

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

W.P.No.17912 of 2017 &
W.M.P.No.19444 of 2017

1 K.Karupannan
2 V.K.Venkatachalam
3 V.N.Kandasamy
4 V.K.Palanisamy
5 P.Marimuthu ... Petitioners

v.

1 The District Collector
Namakkal.
2 The competent Authority cum
District Revenue Officer (Land Acquisition)
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.No.16641/2010/Arbit, dated 04.08.2016, quash the same and further direct the 1st respondent to hear the claim petitions preferred by the petitioners.

For Petitioner : Mr.S.Saravanakumar

For Respondents : 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 petitioners have 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 04.08.2016, to quash the same and further direct the 1st

respondent to hear the claim petitions preferred by the petitioners.

3. It is the case of the petitioners that the lands belonging to them were sought to be acquired by the 2nd respondent for the purpose of expansion of NH-7 & NH-47. The petitioners have participated in the award enquiry conducted by the 2nd respondent under section 3(G)(3) of the National Highways Act, 1956. At the time of enquiry, the petitioners have produced various records, viz., the valuation of the building, lands under enjoyment and other factors, to show that the valuation already done by the authorities was not correct and therefore, sought for higher valuation for the various items during the award enquiry. The award came to be passed for the petitioners' lands and aggrieved over the same, they sent representations highlighting the same and thereafter, since there was no action, the petitioners again gave representations and the 1st respondent passed the impugned order rejecting the claim for enhancement of compensation on the ground of limitation. Challenging this order, the petitioners have filed the above writ petition.

4. The learned counsel appearing for the petitioner submitted that in similar circumstances, this court, by order dated 05.12.2016, in W.P.No.40595 of 2016, quashed the impugned order dated 04.08.2016.

5. It is pertinent to note that the very same order which has been impugned in the present writ petition was quashed by this court in the said writ petition. It is also pertinent to note that in terms of sub section (6) of Section 3G of the Act, proceedings to be conducted by the Arbitrator is in terms of Arbitration and Conciliation Act and the procedural law at best could aid in the object for which power has been conferred on the Arbitrator in terms of section 3G(5) of the National Highways Act. As long as the National Highways Act, does prescribe a period of limitation, the procedural law to be followed by the Arbitrator, while adjudicating a dispute, cannot seek to take away the vested right of a land loser to seek for enhanced compensation for such procedural law cannot seek to abrogate the rights of the person, who is aggrieved by the fixation of compensation by the competent authority. This is so because section 3G(5) of the National Highways Act uses the expression "not accessible to either of the parties". This interpretation alone would subserve the intension of the statute as the compensation payable should be just and reasonable and not fanciful or a bounty. It is needless to say that the proceedings are governed by the procedure contemplated under the Arbitration and Conciliation Act and that by itself cannot deny the right of the land owners for just and reasonable compensation and the delay in approaching the authority cannot

non-suit the land owner, who has lost his valuable right over the property.

6. In these circumstances, the impugned order dated 04.08.2016 is quashed and the writ petition stands allowed with a direction to the respondents to consider the claim of the petitioners 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. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

Rj

To

1 The District Collector
Namakkal.

2 The competent Authority cum
District Revenue Officer (Land Acquisition)
NH-7 & 47 Namakkal District

+ 1 cc to M/s.I.Akbar Md Abdullah, Advocate, SR.49536

+ 1 cc to The Govt.Pleader, SR.49694

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NR 26/07/2017

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