

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2017

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.37525 of 2016
and WMP.No.32154 of 2016

M.R.Chinnusamy

... Petitioner

-Vs-

1.The District Collector
Namakkal District, Collectorate
Namakkal.

2.The Special District Revenue Officer (LA)
Tamil Nadu Road Sector Project-II
Salem-5.

3.The Divisional Engineer (H)
Tamil Nadu Road Sector Project-II
Salem-5.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to take appropriate steps to calculate compensation for bore well and 27 coconut trees of the petitioner and pass necessary award and disburse the compensation to the petitioner at the earliest possible time.

For Petitioner : Mr.V.S.Kesavan

For Respondents : Mr.A.Zakir Hussain
Government Advocate

ORDER

The present petition is filed seeking to direct the second respondent to consider the representation of the petitioner dated 13.07.2016 to value the coconut trees which have been cut by the authorities since the passing of the award and without providing any compensation.

2. Admittedly, the award has been passed by the Collector under Section 19 of the Tamil Nadu Highways Act, 2001. Under Section 20 of the Tamil Nadu Highways Act, 2001, any person aggrieved by the decision of the Collector or the authority who passed the award, may within 60 days from the date of such decision, make

an application to the Collector or the authority who passed the award for referring the matter to the Court concerned within whose jurisdiction the land is situate, in accordance with Section 18 of the Land Acquisition Act, 1894.

3. Mr.A.Zakir Hussain, learned Government Advocate enters appearance for the respondents and was heard. Since the right of the petitioner is only to approach the Collector to seek reference of the matter to the Court under Section 20 of the Act, it is only appropriate that he is required to resort to that remedy. It is however apparent that the petitioner has mistakenly moved this Court seeking a direction to the authority who passed the award for granting compensation for his trees. This patent error in approach of the petitioner as to the appellate forum should necessarily be considered as a bonafide mistake and accordingly the second respondent or such other officer, who has passed the award is required to treat the representation of the petitioner dated 13.07.2016, as an application made under Section 20 of the Tamil Nadu Highways Act, 2001, and accordingly shall refer the matter to the Sub Court within whose jurisdiction the property of the petitioner is situated.

4. The learned counsel for the petitioner also brought to the notice of this Court that even prior to the said representation and even prior to the passing of the award, the petitioner has approached the authorities for payment of compensation for the trees. This is left open for the reference-Court to consider.

With the above direction, this writ petition is hereby disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy// सत्यमेव जयते

Sub Assistant Registrar

ds

To:

- 1.The District Collector
Namakkal District, Collectorate
Namakkal.
- 2.The Special District Revenue Officer (LA)
Tamil Nadu Road Sector Project-II
Salem-5.

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3.The Divisional Engineer (H)
Tamil Nadu Road Sector Project-II
Salem-5.

+1cc to Mr.V.S.Kesavan, Advocate, S.R.No.89519

+1cc to the Government Pleader, S.R.No.89945

W.P.No.37525 of 2016

SV(CO)
RRK(29/01/2018)



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