

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.04.2017

Coram

The Honourable Mr.Justice M.M.SUNDRESH

W.P.No.41525 of 2016
& W.M.P.No.35513 of 2016

Elizabeth

... Petitioner

Vs.

- 1 The District Collector & Arbitrator,
Collectorate,
District Collectorate Building,
Krishnagiri-635 001.
- 2 The Competent Authority &
Special Revenue Officer (L.A),
National Highways 7,46,47&66,
Salem, Krishnagiri Districts,
Krishnagiri-635 001.
- 3 The Special Tahsildhar (L.A)
N.H.7 & 46, Unit-II
Krishnagiri-635 001.
- 4 National Highway Authority of India,
By its Project Director,
259/1, Salem Main Road,
Near KAKC Petrol Bunk
Krishnagiri-635 001.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for a writ of Certiorari to call for the records relating to the order dated 22.07.2016 made in Na.Ka.72/2007/E.Thee herein and quash the same consequently direct the 4th respondent to conduct Arbitration proceedings in accordance with provision of Arbitration and Conciliation Act, 1996.

For Petitioner :Mr.T.Sathyamoorthy

For Respondents:Mr.S.Diwakar,
Special Government Pleader
(For R1 to R3)
M/s.S.R.Sumathi (For R4)

O R D E R

Heard Mr.T.Sathyamoorthy, learned counsel appearing for the petitioner, Mr.S.Diwakar, learned Special Government Pleader appearing for the respondents 1 to 3 and M/s.S.R.Sumathi, learned counsel appearing for the fourth respondent.

2.The petitioner's request for enhanced compensation was rejected by the impugned order on the sole ground that it has been rejected belatedly 14.06.2012. The averments of the petitioner in the affidavit supported by the document evidencing the postal receipt and the acknowledgment are to the effect that they have been sent on 05.05.2004 and received on 07.05.2004. As it is denied in the counter affidavit, this Court directed the records to be produced. Records did not indicate the receipt of the said representation.

3.From the documents filed by the petitioner, this Court is convinced about the representation having been sent. There are two types of documents which are filed, one is with respect the receipt for sending the representation with acknowledgment due and another is acknowledgment themselves. There is a presumption in law under the Indian Evidence Act about the communication sent by post. There is no material to rebut the said presumption, though purely denied by the respondents in the counter affidavit. After all what the petitioner want is an adjudication for enhanced compensation on merits.

4.In such view of the matter, the order impugned is set aside and consequently, the respondents are to initiate arbitral proceedings for enhancement over the property of the petitioner. Accordingly, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

cse/msv

To

- 1 The District Collector & Arbitrator,
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- 4 National Highway Authority of India,
By its Project Director,
259/1, Salem Main Road,
Near KAKC Petrol Bunk
Krishnagiri-635 001.

+1cc to Mr.T.Sathiyamoorthy, Advocate Sr.22248
+1cc to the Government Pleader Sr.22103

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gj[col]
srg 27/04/2017

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