IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 5/2/2016

C O R A M

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.4446 of 2016

Thiru.Mani ... Petitioner

Vs

1. The District Collector-cum-Arbitrator
Collectorate
Villupuram
Villupuram District.

2. The Special District Revenue officer (LA)
National Highways No.68
Door No.3B/8 Ram Nagar Road
Swarnapuri (2nd Gate)
Salem 636 004.

3. The Project Director
National Highways Authority of India
No.212-3/D3-1 Sri Nagar Colony
Narasothipatti
Salem 636 004. ... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the first respondent to initiate and conduct the Arbitration Proceedings under Section - 3 (G) 5 & 6 of the National Highways Act for an enhancement of compensation, based on the petitioner's representation dated 23/5/2015 and fixing the time limit to conclude the enquiry after giving all the opportunities to the petitioner.

For Petitioner ... Mr.D.Muthu Kumar

For respondents... Mr.R.M.Muthukumar
Additional Government Pleader
for R.R.1 and 2.
Mr.Richardson
for M/s.P.Wilson Associates
for R.3.

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O R D E R

With the consent of the learned counsel appearing on either side, this writ petition is taken up for final disposal, at the admission stage itself.

2. Heard Mr.M.Saravana Kumar, learned counsel for the petitioner, Mr.R.M.Muthukumar, learned Additional Government Pleader for the respondents 1 and 2 and Mr.Richardson for M/s.P.Wilson Associates for the third respondent.

3. This writ petition has been filed, praying to direct the first respondent, to initiate and conduct the Arbitration Proceedings, under Section – 3 (G) 5 & 6 of the National Highways Act, for an enhancement of compensation, based on the petitioner's representation, dated 23/5/2015 and fixing the time limit, to conclude the enquiry, after giving all the opportunities, to the petitioner.

4. The petitioner seeks for a time limit to be fixed by the first respondent and to pass final orders, since the mater has been unduly delayed.

5. It is worthwhile to point out at this juncture that the Honourable First Bench in the case of Mr.Ramasamy Vs. 1. The District Collector-cum-Arbitrator Collectorate, Villupuram , Villupuram District and 3 others, in O.S.A.No.141 of 2013, took note of the multi- various activities, the District Collector was called upon to perform and found that he should not be over burdened with the activities such as to act as an Arbitrator. Therefore, a suggestion was made by the Honourable First Bench that some retired District Judge may be appropriate, who may be given the particular assignment, to clear the back log. The Bench also recorded the unwilling stand taken by the State Government in this regard. Further, it was pointed out that the Court cannot make people to wait for such a long period of time and in the said case, it was 14 months and there are several such claims, which are yet to be decided.

6. Therefore, a direction was issued to the State Government, to take steps, to supplant the number of persons, who would arbitrate the case whether judicial or administrators, to ensure that the cases are decided not beyond six months, from the date of filing, as otherwise, the relief becomes illusionary, since the parties lose the land and are unable to purchase alternative land, unless there is adequate compensation. The Department should take necessary steps, within 10 days from today for the said purpose.

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7. The learned Additional Government Pleader appearing for the respondents 1 and 2 submitted that the District Collector has nominated the Revenue Divisional Officer to function as an Arbitrator.

8. In my view, this nomination is not going to solve the problem. Since the Revenue Divisional Officer has multi various activities, he has to exercise quasi-judicial powers. This Court can take judicial notice of the fact that several writ petitions have been filed, to direct the revenue authorities, including the Revenue Divisional Officers, to do their statutory duty. Often in Contempt Petitions, stand has taken that due to pressure of work, the revenue officials are unable to adhere to the time schedule fixed by this Court. Therefore, this require a serious re-thinking on the hand of the Government and to take serious note of the observation made by the Honourable First Bench in the aforestated order.

9. In the instant case, the land acquisition proceedings were initiated under the provisions of the National Highways Act and the award was passed on 30/11/2009.

10. The learned counsel for the petitioner submitted that the petitioner has given several representations in the grievance day to the District Collector. Since no action was taken, the petitioner took legal advice and has given a comprehensive representation on 23/5/2015.

11. In the light of the above, there will be a direction to the first respondent, to consider the petitioner's representation, dated 23/5/2015, on merits and in accordance with law, within a period of three months, from the date of receipt of a copy of this order. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

mvs.

To

1. The District Collector-cum-Arbitrator
Collectorate
Villupuram
Villupuram District.

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Salem 636 004.

1 cc to Mr.D. Muthukumar, Advocate, Sr. 7653
1 cc to Government Pleader, Sr. 7949

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