

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.No.22731 of 2017

K.Ganapathy

... Petitioner

v.

1 The District Collector
Namakkal District
Appointed as Arbitrator
under Section 3 (G) (5) of the National
Highways Act 1956

2 The Competent Authority
(NHAI)/ District Revenue Officer
NH-7 & 47
Namakkal District

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus to call for the records of the 1st respondent in relation to the impugned proceedings in Na. Ka. 4523/2012/Arbit. dated 19.9.2016, to quash the same and further direct the 1st respondent to hear the claim petition preferred by the petitioner.

For Petitioner : Mr.C.Ashok Kumar

For Respondent : Mr.S.Diwakar
Spl. Govt. Pleader

ORDER

Mr.S.Diwakar, learned Special Government Pleader, takes notice for the respondents. By consent, the main writ petition itself is taken up for disposal at the admission stage itself.

2. The petitioner has filed the above writ petition to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in relation to the impugned proceedings dated 19.9.2016, to quash the same and further direct the 1st respondent to hear the claim petition preferred by him.

3.1 It is the case of the petitioner that an extent of 45.0 sq.mtrs land in Survey No.50/5-92 of Mulakkadu Village, Rasipuram Taluk, Namakkal District, belonging to him was acquired by the 2nd respondent for the purpose of extension of NH-7 & 47. The officials from the respondent and the petitioner had participated in the Award enquiry conducted by the 2nd respondent under section 3(G)(5) of the National Highways Act, 1956. Even at the time of award enquiry, the petitioner had produced various records to show that the valuation of the building, land under enjoyment and other factors to show that the valuation already done by the authorities was incorrect and therefore, she sought for enhanced compensation based upon the prevailing market value at the time of acquisition.

3.2 According to the petitioner, the compensation given by the respondent is inadequate. In these circumstances, the petitioner sent several representations to the 1st respondent, however, the 1st respondent rejected the request of the petitioner stating that the claim made by the petitioner is barred by limitation.

4. The learned counsel appearing for the petitioner submitted that in similar circumstances, this court in an unreported order dated 18.02.2016 made in W.P.No.6055 of 2016 [P.M.Palanisamy and another v. The District Collector/Arbitrator, Erode District, Erode and another], following the order passed by the Division Bench of this court dated 04.12.2012 in W.P.No.32197 of 2012 [R.Gopalakrishnan v. The Secretary to Government and 6 others], held that section 3(G)(5) of the National Highways Act does not prescribe a period of limitation and therefore, if the claim is made beyond the period of three years, the same should be entertained by the Arbitrator.

5. The ratio laid down by this court in the said writ petition squarely applies to the facts and circumstances of the present case.

6. Following the ratio laid down by this court in W.P.No.6055 of 2016, the impugned order dated 19.09.2016 is set aside. The writ petition stands allowed and the

1st respondent is directed to consider the petitioner's claim for enhanced compensation on merits and in accordance with law, as expeditiously as possible, preferably, within a period of eight weeks, from the date of receipt of a copy of this order. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

Rj

To

- 1 The District Collector
Namakkal District
- 2 The Competent Authority
(NHAI)/ District Revenue Officer
NH-7 & 47, Namakkal District

+1cc to Mr.S.Senthil, Advocate sr.61228

+1cc to Government Pleader sr.62076

W.P.No.22731 of 2017

ss(12/9/2017)

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