



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 19.07.2016

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THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P (MD) No.12600 of 2016

S.Thillainayagam

..Petitioner

Vs

1.The District Collector,
District Collector's Office,
Madurai.

2.The District Revenue Officer,
Madurai District,
Madurai.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to consider the Petitioner's representation dated 18.05.2016 and refer the application to the competent authority under Section 3(G) (5) of the National Highways Act.

For Petitioner :M/s.R.Subramanian

For Respondents :Mr.J.Gunaseelan Muthiah
Govt.Advocate

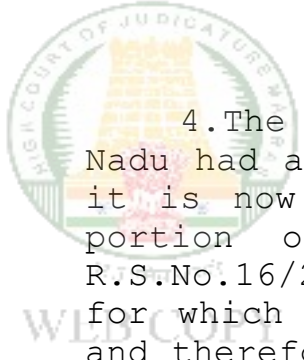
ORDER

Heard both sides.

2.By consent of both sides, the main Writ Petition itself is taken up for final disposal.

3.No counter is filed on behalf of the Respondents.

3.According to the Petitioner, his father was the absolute owner of the property situated in R.S.No.16/2, Paraipathi Village, Madurai South, measuring an extent of 1.70 acres under the Settlement Deed, dated 07.01.1974. His father settled the entire property in favour of his brother Ashokan and himself. Subsequently, there was an oral partition and the property was divided and he was allotted the property situated in R.S.No.16/2A2, measuring an extent of 32 ares (patta No.756).



4.The stand of the Petitioner is that the Government of Tamil Nadu had acquired an extent of 1,770 sq.mts in R.S.No.16/2A2 and it is now marked as R.S.No.16/2A2A. As a matter of fact, the portion of the land remaining with him is marked as R.S.No.16/2A2B. Further, the land was not required for the purpose for which it was acquired, since the National Highway was laid and therefore, he made a request for withdrawing the acquisition and prayed for return of the land to him. However, there was no response.

5.It comes to be known that the Petitioner received a letter from the First Respondent stating that compensation was recommended for his land and further, he was called upon to submit the necessary title deeds. He submitted the same and received a communication stating that a sum of Rs.1,04,787/- was determined as compensation. Also, during December 2015, he submitted his objections stating that the compensation amount was meagre and was not in accordance with the statutory provisions. In fact, the Second Respondent/The District Revenue Officer, Madurai District, Madurai had not referred the request to the authority, as required under Section 3(G) (5) of the National Highways Act, 1956.

6.The core stand taken on behalf of the Petitioner is that on 17.11.2014 itself, the Petitioner had requested for withdrawal of decision, as the road has been widened and it is no longer required for the Government. However, no order in this regard has been passed. As such, he made a representation on 18.05.2016 stating that since the his request for return of the land has not been considered, the Second Respondent may refer the quantum of compensation to the First Respondent/The District Collector, District Collector's Office, Madurai, for arbitration under the National Highways Act. He had also enclosed a proof to the effect that the property allotted to his brother in R.S.No.16/2A1B in the same Patta No.756 which was assessed at Rs.70,000/- per cent by the approved valuer appointed by the State Bank of India. Therefore, the plea of the Petitioner is that the compensation fixed is arbitrary and unreasonable one. Since the Second Respondent had not acted in accordance with the representation made by the Petitioner, the Petitioner is constrained to file the present Writ Petition seeking necessary relief thereto.

7.The Learned Counsel for the Petitioner urges before this Court that the Second Respondent/The District Revenue Officer, Madurai District, Madurai's inaction in not referring the issue of compensation in terms of Section 3(G) (5) of the National Highways Act, 1956 is illegal and un-sustainable one.

8.The Learned Counsel for the Petitioner contends that the compensation amount of Rs.,1,04,787/- awarded for 1770 sq.mts is a meagre and unreasonable one. Furthermore, it is represented on behalf of the Petitioner that in terms of Section 3(G) (5) of the



National Highways Act, if the amount determined by the competent authority under Sub-Section(1) or Sub-Section(2) is not acceptable to either of the parties, the amount shall, on application by either of the parties, be determined by the arbitrator to be appointed by the Central Government. Lastly, It is projected on behalf of the Petitioner that the Second Respondent/The District Revenue Officer, Madurai District, Madurai ought to have referred his application under Section 3(G)(5) of the National Highways Act, 1956(in short called as the 'Act').)

9.It is to be noted that Section 3(a) of the National Highways Act, 1956 defines 'competent authority' means any person or authority authorized by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority for such area, as may be specified in the notification.'

10.Section 3(C) of the National Highways Act, 1956 speaks of 'Hearing the Objections. Section 3(G) of the 'Act' relates to 'Determination of amount payable as compensation'. Section 3-H of the 'Act' under the caption 'Deposit and payment of amount' enjoins that the amount determined under Section 3(G) of the 'Act' shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government with the competent authority before taking possession of the land etc. In reality, Section 3(H) of the 'Act' dealt with 'Deposit and payment of amount and Section 4 of the said Act reads as under:

''(4)If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the Principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated.''

11.Section 3(H) (5) of the Act speaks of, as under:

''(5)Where the amount determined under Section 3-G by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at nine percent per annum on such excess amount from the date of taking possession under Section 3-D till the date of the actual deposit thereof. ''

12.Section 3(H) (6) of the Act runs as under:

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''(6)Where the amount determined by the arbitrator is in excess of the amount determined by the competent



authority, the excess amount together with interest, if any, awarded under sub-section(5) shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority and the provisions of sub-sections(2) to (4) shall apply to such deposit.''

13.As far as the present case is concerned, the award was passed as early as on 24.08.2009. The Petitioner has projected the present Writ Petition before this Court on 15.07.2016. Also, it is seen from the typed-set of papers that the Petitioner had made representation before the First Respondent as early as on 17.11.2014. Thereafter, he made another representation on 18.12.2015. Finally, he had made a representation on 18.5.2016.

14.At this stage, it is represented on behalf of the Petitioner that even though the award in question was passed as early as on 19.10.2015, till date the said sum was not deposited by the concerned authority.

15.In view of the fact that in the instant case, the award was passed in the year 2009 and nearly seven years have rolled by till this date and that the Petitioner had submitted his last representation to the concerned authority on 18.05.2016 and also this Court, taking note of the fact that the Petitioner's only grievance appears to be is that his last representation, dated 18.5.2016 and earlier representations dated 17.11.2014 and 18.12.2015 was not considered by the authorities concerned. This Court, in the interest of justice, Fair Play, Equity, Good Conscience and even as a matter of prudence, directs the First Respondent to look into the representation of the Petitioner, dated 18.05.2016 within a period of one week from the date of receipt of a copy of this order. Thereafter, the First Respondent is to pass a reasoned speaking order on merits(outlining the process of reasoning in a qualitative and quantitative manner) in a fair, free, with an open and unbiased mind and that too, in a dispassionate manner, within a period of three weeks thereafter. (of course after providing necessary opportunity to the Petitioner and others concerned, if any, by adhering to the principles of natural justice in true letter and spirit). If the First Respondent comes to a resultant conclusion that the Petitioner's representation is to be referred to arbitration in regard to the quantum of compensation as claimed by the Petitioner, then the First Respondent is to keep in mind the necessary ingredients of the National Highways Act, 1956 and to refer the subject-matter in issue for arbitration, if situation warrants, based on facts and circumstances of the case.. It is open to the Petitioner to serve copies of all necessary/relevant documents before the First respondent/The District Collector, District Collector's Office, Madurai and the First Respondent shall take into



consideration of the same at the time of disposal of the representation of the Petitioner, dated 18.05.2016. The Petitioner is directed to lend his assistance/cooperation to the First Respondent in disposing of his representation dated 18.5.2016.

16. With the aforesaid observations and directions, the Writ Petition stands disposed of. No costs.

Sd/
Assistant Registrar (P&A)

/True copy/

Sub Assistant Registrar

To

1. The District Collector,
District Collector's Office, Madurai.

2. The District Revenue Officer,
Madurai District, Madurai.

+1cc to Mr. R. Subramanian, Advocate in SR.No.37851
+1cc to Special Government Pleader in SR.No.37592

SDR/SKS-RR/26.07.2016/5P/5C

W.P(MD)No.12600 of 2016

19.07.2016