

C.Seshadrinathan Vs. the Project Manager

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Court : Kerala

Decided On : Nov-26-2013

Judge : Hon'Ble the Chief Justice Dr. Manjula Chellur

Appellant : C.Seshadrinathan

Respondent : The Project Manager

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HON'BLE THE CHIEF JUSTICE DR. MANJULA CHELLUR & THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE TUESDAY, THE 26H DAY OF NOVEMBER 2013 5TH AGRAHAYANA, 1935 WP(C).No. 13426 of 2012 (S)

----- PETITIONER(S): ----- C.SESHADRINATHAN AGED 53 YEARS CHARTERED ACCOUNTANT, CITY LIGHTS SHOPPING COMPLEX WADAKKANCHERRY, PALAKKAD DISTRICT. BY ADVS.SRI.HARISANKAR V. MENON SMT.MEERA V.MENON SRI.MAHESH V.MENON RESPONDENT(S): ----- 1. THE PROJECT MANAGER THE NATIONAL HIGHWAYS AUTHORITY OF INDIA ARUMUGHAN COLONY, CHANDRA NAGAR PALAKKAD DISTRICT-678 007.

2. UNION OF INDIA REPRESENTED BY SECRETARY TO GOVERNMENT MINISTRY OF SURFACE TRANSPORTS, NEW DELHI-110 001. ADDL.

3. STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY, THIRUVANATHAPURAM.

4. SECRETARY, PUBLIC WORKS DEPARTMENT, THIRUVANANTHAPURAM.

5. THE PROJECT DIRECTOR, THRISSUR EXPRESS HIGHWAY LTD., PROJECT OFFICE, BEHIND APPOLLO TYRES, PERAMBRA, THRISSUR DISTRICT - 680 689. R2 BY ADV. SRI.P.PARAMESWARAN NAIR,ASG OF INDIA R1 BY ADV. SRI.THOMAS ANTONY R5 BY ADV. SRI. P.VIJAYABHANU R3 AND R4 BY GOVERNMENT PLEADER SRI.JOE KALLIATH THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON2611-2013, ALONG WITH WPC. 20428/2012 AND20656OF2012 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 13426 of 2012 APPENDIX PETITIONER'S EXHIBITS: EXHIBIT P1: COPY OF REPRESENTATION FILED BY THE PETITIONER BEFORE THE1T RESPONDENT. /TRUE COPY/ PS TO JUDGE MANJULA CHELLUR, C.J & A.M.SHAFFIQUE, J.

----- W.P(C).No. 13426 of 2012, W.P(C).No.20428 of 2012 & W.P(C).No.20656 of 2012 ----- Dated this the 26th November, 2013

JUDGMENT

Manjula Chellur, C.J.

These Writ Petitions came to be filed as public interest litigation espousing cause of the general public who uses the NH- 47 between Mannuthy and Vadakkenchery. Right from the date of filing the Writ Petitions, several directions were issued to the respondent authorities. This court even secured the presence of Project Director, National Highways and the Project Proponent Thrissur Express Highway Ltd. before the Court in order to understand the genuineness of reasons for the delay in completing the widening of the four lane into six lane. As per the directions of the Court made from time to time to these two Directors, we note that till completing the six lane works effectively as per the scheme, the existing roads were to be left unattended without undertaking any repair and maintenance WP(C).13426/12 & connected cases 2 work. Then again there was some dilemma

who could bear the cost of this repair and maintenance of the existing roads. We also took note of the fact that the lands which are already acquired for the project were factually not handed over to the National Highway Authority of India (NHAI). In that connection, we directed the District Collector, Thrissur to be present before the Court to understand what impediments are being coming in the way of land acquisition proceedings to hand over the land required for six lane Highway. The District Collector, Thrissur submitted that 39 hecters of land was required for widening of the road out of which 35 hecters of land was handed over to the National Highway Authority of India and the balance 4 hecters was occupied by 291 occupants and steps were taken to evict them with effect from 1.2.2013. They undertook to hand over entire land to NHAI by evicting all the unauthorised occupants by 31.5.2013. Subsequent to 2.4.2013, the District Administration was directed to bring on record by affidavit what was the stage of eviction of unauthorised encroachments.

2. As on today, as per the submission of learned Government Pleader, we note, the Writ Petition pertaining to last bit of 6 cents of land was also disposed of in favour of acquisition, WP(C).13426/12 & connected cases 3 by the learned Single Judge, but the amount offered as compensation to the land owners was not received by them. The fact remains, more than 90% of the land required for the project is already handed over and the work is under progress. The repairs and maintenance is also attended so far as the existing roads to assist commuters who use this road, as the Mannuthy- Vadakkenchery stretch is the connecting road to many places within the State and also outside the State.

3. As per the latest affidavit filed by third respondent National Highway Project Director, we note that Kodungallur bypass of NH-17 is not executed by NHAI and the same is undertaken by PWD National Highway wing of the State of Kerala. So far as NH-47 in Thrissur district from Mannuthy to Angamaly, it is under Package KL-01 as well as land acquisition from Mannuthy to Vaniampara is under Package KL-03. The acquisition proceedings are under progress and as many as 1865 Arbitral awards were passed pertaining to both Mannuthy-Angamaly and Mannuthy-Vaniampara stretch. They have in clear terms placed on record that the award amounts were disbursed by the office of the Special Land Acquisition

Officer, Thrissur, which amounts to 7.01 crores in Package KL-01 and 72.33 crores in Package KL-03. WP(C).13426/12 & connected cases 4 According to them, the delay is caused due to lack of leadership of the incumbent officer and the ineffective supervision of the higher officials. The District Collector is reviewing progress in monthly conference, but no follow up is taken by the District Collector. Leave of the Deputy Collector, who was the Special Land Acquisition Officer, also added to the problem. We note that he retired recently. Large number of cheques issued by NHA Project Director are kept with Special Land Acquisition Officer without disbursement of the amounts to the parties concerned. However, third respondent has something good to say about one District Collector Sri.A.T.James, who seems to have taken keen interest so far as disposal of arbitration petitions without any delay followed by Sri.P.M.Francis and then the present District Collector seems to be in charge of the same from June, 2013 onwards.

4. So far as the affidavit of the District Collector, Thrissur, he also narrates the quantum of amount provided by NHA lying with the District Administration awaiting disbursement, number of cases disposed of by them by Arbitral awards etc. He narrates the procedural and administrative delay at paragraph 4. What we fail to understand is, except referring to the Arbitral awards and WP(C).13426/12 & connected cases 5 disbursement of amounts to the persons concerned, neither the Project Director nor the District Collector seems to have mentioned any progress with regard to the 6 lane work that has to be done in Thrissur Express Highway.

5. The present public interest litigations are not filed complaining that the amounts to be paid as compensation to the owners of the land are delayed or not disbursed. The grievance is with regard to not attending the annual repair and maintenance of the road, especially between Mannuthy and Vadakkenchery NH-47. We made it clear to the project proponent and the Project Director of National Highway Authority of India as well as the State that the project of 6 lane road of NH-47 do not mean regular repairs and maintenance of the existing road should be neglected till completion of 6 lane highway. Therefore, several interim directions were given. It is also brought to our notice that resurfacing of existing road is substantially completed, except a small portion of the same.

6. In the light of above facts, when the entire land is acquired for widening of NH-47 between Mannuthy and Vadakkenchery, except 6 cents of land, we are of the opinion, there should not be any delay on the part of the respondent WP(C).13426/12 & connected cases 6 authorities to complete the work. Due to various reasons, including land acquisition litigation, the progress made is at snail's pace and atleast the resurfacing of the road is done so as to reduce the inconvenience faced by commuters on NH-47 between Mannuthy and Vadakkenchery.

7. In that view of the matter, the reliefs sought in W.P(C). No.20656 of 2012 is already attended to by the respondent authorities. Therefore, there is no need to give further directions in the matter.

8. So far as W.P(C).No.20428 of 2012, the reliefs sought in this case is also similar to the reliefs sought in W.P(C).No.20656 of 2012, as the main grievance was the stretch from Pattikkad to Vaniyampara via Kuthiran on NH-47, which falls within the stretch between Mannuthy and Vadakkenchery. The main grievance seems to be non motorable roads on account of non attending to annual repairs and maintenance, which is already addressed substantially as stated above.

9. So far as WP(C).No.13426 of 2012, there was a specific prayer for resurfacing of Walayar and Mannuthy road, which also covered the stretch of road referred to above. WP(C).13426/12 & connected cases 7 In the above circumstances, we find no good reason to keep the matters pending and accordingly, all the Writ Petitions are disposed of directing the respondent authorities to attend to the remaining resurfacing work as early as possible, but not later than six months from the date of receipt of a copy of this judgment. MANJULA CHELLUR, CHIEF JUSTICE
A.M.SHAFFIQUE, JUDGE vgs

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