

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2018

CORAM

The Hon'ble Mr. Justice V.BHARATHIDASAN

Writ Petition No.10623 of 2018

Tmt.A.Victoria

... Petitioner

vs.

1.The District Collector cum Arbitrator
Office of the District Collector,
Tiruvallur District, Tiruvallur.

2.The Competent Authority - cum -
The Special District Revenue Officer (LA)
National Highways - 205,
No.3 & 4, Lal Bagadthur Sasthiri Street,
Periyakuppam Railway Station (Near)
Tulasi, Tiruvallur.

3.The Project Director,
National Highways,
Chennai.

(R.3 suo motu impleaded by this
Court on 26.04.2018)

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus calling for the records of the first respondent herein in her proceedings RC.No.8524/15/F3, dated 24.03.2017 and quash the same and further direct the respondents herein to pay to the petitioner at the rate of Rs.675/- per square feet for the acquired land measuring 105 sq.mtrs. comprised in Survey No.611/6B of Ekkadu Village (Instead of Rs.300/- per square feet fixed by the Land Acquisition Officer) as held by the learned Special Sub Judge, Tiruvallur in L.A.O.P.No.82 of 2015 on 16.12.2017 along with additional amount U/s.23 (1A) and Section 4(1) of the Land Acquisition Act at 12% per annum from the date of notification till the date of taking possession, solatium at 30% U/s 23(2) of the Land Acquisition Act on the compensation amount and to pay to the petitioner interest at the rate of 9% per annum for the period of one year

and thereafter at the rate of 15% per annum till the date of deposit of the enhanced compensation U/s.28 of the Land Acquisition Act.

For Petitioner : Mr.S.Kasirajan

For Respondents
1 and 2 : Mr.D.Raja,
Additional Government Pleader

For 3rd respondent : Mrs.S.R.Sumathy

ORDER

Challenging the award passed by the first respondent, District Collector, the petitioner is before this Court with this writ petition.

2.The grievance of the petitioner is that the petitioner's land is sought to be acquired under the National Highways Act (hereinafter referred to as "the Act"). An award was also passed by the Acquisition Officer. Not being satisfied with the award, the petitioner filed a petition under Section 3G(5) of the Act, before the first respondent. Now, the first respondent also without considering the material, in its proper perspective, had failed to enhance the award amount to the petitioner. In such circumstances, the present writ petition has been filed.

3.Mr.S.Kasirajan, learned counsel for the petitioner would contend that the persons similarly placed have got more compensation than the petitioner. According to the learned counsel, the award sanctioned by the competent authority is against the provisions of Section 3(G)(7) of the Act. While passing award, the first respondent has failed to taken into account the market value of the petitioner's land.

4.On the other hand, Mr.D.Raja, learned Additional Government Pleader appearing for the respondents 1 and 2 would contend that as against the award passed by the first respondent, a remedy is available to the petitioner under an Arbitration and Conciliation Act, by way of filing an application challenging the award. Without doing so, the petitioner cannot straight away invoke the power of this Court under Article 226 of the Constitution of India.

5.I have considered the rival submissions.

6.As rightly contended by the learned Additional Government Pleader appearing for the respondents 1 and 2, an award passed

under Section 3(G) (5) of the Act, can only be challenged under the provisions of the Arbitration and Conciliation Act, as the compensation award determined by the first respondent under Section 3(G) (5) deemed to be an award passed under the Arbitration and Conciliation Act. Hence, the petitioner remedy is only to file a petition under Section 34 of the Arbitration and Conciliation Act. Without availing the same, the petitioner is before this Court with this writ petition.

7. In view of the above, the writ petition is dismissed. At this juncture, it is submitted by the learned Additional Government Pleader appearing for the respondents 1 and 2 that the District Court in every district is notified for the purpose of filing a petition against the award passed by the District Collector. In such circumstances, liberty is given to the petitioner to file a petition under the Arbitration and Conciliation Act, before the appropriate court, within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

jbm

To

1. The District Collector cum Arbitrator
Office of the District Collector,
Tiruvallur District,
Tiruvallur.

2. The Competent Authority - cum -
The Special District Revenue Officer (LA)
National Highways - 205, सतयमेव जयते
No.3 & 4, Lal Bagadthur Sasthiri Street,
Periyakuppam Railway Station (Near)
Tulasi, Tiruvallur.

3. The Project Director,
National Highways, Chennai.

+1cc to Mr.S.R.Sumathy, Advocate SR.No.64011

+1cc to Mr.S.Kasirajan, Advocate SR.No.63944

W.P.No.10623 of 2018

GMY (23/10/2018)