



W.P(MD)No.21970 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2026

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

WP(MD)No.21970 of 2015

1.Milkal Hollis

2.K.Vasanthi Jose @ Vasanthakumari

...Petitioners

Vs

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Competent Authority /
District Revenue Officer,
Land Acquisition for National Highways-7,
Nagercoil-1,
Kanyakumari District.

3.The Special Tahsildar,
Land Acquisition for National Highways-7,
Palayamkottai,
Tirunelveli-2.

4.The Project Director,
National Highways-7,
Project,



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Rahmath Nagar,
Opp.To District Court,
Palayamkottai,
Tirunelveli District.

5.The Competent Authority and
District Revenue Officer,
For Tamil Nadu Protection of
Interest of Deposit Act, 1979,
Kanyakumari District, Nagercoil.

....Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus, to direct the respondents 2 to 4 to handover back the possession of the property bearing New Survey no. 1023/2 and 1023/1C situated at Alagappapuram Village, Agasdeeshwaram Taluk, Kanyakumari District owned by the petitioner and later which was subjected to Land Acquisition process for the extension of four lane road in National Highways-7 leading from Madurai to Kanyakumari forthwith.

For Petitioners : Mr.Maheswaran
For Respondent : Mr.S.P.Maharajan
Special Government Pleader (RR1 to 3 &5)
Mr.C.Arulvadivel @ Sekar (R4)
Senior counsel
for M/s.Arulvadivel @ Sekar Associates

ORDER

(Order of the Court was delivered by MR.N.SATHISH KUMAR, J.)

Pointing out that there are two divergent views of the Division Bench in W.A.(MD)Nos.581 and 678 of 2016 and W.A.No.174 of 2023 etc., batch,



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the learned Single Judge vide order dated 01.10.2024, has referred the matter to the Larger Bench framing the following the question for reference:

“Whether the provisions of Section 48-B of the Land Acquisition Act, 1894 would apply to lands which have been acquired under the National Highways Act, 1956 where declaration under Section 3-D of the National Highways Act has been published?”.

2.Heard the learned counsel appearing for the petitioners, learned Special Government Pleader appearing for the respondents 1 to 3 & 5 and the learned Senior Counsel appearing for the fourth respondent.

3.The learned Single Judge, in the order of reference, was of the view that there were two divergent views by two Division Benches in respect of reconveyance of the lands acquired under the National Highways Act.

4.Careful perusal of the National Highways Act shows that there is no provision for reconveyance. This issue came before the learned Single Judge in ***Shri Andal Alagar Kalyana Mandapam Private Ltd. v. Union of India*** reported in ***2007 2 MLJ 1021***. The learned Single Judge has held as follows:

“In the light of the scheme of the National Highways Act, 1956, and the absence of any provision for divesting or reconveyancing, I



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am unable to see how far the respondents including the fourth respondent could have gone, in considering the alternative proposal submitted by the petitioners, after the land vested with the Central Government.”

5.The said view has been approved by the Hon'ble Division Bench in the case of ***A.Rajendran vs. The Special District Revenue Officer and another*** [W.A.(MD)No.581 of 2016, dated 20.02.2018], wherein the Division Bench has held as follows:

“23. In Shri Andal Alagar Kalyana Mandapam Private Ltd., v. U.O.I reported in (2007) 7 MLJ 1021, challenge was made on the ground of vagueness and mala fides. In paragraph 24, the learned Judge dealt with the issue as to the challenge made after the award came to be passed. In paragraph 49 of the said order, the learned Judge observed that in the light of the scheme of National Highways Act, 1956 and in the absence of any provision for divesting or reconveyancing, and that too, after the land vested with the Central Government, there is no provision in the National Highways Act, 1956, akin to Section 11-A of the Land Acquisition Act, 1894, which speaks about the lapse and the only provision in the National Highways Act, 1956, by which the proceedings shall lapse, is found in Section 3-D(3) and it prescribed that if a declaration under Section 3-D(1) was not published within one year of a notification under Section 3-A(1), the notification shall cease to have effect.



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6.The said view has also been reiterated by another Division Bench in the case of ***C.Rajendran vs. National Highways Authority of India and others*** [W.A.(MD)No.2159 of 2022 dated 10.10.2025].

7.The learned Single Judge opined that there is a divergent view in the order of this Court in the case of ***Albert Emmanuel vs. The Union of India and othres*** [W.A.No.174 of 2023 etc., batch, dated 11.04.2023].

8.We have perused the above judgment. The writ petitions were filed for various reliefs including challenging the notification issued for acquisition. The Division Bench in para 8.13 of *Albert's* case, considering the peculiar facts and circumstances of the case, has held as follows:

“8.13 Further practically also, the lands of the petitioners are not needed for the public purpose as the project is complete in all respects and is commercially operational from 2011. There was an interim order of status quo granted pending the writ petitions and the petitioners continue to possess their lands. Even now, pin pointedly it is not pleaded before this court that the lands have to be taken and put to use for a particular purpose. Therefore, when the project is declared to be fully complete and operational, it is clear that the lands are not needed for public purpose. It is also not in the public interest to allow the authorities / officers to cling on to their mistakes and to cause a



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financial burden to the Government of India and to the National Highways Authority of India itself by unnecessarily taking lands which are not imminently necessary for the public purpose in question. As a matter of fact, even though these questions were specifically raised and considered at the initial/interim order stages by appointment of Advocate Commissioners, directing the Project Officer to file a report etc., while disposing of the writ petition, the Learned Single Judge went only on the maintainability after receipt of the compensation and did not consider the peculiar facts and circumstances of this case, which compels us to interfere in the matter.”

The issue dealt by the Division Bench in the above said case is not relating to the issue of reconveyance.

9.At this juncture, it is necessary to reproduce Section 3(J) of the National Highways Act, as under for ready reference:

“3-J.Land Acquisition Act I of 1894 not to apply-Nothing in the Land Acquisition Act, 1894 (I of 1984) shall apply to an acquisition under this Act.

Notes

The lands required for the building, maintenance, management or operation of national highway or part thereof shall be acquired under the provisions of this Act only and not under the Land Acquisition Act, 1894 (I of 1894). The provisions of the Land



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Acquisition Act, 1894 (1 of 1894) shall not apply to the acquisition of lands under this Act.

Case-Law

In Lalitha vs. Union of India, ILD 2003 (1) Kar.939 = AIR 2003 (Kar.) 165, the High Court of Karnataka observed that Section 3-J of the National Highways Act, 1956 as inserted by Act 16 of 1997 insofar as it specifically excludes application of the Land Acquisition Act, 1894 for the purpose of determination of compensation in respect of lands acquired under the National Highways Act, 1956 is unconstitutional. It further held that the petitioner whose lands are acquired under the National Highways Act, 1956 are entitled for additional market value under Section 23(A), solatium under Section 23(2) and interest under Section 28 of the Land Acquisition Act, 1894 in addition to the market-value.”

10.Though the said provision was declared to be unconstitutional by the Karnataka High Court in the case of *Lalitha vs. Union of India* reported in *AIR 2003 (Kar.) 165* only in respect of determination of compensation, the fact remains that the Hon'ble Supreme Court in later judgment in ***National Highways Authority of India vs. Sayedabad Tea Company Limited and others*** [(2020) 15 SCC 161], the Hon'ble Supreme Court has held that the National Highways Act, 1956 is a complete code by itself. The relevant observation is as follows:



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“18.After analysing the scheme, it can be assumed that the legislature intended the Act, 1956 to act as a complete code in itself for the purpose of acquisition until culmination including disbursement and for settlement of disputes and this conclusion is further strengthened in view of Section 3J of the Act which eliminates the application of the Land Acquisition Act, 1894, to an acquisition under the Act, 1956.”

11.The Hon'ble Supreme Court in the case of Fuerst Day Lawson Limited vs. Jindal Exports Limited [(2011) 8 SCC 333], has held that a self contained code carries with it a negative import that only such acts as are mentioned therein are permissible to be done and acts or things not mentioned therein are not permissible to be done.

12.As held by the Hon'ble Supreme Court in the above said case, when an Act itself is held to be a complete code and regarded as exhaustive in the matter and when there is no provision of reconveyance in the said Act, question of applying Section 48-B of the Land Acquisition Act does not arise at all. Therefore, we are of the view that reconveyance is not permissible under the National Highways Act, 1956.

13. We have also pointed that the Land Acquisition Act, 1894 was itself repealed to Right to Fair Compensation and Transparency in Land



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Acquisition, Rehabilitation & Resettlement Act, 2013 (hereinafter referred to as “Act, 2013). Section 101 of the Act, 2013 reads as follows:

“101. Return of unutilised land.— When any land acquired under this Act remains unutilised for a period of five years from the date of taking over the possession, the same shall be returned to the original owner or owners or their legal heirs, as the case may be, or to the Land Bank of the appropriate Government by reversion in the manner as may be prescribed by the appropriate Government.

Explanation.—For the purpose of this section, "Land Bank" means a governmental entity that focuses on the conversion of Government owned vacant, abandoned, unutilised acquired lands and tax-delinquent properties into productive use.

14. Reading of the above provision, it is clear that returning of the land will apply only to the acquisition made under the State Act, ie., 2013 Act and not otherwise.

15. Considering the above, as there is no divergent view found in the two Division Bench judgments, we are of the view that as indicated above Section 48-B of the Land Acquisition Act, 1894 cannot be applied to the lands, which have been acquired under the provisions of the National Highways Act, 1956. Accordingly, the reference is answered.



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16.While answering the issue, we find that the writ petition itself is not maintainable and hence, instead of referring the writ petition once again for decision before the learned Single Judge, we hold that the writ petition is liable to be dismissed. Accordingly, this writ petition stands dismissed. There shall be no order as to costs.

[N.S.K., J.] & [R.V .,J.] & [M.J.R., J.]
26.03.2026

Index : Yes/No
Internet : Yes/No
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