

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.39054 of 2015 &

M.P.No.1 of 2015

V.Poovaraghavan

.. Petitioner

Vs.

1. The Project Director, Project Implementation Unit National Highways Authority of India (NHAI) No.9/9A 4th Cross St. Kothari Layout B.R.Nagar, Trichy Road Singanallur, Coimbatore. .. Respondents
2. The District Collector cum Arbitrator Erode District. Dheeran Chinnamalai Maaligai District Collectorate Perundurai Road Erode-638 011.
3. The District Revenue Officer Competent Authority NH-47 (L.A.) Erode District Collectorate Building Erode-638 011
4. The Special Tahsildar (Land Acquisition) Erode Tk. National Highways NH-4713 Rasu Goundar Thottam Chooali opp. Sampoorana Theatre Near Reliance Petrol Bunk Erode-638 004. .. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the relevant records relating to impugned order by the proceedings on the file of the 2nd respondent in Ref.No.SR/Files/Arbitration/2015 dated 12.11.2015 and quash the same insofar as it relates to land comprised in SF.No.1/2 situated at Chithode village, Erode Taluk, and consequently direct the 2nd respondent to entertain the petitioner's Arbitration Application No.Nil/2015 dated 09.11.2015 filed under section 3-G[5] of National Highways Act, 1956 and number the same and dispose on merits expeditiously after affording the petitioner an opportunity of fair hearing in accordance with law.

For Petitioner .. Mr.C.E.Prathap

For R1 .. Mr.P.Wilson, SC for
M/s.P.Wilson Associates

For RR 2 to 4 .. Mr.R.Lakshminarayanan,
Additional Government Pleader

ORDER

Heard Mr.C.E.Prathap, learned counsel for the petitioner; Mr.P.Wilson, learned Senior counsel accepting notice on behalf of the 1st respondent and Mr.R.Lakshminarayanan, learned Additional Government Pleader, accepting notice on behalf of the respondents 2 to 4 and with their consent, the writ petition is taken up for final disposal at the admission stage itself.

2. In the writ petition, the land belonging to the petitioner was acquired for the formation of the Four way laning of roads in NH - 47. The petitioner has not challenged the acquisition proceedings and the project has been implemented. The petitioner has claimed enhanced compensation for which purpose he has filed application before the District Revenue Officer on 08.04.2008 District Collector on 05.10.2015 to consider his case and grant enhanced compensation. This application appears to have not been considered though other similarly placed persons cases were considered and it is stated that arbitration proceedings are in progress. Since the petitioner was not permitted to participate in the arbitration proceedings, he submitted representation to the second respondent on 05.10.2015. In the said representation, he has reiterated the contentions raised in his earlier representation and stated that the fixation of land value is inadequate. The second respondent, without considering the same, rejected the request of the petitioner on two grounds:-

(i) Firstly, by stating that the representation said to have been made on 05.10.2015 is not available in the files of the second respondent.

(ii) It is stated that under the provisions of the National Highways Act, 1956, the claim for enhancement of compensation should be made within a period of three years from the date of passing of an Award.

3. It is submitted by the learned counsel for the petitioner that the petitioner has given one more application on 09.11.2015 i.e. one week prior to passing of the impugned order of the rejection.

4. Section 3 G of the National Highways Act, 1956 deals with determination of the amount payable as compensation. Sub-Section 1 of Section 3 G of the said Act states that where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

5. It is not in dispute that the second respondent is an Arbitrator so appointed to arbitrate the issues relating to claims for enhanced compensation. Statute does not prescribe any time limit within which such an application has to be filed.

6. The learned counsel appearing for the first respondent submits that the Act does not provide for any outer limit for any application to be made for claiming the enhanced compensation. Therefore, the reasons assigned in the impugned order stating that the

application for enhancement should have been made within a period of three years is not sustainable.

7. Further, it is stated that the petitioner's earlier representation dated 08.04.2008 is not in the records of the second respondent. However, it has to be noted that the petitioner was given representation on 05.10.2015 and the same was rejected on 09.10.2015 and he has also given another representation to the 2nd respondent and the same was also rejected on 12.11.2015 and it can be safely presumed that proper scrutiny of the records could not have been made especially when vast extent of lands were acquired in the formation of National Highways. In any event, in respect of the applications filed by other land owners, now the arbitration proceedings are in progress. Therefore, no prejudice would be caused to the second respondent or the National Highways if the petitioner is also permitted to participate in the arbitration proceedings and put forth his submissions, for enhanced compensation.

8. In the light of the above, the impugned order is held to be not sustainable in law.

9. In the result, this writ petition is allowed and the second respondent is directed to permit the petitioner to participate in the arbitration proceedings and put forth his submissions in support of his claim for enhanced compensation which shall be considered in accordance with law as expeditiously as possible. No costs. Consequently, the connected Miscellaneous Petition is closed.
Sgl

Sd/-
Assistant Registrar (C.C.C.)

/True Copy/

सत्यमेव जयते

Sub-Assistant Registrar

To

1. The Project Director, Project Implementation Unit National Highways Authority of India (NHAI) No.9/9A 4th Cross St. Kothari Layout B.R.Nagar, Trichy Road Singanallur, Coimbatore.
2. The District Collector cum Arbitrator Erode District. Dheeran Chinnamalai Maaligai District Collectorate Perundurai Road Erode-638 011.

3. The District Revenue Officer
Competent Authority NH-47 (L.A.) Erode
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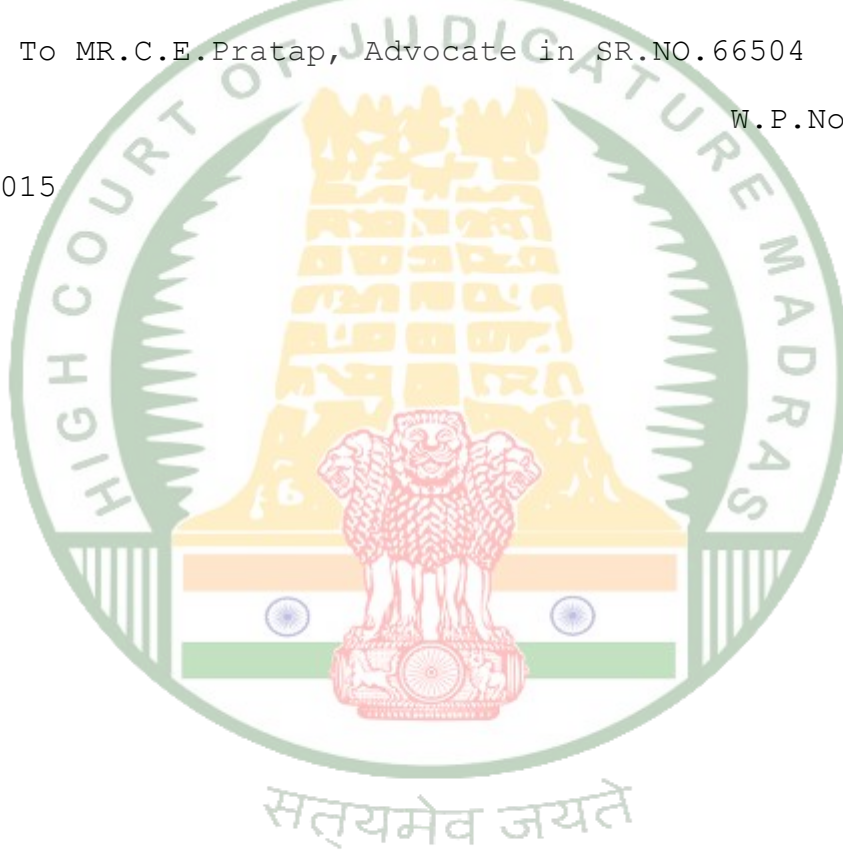
+1 C.C. To M/S.P.Wilson Associates in SR.NO.66692

+1 C.C. To Government Pleader in SR.NO.66941

+1 C.C. To MR.C.E.Pratap, Advocate in SR.NO.66504

W.P.No.39054 of 2015

SD : 23/12/2015



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