

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.03.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

W.P.No.6160 of 2018

R.Srinivasan

...Petitioner

Versus

1. Union of India,
Rep. by Secretary,
National Highways Department,
New Delhi.
2. National Highways Authority of India,
Rep. by its Project Director,
In charge of NH 45,
Dindivanam,
Villupuram District,
Tamil Nadu.
3. The District Collector,
Villupuram.
4. The Competent Authority (L.A),
NH-45, Thindivanam Bye Pass,
Villupuram Collectorate,
Villupuram District,
Tamil Nadu.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a issuance of a Writ of Mandamus directing the fourth respondent to grant compensation under the repealed Land Acquisition Act, 1894 as amended under Sections 23(1-A), 23(2), 28 and other provisions of the said Act as declared in Civil Appeal Nos.129 to 159 of 2014 by the Apex Court dated 11.07.2016 in Union of India and Others Vs. T.Chakrapani and others pertaining to petitioners lands in Survey Nos.11/1B1B measuring an extent of 285 Sq.mts or 3671 Sq.ft at Kidangal Village, Tindivanam, Villupuram District.

For Petitioner	:	Mr.David Tygaraj
For Respondent 2	:	Mrs.S.R.Sumathy
Respondents 3 & 4	:	Mr.M.Karthikeyan, Addl. Govt. Pleader

O R D E R

By consent of the parties, this Writ Petition is taken up for final disposal.

2. The petitioner herein owned a property of 5 acres 33 cents in Survey Nos.19/14, 6A, 20/1A, 1B, 1C, 1D, 1E, 2C, 2D & 2E at Kidangal Village, Thindivanam, Villupuram District which he purchased from Mr.V.Rajamanicka Chettiar and others on 11.01.1996 for a valuable consideration. The petitioner's lands were acquired for expansion and to implement National Highways NH-66, Tindivanam, Villupuram, Thiruchirapalli and the fourth respondent herein had passed an award on 18.12.2009 in N.K.441/2007/NA66/ Tindivanam for the expansion of NH-66, Tindivanam, measuring an extent 00270 sq.mts or 2096 sq.ft located in Kidangal Village, Tindivanam, Villupuram by fixing the value of land at Rs.192/- per sq.ft against which the petitioner had preferred an application under Section 3G(5) of the National Highways Act as amended on 11.08.2017 by registered post to the third respondent for enhanced compensation and the same was kept pending. Aggreived by this, the petitioner moved this Court with a Writ Petition in W.P.No.24482 of 2017. This Court vide its order dated 12.09.2017, directed the third respondent to dispose of the application within a period of three months from the date of numbering of the petition.

3.1. The learned counsel for the petitioner has brought to the notice of this Court that in a similar case in W.P.Nos.15699 of 2008 & batch etc. where certain Chakrapani and few others had moved this Court challenging the Constitutional validity of Section 3J of the National Highways Act, 1956. This Court, Vide its order dated 04.03.2011 has allowed the said writ petition and its connected batch of cases in [Chakrapani & others Vs Union of India and others, (2011 Writ L.R.193)] and has held that Section 3J of the National Highways Act, 1956 is unconstitutional and in paragraph No.36 of its order, it is declared as under :

"36. Consequently, all the writ petitions are allowed, while upholding other provisions of the Act, Section 3-J of the Highways Act is held to be unconstitutional, being hit by Article 14 of the Constitution of India, being in excess of legislative competence. The petitioners, therefore, are held entitled to the compensation of additional market value under Section 23(1)(a), a solatium under Section 23(2) and interest as provided under the Land Acquisition Act."

3.2. Challenging the said order of this Court dated 04.03.2011 W.P.Nos.15699 of 2008 & batch etc., the Union of India had preferred Special Leave Petition in C.A.Nos.129 to 159 of 2014. The Supreme Court, however confirmed the Order of this Court holding that Section 3J is unconstitutional and directed that the "respondents - writ petitioners be paid solatium as due in terms of the impugned order(s) along with interest thereon". Consequently, the petitioners became entitled to be treated in par with those owners who fall within the ambit of Land Acquisition Act, 1894, and also entitled to solatium and interest payable in terms of the said Act.

4. Aggrieved by the inadequacy of compensation awarded to the petitioner, as stated in the earlier paragraphs he presented his claim before the respondents through a representation, dated 27.06.2016. But the said representation was not considered by the respondents, contending that the benefits of solatium and interest would be available only to those who alone had approached the Supreme Court by way of appeal. Since the petitioner was denied of said benefits, he is before this Court with this Writ Petition.

5. Heard Mr.M.Karthikeyan, the learned Additional Government Pleader enters appearance for the respondents 3 & 4 and Mrs.S.R.Sumathy, learned counsel enters appearance for the second respondent. No counter affidavit has been filed in this case.

6. The petitioner's contention is that since there was a direction by the Hon'ble Supreme Court Vide its order dated 11.07.2016 in Civil Appeal Nos.129 to 159 of 2014, to grant compensation to the land owners under the repealed Land Acquisition Act, 1894, the same parity may be shown to him, as their property, the subject matter of the present case, is also involved in the acquisition proceedings initiated by the National Highways Authority.

7. There is no denying the fact that Section 3J of the National Highways Act, 1956 has been declared unconstitutional. Necessarily, those who were denied benefit earlier would be entitled to the benefit now.

8. This petition is therefore disposed of with a direction to the respondents concerned to grant the petitioner the benefits such as solatium and the interest that were denied to the petitioner contrary to the decision of this Court and the Hon'ble Supreme Court holding that Section 3J of the National Act, 1956, as unconstitutional, within a period of twelve weeks from the date of receipt of copy of this order. No costs.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

mrr

To

1. The Secretary,
National Highways Department,
New Delhi.
2. The Project Director,
National Highways Authority of India,
In charge of NH 45,
Dindivanam, Villupuram District,
Tamil Nadu.
3. The District Collector,
Villupuram.
4. The Competent Authority (L.A),
NH-45, Thindivanam Bye Pass,
Villupuram Collectorate,
Villupuram District,
Tamil Nadu.

+1cc to the Government Pleader, S.R.No. 22363
+2cc to Mr.DAVID TYAGARAJ, Advocate, S.R.No.20987
+1cc to Mr.S.R.SUMATHY, Advocate, S.R.No. 20748

W.P.No.6160 of 2018

TR(08/06/2018)