

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2016

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THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.8964 of 2016
and
W.M.P.No.7968 of 2016

Vachala Ammal

... Petitioner

Vs.

1. The Arbitrator and District Collector,
Tiruvallur.
2. The Competent Authority and Special District
Revenue Officer, (LA) National Highways 205,
Tiruvallur
3. The Project Director,
NHAI, Project implementation Unit Chennai,
Sri Tower, 3rd Floor, DP 34 (SP)
Industrial Estate, Guindy, Chennai - 32. Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records on the file of the first respondent in Rc.No.9153/12/13 Arbitration dated 04.10.2013, and to quash the same insofar as its restricts the compensation to Rs.355.00 per square feet for the lands in S.No.5/9B Perumalpattu Village, Tiruvellore District, and to direct the enhancement of the compensation to Rs.533.00 per square feet, as per the orders of the first respondent in Rc.No.799/2015, Arbitration, dated 23.10.2015.

For Petitioner : Mr.V.Raghavachari

For Respondents 1 & 2 : Mr.Roofas Abraham
Government Advocate

For Respondent-3 : Ms.Sumathy
Standing Counsel

O R D E R

The petitioner has challenged the order passed by the first respondent, who was an Arbitrator, appointed under the provisions of National Highways Act, 1956, (hereinafter, referred to as 'the Act'), to consider the claims for enhancement of compensation filed under Section 3 G (5) of the Act.

2. Heard the learned counsel appearing for the parties.

3. The petitioner's land, comprised in S.No.5/9B, measuring an extent of 769 sq.mts. situate at Perumalpattu Village, Tiruvallur Taluk, was acquired for laying out by-pass road NH-205, under the provisions of the Act. The Land Acquisition Officer awarded compensation, computing the same at the rate of Rs.70/- per sq.ft. The petitioner was not satisfied with the compensation, and sought for enhancement by filing Arbitration Claim before the first respondent, on 30.01.2012. It appears that the petitioner, during enquiry of the arbitration claim, requested the compensation to be fixed at the rate of Rs.355/- per sq.ft., being in parity with the compensation awarded to the adjacent landowners. This request was acceded to by the Requisitioning Body, and the first respondent passed the award on 04.10.2013, awarding compensation to be determined at the rate of Rs.355/- per sq.ft.. Subsequently, the petitioner appears to have made a claim for revision of rates, and made a request to revise the award, by reopening the proceeding. This request was not acceded to by the first respondent, by order, dated 23.12.2013. Subsequently, the petitioner came to know that the adjoining landowner, who owns the land in the same survey number, viz., S.No.5/9B, sought for enhancement of compensation, and after enquiry, the first respondent has fixed a compensation amount by calculating the same at Rs.533/- per sq.ft.

4. The petitioner has now come forward with this Writ Petition, requesting that her case may be treated on par with the adjoining landowner, who also owns the land in the same survey number, viz. S.No.5/9B. Though this Court, under normal circumstances, used to hold that the subsequent order cannot be a ground to review the earlier order, however, is of the view that the said proposition cannot be directly applied to the case on hand, since the petitioner, who is an illiterate woman, has lost her valuable property, and she is entitled to just and fair compensation. The fact that the petitioner is an illiterate person cannot be disputed, as she is unable to even sign her name, and she has affixed her thumb impression in the affidavit

and vakalath filed in connection with this Writ Petition, and submissions were made before the first respondent based on certain advise given to her by somebody at that relevant point of time. Subsequently, she came to know that the adjoining landowner, who owns land in the same survey number, has been given higher compensation.

5. Thus, in the peculiar facts and circumstances of the case, this Court is of the view that the first respondent should examine as to whether the benefit, which was extended to one J.Subramani, son of Purushothama Naidu, (viz., the adjacent landowner) in the award, dated 23.10.2015, can be applied to the case of the petitioner as well, and this could be done after conducting enquiry in the matter.

6. In the light of the above, the Writ Petition is allowed, impugned order is set aside, and the matter is remitted to the first respondent for fresh consideration after notice to the petitioner and hearing her in person. The first respondent is directed to examine as to whether the benefit of the award, dated 23.10.2015, passed in favour of J.Subramani, viz., the adjacent landowner, could be extended to the petitioner's case as well, and as to whether the same amount of compensation at the rate of Rs.533/- per sq.ft., could be awarded to the petitioner, by considering the fact that the petitioner also owns the land in the same survey number, viz. S.No.5/9B. The abovesaid direction be complied with by the first respondent within a period of four months from the date of receipt of a copy of this order.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Arbitrator and District Collector,
Tiruvallur.

2. The Competent Authority and Special District
Revenue Officer, (LA) National Highways 205,
Tiruvallur
3. The Project Director,
NHAI, Project implementation Unit Chennai,
Sri Tower, 3rd Floor, DP 34 (SP)
Industrial Estate, Guindy, Chennai - 32.

+lcc to Mr.V.Raghavachari, Advocate, S.R.No.22424
+lcc to the Government Pleader, S.R.No.22575

Writ Petition No.8964 of 2016

NM(CO)
CA(27/04/2016)



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