

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 1754 of 2015

&

M.P. Nos. 1 to 3 of 2015

1. R. Arumugam
2. R. Nataraj
3. R. Subramanian
4. K.P. Patel
5. S. Murugasamy
6. K. Narshi Patel
7. R.S.T. Shanmugam
8. T. Arumugasamy
9. M. Narmatha
10. Purushotham Kanji
11. N.P. Patel
12. S. Anthony Samy

..Petitioners

Vs.

1. The Special District Revenue
Officer (Land Acquisition) NH 47
No.63, First Floor,
Sowrimuthu Chettiar Street
(near Om Sakthi Hospital),
Red Fields, Coimbatore 641 018.
2. The Project Director,
National Highways Authority of India,
Door No. 9-A, 4th Cross Street,
Kothari Layout, Singanallur Post,
Coimbatore - 641 005.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the 1st respondent dated 18.12.2014 in Na.Ka.No. 319/2010, quash the same and consequently direct the respondents to re-fix the compensation to the petitioners' as per the guidelines value communicated by the Sub Registrar, Sulur in his communication dated 07.04.2014 for the petitioners' lands at Survey Nos. 827 & 828 at Karumathampatti Village, Sulur Taluk, Coimbatore District.

For Petitioners : Mr. S. Elamvaludhi for
Mr.J. Pothiraj

For Respondents : Mrs.M.E. Rani Selvam
Addl. Govt. Pleader for R1
Mr.P. Wilson for
M/s. Wilson Associates for R2

O R D E R

This writ petition is filed for issue of a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the 1st respondent dated 18.12.2014 in Na.Ka.No. 319/2010, quash the same and consequently direct the respondents to re-fix the compensation to the petitioners' as per the guideline value communicated by the Sub Registrar, Sulur in his communication dated 07.04.2014 for the petitioners' lands at Survey Nos. 827 & 828 at Karumathampatti Village, Sulur Taluk, Coimbatore District.

2. The petitioners are owners of lands in Survey Nos. S.F. 827 & 828 at Karumathampatti Village, Sulur Taluk, Coimbatore District, measuring various extents and the 2nd respondent, the requisitioning body, for the purpose of widening the NH 47 for formation of six/four laning of Chengapalli-Valayar Section, requested the 1st respondent to acquire the lands in the said stretch for the purpose of service lane. Accordingly, the 1st respondent originally issued a notification on 30.04.2010, aggrieved over which, some of the petitioners filed W.P. No. 13743 of 2010 before this Court and the said writ petition was disposed of on 29.11.2010 directing the 2nd respondent not to exceed the extent notified under Section 3-A(1) of the National Highways Act, 1956 and also based on the Project Report prepared in this regard. However, due to lapse of time, the said notification lapsed and a fresh notification was issued by the 1st respondent on 27.09.2012. Though the petitioners herein submitted their objections in detail on 12.10.2012 against the said acquisition initiated by the 1st and 2nd respondents, the said objections were over-ruled. In the rejection order passed by the 1st respondent, the plea of compensation was not discussed and only the width of the road lane was discussed. Subsequent to the rejection order, the petitioners submitted representations on 08.07.2013, 03.03.2014 and finally on 23.04.2014 to the respondents. In the said representations dated 03.03.2014 and 23.04.2014, the petitioners had enclosed the communication of the Sub Registrar of Sulur dated 07.04.2014 indicating that the guideline value in respect of the lands situated at Survey Nos. 827 & 828, which have been classified as "commercial class type (1)", is Rs.900/- per square feet, i.e, Rs.9,690/- per square

meter. However, the said representations were not considered by the respondents. Hence, the petitioners approached this Court by filing W.P. No. 13935 of 2014 seeking a direction to consider their representation dated 23.04.2014 in accordance with law. The 1st respondent, after receiving orders from this Court and the representation of the petitioners along with necessary documents, passed the order dated 18.12.2014 fixing the same amount, as earlier, namely, a sum of Rs.1,886/- per square meter, in respect of the lands acquired from the petitioners. Hence, the present writ petition.

3. Heard Mr.S. Elamvaludhi, learned counsel for the petitioner and Mrs. M.E. RaniSelvam, learned Additional Government Pleader for R1 and Mr.P.Wilson, learned counsel for R2.

4. Though the learned counsel for the petitioner would strenuously contend, drawing the attention of this Court, to the judgment of the Honourable Supreme Court in Union of India and others V. Tania Company Private Limited reported in 2011 5 SCC 697, that existence of an arbitration clause cannot be a bar for writ remedy, taking into consideration the availability of alternative remedy by way of statutory appeal under Section 3(g) (5) of National Highways Act, 1956, it is appropriate to direct the petitioners to approach the Arbitrator, namely, the District Collector, Coimbatore.

5. The learned counsel for the petitioners would also point out that the 1st respondent failed to determine the compensation based on the guideline value fixed by the Committee appointed by the Government, in which the District Collector is also a party, in respect of lands in question, namely, Rs.9690/- per square metres.

6. The aforesaid contention of the learned counsel for the petitioners is appealing. However, the same is required to be considered by the District Collector, Coimbatore District, who is the Arbitrator, as per the provisions of the said Act. Hence, the writ petition is disposed of with the following directions:

(i) Since the petitioners filed representations to the 1st respondent and thereafter, approached this Court, obtained orders and once again, have approached this Court, by way of this writ petition, limitation should not be a bar to get reference to the Arbitrator. In view of that, the petitioners are given two weeks' time, from the date of receipt of a copy of this order, to file applications seeking reference to the District Collector, Coimbatore District;

(ii) On receipt of such applications, the District Collector, Coimbatore District, shall enquire into the matter and pass appropriate awards, after giving opportunity to all parties concerned, at the earliest;

(iii) The petitioners and the respondents shall file all the relevant documents, including the guideline value fixed by the Committee in respect of the very same lands and the District Collector shall consider all the points to be raised, before passing awards.

(iv) As undertaken by the learned counsel for the petitioners, without prejudice to the rights of the parties to claim more compensation, the respective parties/petitioners shall hand over possession of the respective lands to the National Highways Authorities within a period of one month from the date of receipt of a copy of this order.

No costs. Connected M.Ps are closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To

1. The Special District Revenue
Officer (Land Acquisition) NH 47
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Door No. 9-A, 4th Cross Street,
Kothari Layout, Singanallur Post,
Coimbatore - 641 005.

+1 cc to Mr.P.Wilson Associate, Advocate (sr.56910)

+1cc to Mr.J.Pothiraj, Advocate, Sr.56950 [4/11/2015]

W.P. No. 1754 of 2015

rsi(co)

cp 2/11/2015