A.No. 2159 of 2022 and order dated 29.11.2023 in *T.Thomas Abraham v. National Highways Authority of India and others* (W.P.(MD) Nos.15354 and 15358 of 2020).

(vii) Section 3A(1) should be construed in the context of Section 16(2) of the National Highways Authority of India Act 1988, which sets out the functions of the NHAI.

5. The first question that arises for consideration is whether the writ petition is maintainable after the award was issued and after compensation in relation thereto has been deposited. This question was



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expressly considered by the Division Bench of this Court in *Albert Emmanuel*. At paragraph 7.1 of the judgment, the Court concluded as under:

"7.1 Thus, the question is answered that normally, any aggrieved original owner of the land cannot challenge the land acquisition proceedings after the passing of award, receipt of compensation or vesting of the land but only in exceptional cases falling within the parameters of no public purpose / malafide acquisition when the notification itself is tainted or when the basis tenets of a fair hearing is was not there, a Writ Petition can be belatedly filed."

Although this judgment is currently under challenge before the Hon'ble Supreme Court, since it is a judgment of the Division Bench of this Court, I propose to proceed on the basis that a writ petition is permissible in exceptional cases as stated therein. This leads to the question as to whether the present case qualifies as an exceptional case.

6. Section 3A(1) of the NH Act reads as under:

"3A. Power to acquire land, etc.—(1) Where the Central Government is satisfied that for a public purpose



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any land is required for the building, maintenance, management or operation of a national highway or part thereof, it may, by notification in the Official Gazette, declare its intention to acquire such land."

As is noticeable from the text of Section 3A, land may be acquired under the statute if the Central Government is satisfied that the land is required for a public purpose for building, maintaining, managing or operating a National Highway or a part thereof.

7. Learned counsel for the petitioner contended that the statute is intended for a specific purpose and, therefore, unlike general acquisition statutes, the acquired land cannot be put to some other general public purpose. I accept this contention. Nonetheless, the language of the provision indicates that the land may be put to use not only for building the highway, but for maintaining, managing or operating the same. This would take within its fold the creation of all facilities relating to such highway. In the counter-affidavit of the second respondent, at paragraph 8 thereof, in relevant part, it is stated as under:

"In this context, it is submitted that acquired lands to be utilized for future extension of toll lanes in



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Thirupathisaram Toll Plaza, shifting of utilities, construction of drains, weigh bridge and formation of wayside amenities for the road users."

8. Similarly, at paragraph 1 of the reply to grounds, it is stated as under:

"In which toll lanes, admin buildings of toll plaza, Highway patrol team, medical team, road operation & maintenance team, road side toilets for the use of road users were constructed. Remaining extent of acquired lands to be utilized future infrastructure by means upgrading toll lanes, shifting of utilities, construction of drains, formation of wayside amenities, weigh bridge and etc., and hence the land acquired by invoking the provisions of NH Act, 1956 is not illegal and void."

9. Mr.Su.Srinivasan pointed out that the highway was constructed and that commercial use thereof has commenced only from 2022. In those circumstances, considering the intended purposes mentioned in the counter-affidavit, as a matter of fact, I am unable to reach the conclusion that these lands are not required for one of the purposes mentioned in



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Section 3A(1) of the NH Act.

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10. This position may be compared and contrasted with the factual position recorded in the judgement of the Division Bench in *Albert Emmanuel*. After noticing that there was already a 4-lane highway from 0/000 kms to 3/600 kms, the Court recorded that the notification was only with regard to lands falling within the chainage of 3/600 kms to 37/920 kms. In that factual context, the following finding was recorded:

"8.3 It is one thing to contend that once the lands are required for the overall public purpose, thereafter authorities can put those lands into allied uses also as per their convenience/need. But here the National Highways Authority of India has taken a conscious decision that there exists a four lane already between 0/000 kms starting from the Indira Gandhi statue upto 3/600 kms, and therefore no acquisition need be done in the stretch, the acquisition of the petitioners' lands as on the date of the issue of the notification under Section 3(A) of the Act or declaration under Section 3(D) of the act clearly appears to us only as a mistake and not as a requirement. The very evasive and false counter-affidavits filed before



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SENTHILKUMAR RAMAMOORTHY, J.

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