

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.3391 to 3396 of 2016

K. Sengoda Gounder .. Petitioner in W.P.No.3391 of 2016
P. Kavitha .. Petitioner in W.P.No.3392 of 2016
A. Palaniappan .. Petitioner in W.P.No.3393 of 2016
M. Kandasamy .. Petitioner in W.P.No.3394 of 2016
R. Ettiyanna Gounder .. Petitioner in W.P.No.3395 of 2016
P. Ponnusamy .. Petitioner in W.P.No.3396 of 2016

Vs.

- 1 The District Collector/Arbitrator
Salem District, Tamil Nadu
- 2 The Competent Authority and
Special District Revenue Officer(LA) NH 7
46 47 Salem-Dharmapuri Districts,
Krishnagiri
26 Co-operative Colony,
Krishnagiri 635 001.
- 3 National Highways Authority of India
Rep. by its Project Director in charge of NH 46 47
Salem-Dharmapuri Districts,
Krishnagiri. ... Respondents in all the WPS

Prayer in W.P.Nos.3391 to 3396 of 2016 Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records on the file of the 1st respondent in O.Mu.777/ 2015/RP, 780/2015/RP, 778/2015/RP, 779/2015/RP, 774/2015/RP & 776/2015 RP dated 26.11.2015 and quash the same and further direct the 1st respondent to take the Arbitration cases on the file and adjudicate the same in the manner know to law.

For Petitioner .. Mr.K.V.Sajeevkumar
for M/s. Royan Law Associates

For Respondents 1 .. Mr.R.Lakshminarayanan
Additional Government Pleader

For Respondent 2 & 3 .. Mr.Su.Srinivasan, ASG-II

COMMON ORDER

Heard Mr.K.V.Sajeevkumar, learned counsel for the petitioner and Mr.R.Lakshminarayanan, learned Additional Government Pleader accepting notice for the respondents 1 and 2 and Mr.Su.Srinivasan, learned Additional Solicitor General-II accepting notice for the third respondent and with their consent, the writ petition is taken up for final disposal at the admission stage itself.

2.The petitioners have filed these writ petitions to quash the proceedings of the first respondent dated 26.11.2015 in and by which, the petitioners application claiming enhancement of compensation for the lands acquired for National Highways have been rejected on the ground that the same were presented beyond the period of three years. The facts stated in the affidavit relating to the land acquisition proceedings are not in dispute therefore, there would be no necessity to refer to the same. The only issue to be considered is as to whether the applications submitted by the petitioners claiming enhancement of compensation could have been rejected for the reasons assigned in the impugned order. In fact, in identical issue was considered by this Court in W.P.Nos.36544 to 36549 of 2015 dated 08.12.2015 (C.Vembusamy and others V. The District Collector, Erode and another). The operative portion of the order reads as follows:

"6.The learned counsel for the respondents as well as the National Highways Department would submit that the provisions of the Arbitration and Conciliation Act, 1996 would apply and therefore, the period of limitations will be three years. However, the impugned order does not refer to the provisions of the Arbitration and Conciliation Act and refers only to the National Highways Act, 1956 which does not provide for any specific period of limitation.

7.Before the First Bench of this Court a Writ Petition was filed as a Public Interest Litigation in W.P.No.32197 of 2012 [R.GOPALAKRISHNAN v. THE SECRETARY TO GOVERNMENT & 6 ORS] on behalf of the land owners whose lands were taken by the National Highways Department for the expansion of NH Road 68. The Division Bench considered the matter, directed the claims to be considered by the respective

Collectors namely the District Collector of Villupuram, and the District Collector, Salem. The said order dated 4.12.2012 reads as follows:

"Heard the learned counsel appearing for the parties. By this writ petition, styled as public interest litigation, the petitioner seeks a writ of mandamus to direct the respondents 1 to 3, 5 and 6 to consider and pass orders on his representation dated 08.11.2012.

2.It appears that the lands of agriculturists were acquired for widening the National Highway Road-68 from Ulundurpet to Salem. Against the compensation assessed by the fifth respondent - Competent Authority (District Revenue Officer) under the Act, it is stated that the concerned farmers moved the District Collector, who is functioning as an Arbitrator, for enhancement of compensation. Since nothing has been done till date, the present writ petition has been filed.

3.After hearing the learned counsel appearing for the petitioner and Mr.P.Wilson, learned Senior Counsel appearing for the National Highways Authority of India, we feel that the claim of each farmer for higher compensation shall be decided independently, as the same cannot be decided in a representative capacity. Therefore, the writ petitioner and the concerned farmers, if so advised, may file individual claim petitions for enhancement of compensation. Needless to say that if such claim petitions are filed, the third and fourth respondents - Collectors of Villupuram and Salem District, shall decide the same as expeditiously as possible, preferably within a period of three months from the date of filing claim petitions.

4.With the above direction, the writ petition is disposed of. There shall no order as to costs."

3. Learned counsel for the respondent does not dispute that the similar writ petitions were allowed by this Court and

some of them being W.P.Nos.1481 and 1482 of 2014 dated 18.01.2016 (P.S.Murthy, R.Venkatachalam vs. The District Collector, Erode District).

4. Thus, following the said decision, these writ petitions are allowed and the impugned orders are set aside and the first respondent is directed to consider the petitioners claim for enhancement of compensation on merits and in accordance with law, as expeditiously as possible, preferably within a period of four weeks, from the date of receipt of a copy of this order. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

smi

To,

- 1 The District Collector/Arbitrator
Salem District, Tamil Nadu
- 2 The Competent Authority and
Special District Revenue Officer(LA) NH 7
46-47 Salem-Dharmapuri Districts,
26, Co-operative Colony,
Krishnagiri 635 001.
- 3 National Highways Authority of India
Rep. by its Project Director in charge of NH 46 47
Salem-Dharmapuri Districts,
Krishnagiri.

6 ccs to M/s. Royan Law Associates, Sr. 5681 to 5685

1 cc to Government Pleader, Sr. 6120

1 cc to M/s. Su. Srinivasan, Sr. 6264

W.P.Nos.3391 to 3396 of 2016

SKV (CO)
kk 11/2