

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2015

CORAM

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

W.P.No.32572 of 2015

Kandasamy

...Petitioner

Vs.

1. The Government of India
Ministry of Road Transport and Highways
Transport Bhavan,
1, Parliamentary street,
New Delhi.

2.National Highways Authority of India
Rep. By its Project Director,
Office of the Project Director,
Project Implementation Unit (N.S)
Salem - 636 004.

3.Authorised Officer,
Land Acquisiton (NH- 68) and
Special District Revenue Officer,
Salem.

4. The District Collector,
cum Arbitrator,
Villupuram,
Villupuram District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 2nd respondent to deposit the enhanced compensation as per the award of the 4th respondent dated 22.09.2011 as per the Rule - 2 of the National Highways (manner of depositing the amount by the Central Government with the competent authority for acquisition of land) Rules, 1998 to the 3rd respondent, and consequently direct the 3rd respondent to release the same to the petitioner as per Section - 3H(2) of the National Highways Act, 1956.

For petitioner : Mr.D. Muthukumar

For RR1 & RR2 : Mr. Jerry for
M/s.P. Wilson Associates

O R D E R

By consent of both parties, this writ petition is taken up for final disposal in the admission stage itself.

2. Writ Petition is filed for issuance of a Writ of Mandamus directing the 2nd respondent to deposit the enhanced compensation as per the award of the 4th respondent dated 22.09.2011 as per the Rule - 2 of the National Highways (manner of depositing the amount by the Central Government with the competent authority for acquisition of land) Rules, 1998 to the 3rd respondent, and consequently direct the 3rd respondent to release the same to the petitioner as per Section - 3H(2) of the National Highways Act, 1956.

3. Heard both sides.

4. The second respondent deposited a sum of Rs.31,87,520/-, (Rupees Thirty One Lakh Eighty Seven Thousands Five Hundred and Twenty Only) being difference in the enhanced compensation amount before the third respondent and it is also evident by the banker's cheque dated 15.10.2015.

5. Mr.Jerry, learned counsel appearing for M/s.P. Wilson Associates, for the second respondent would submit that the instructions have been given to the third respondent not to release the money stating that there is a review petition pending before another Court to review the order passed in CRP.No.2302 of 2013, which was allowed on 13.12.2013 in favour of the petitioner merely because the review petition has been filed after two years. According to the sweet time taken by the second respondent, there should not be any prohibition for the petitioner to enjoy the fruits of the deposit and therefore, the third respondent is directed to release the money deposited by the second respondent immediately and report before this Court by 30.10.2015.

6. The petitioner also has to file an affidavit stating that in case the review is allowed and if they are able to succeed before the District Court in I.A.No.381 of 2012 in OP.No.170 of 2012, then the petitioner has to pay the money to the respondent. It is made clear that the release is only with regard to the amount deposited and this Court has not determined with regard to the quantum.

With the above direction, the writ petition is disposed of. No costs.

Call the matter on 30.10.2015 as a first item for compliance.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

Gv

To

1. The Secretary,
The Government of India
Ministry of Road Transport and Highways
Transport Bhavan,
1, Parliamentary street,
New Delhi.
- 2.The Project Director,
National Highways Authority of India
Office of the Project Director,
Project Implementation Unit (N.S)
Salem - 636 004.
- 3.Authorised Officer,
Land Acquisiton (NH- 68) and
Special District Revenue Officer,
Salem.
4. The District Collector,
cum Arbitrator,
Villupuram,
Villupuram District.

Copy to The Section Officer, Writ Section,
High Court, Madras.

(For Posting the matter on 30/10/2015)

+1 cc to Mr.D.Muthukumar, Advocate, sr.58236

+1 cc to M/s.P.Wilson Associates, Advocate, sr.58223

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pa co

kra 28/10/2015