

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.Nos.31876 & 31877 of 2017,
W.P.Nos.820, 821, 822, 1877 & 1878 of 2018

A.Natarajan .. Petitioner in W.P.Nos.31876 & 31877 of 2017
A.Subramaniam .. Petitioner in W.P.No.820 of 2018
S.Arumugam .. Petitioner in W.P.No.821 of 2018
S.Balasubramaniam
V.Arulmozhi .. Petitioners in W.P.No.822 of 2018
Rajendran .. Petitioner in W.P.No.1877 of 2018
Eswaramoorthi .. Petitioner in W.P.No.1878 of 2018

Vs.

1. The District Collector,
Namakkal District.

2. The Competent Authority,
(NHAI)/District Revenue Officer,
NH-7 & 47, Namakkal District

.. Respondents in all the writ petitions

Prayer in W.P.No.31876, 31877 of 2017, 820, 821, 822, 1877 & 1878 of 2018 : Writ petitions are filed under Article 226 of the Constitution of India for issuance a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in relation to the impugned proceedings in Na.Ka.18569/2010/Arbit, Na.Ka.12248/2009/Arbit dated 17.11.2017 Na.Ka.4517/2012/Arbit dated 04.10.2017, Na.Ka.22349/2010/Arbit dated 24.11.2017, Na.Ka.12250/2009/Arbit dated 02.01.2018, Na.Ka.7201/2010/Arbit dated 02.01.2018 and Na.Ka.18569/2010/Arbit dated 02.01.2018 respectively quash the same and further direct the 1st respondent to hear the claim petitions preferred by the petitioners.

For Petitioners: Mr.S.Senthil in all the Wps

For Respondents: Mr.M.Karthikeyan, AGP in all the WPs

O R D E R

This batch of seven cases has a single point to consider. The properties of the petitioners were acquired under the provisions of National Highways Act, 1956, (herein after referred to as "the Act") for expansion of NH7 and 47 and awards too were passed by the competent authority under Section 3(G) of the Act

on various acquisition. Some of the petitioners had received the compensation under protest and alleged that they have made necessary representation, under Section 3(G) 5 of the National Highways Act, 1956, for raising an arbitral dispute concerning the enhancement of compensation, to the first respondent/statutory arbitrator. However, all the petitioners have preferred separate representation again to the competent authority between October 2017 and December 2017. The details of the same are tabulated herein below:

W.P.No.	Date of Award	Date of representation made by the writ petitioner
31876 of 2017	29.11.2007	30.10.2017
31877 of 2017	19.03.2008	30.10.2017
820 of 2018	09.01.2008	18.09.2017
821 of 2018	30.01.2008	06.11.2017
822 of 2018	12.02.2010	20.11.2017
1877 of 2018	04.02.2008	11.12.2017
1878 of 2018	17.07.2007	11.12.2017

2. The learned counsel for the petitioners now seeks a direction from this Court to the authority concerned to take on its file the dispute for arbitration by the first respondent. The learned counsel for the petitioners submitted that so far as the petitioners in W.P.Nos.31876 & 31877 of 2017, 820 of to 822 2018 and 1877 & 1878 of 2018 are concerned, having received their compensation amount under protest and having also made representations for referring the matter to the arbitration of the first respondent on the very date, they were constrained to make a second representation in 2017, as nothing was heard on the action taken on the first one, as indicated in the tabulation above. Placing reliance on the orders of this Court in W.P.No.6055 of 2016 dated 18.02.2016 (Palanisamy and others vs. District Collector/Arbitrator, Erode District, Erode and another), and in W.P.No.23290 of 2017 dated 30.08.2017 (P.Kandasamy Vs. District Collector, Namakkal District and another) argued that since no limitation period is provided in the statute for referring the matter for arbitration by the statutory arbitrator, this court may direct the first respondent to take on file the arbitral dispute raised by the petitioners.

3. Per contra, Mr.M.Karthikeyan, Additional Government Pleader appearing for the respondents submitted that even in cases where statute is silent as to the time within which an arbitral

dispute should be referred to the decision of statutory arbitrator, it is imperative, that the same should have been done within a reasonable time. In all these cases the petitioners were late by close to 10 years, and therefore latches on the part of the petitioners should not be condoned. He also emphasised that in all cases where such arbitration is made, there is a risk of statutory arbitrator awarding interest, which would put premium on the inaction and lethargy of the petitioners.

4. On an assessment of rival submissions made, this Court is of the view that the petitioners have lost their lands and rather parted with their lands involuntarily under the powers of eminent domain, may not be denied the right to obtain higher compensation, if they are otherwise entitled to. However, for their lackadaisical attitude in not pursuing the remedies within a reasonable time, they are not entitled to any premium in the form of interest. Balancing these two aspects, this Court directs the first respondent to entertain the arbitral dispute of all the petitioners forthwith, inasmuch as the petitioners in W.P.No.31877 of 2017 and W.P.Nos.820 to 822 of 2018, have stated that they have made a representation for reference of the dispute to the arbitrator even on the very date on which they received the compensation.

5. The first respondent shall verify the same on its file and if there are any such representation as asserted by these petitioners then the arbitrator, while disposing of the arbitral dispute, shall treat those cases as if they are filed in time and grant the relief accordingly. Where there are no such earlier representations, then, their cases along with other cases in W.P.Nos.31876 of 2017 and 1877 and 1878 of 2018 shall be disposed of, based on the date on which the first respondent takes the dispute to its file. In all such cases indicated under this category, none of the petitioners would be entitled to any interest prior to the date on which the arbitrator takes the arbitration to its file.

6. The arbitrator is directed to dispose of the arbitration as expeditiously as possible after affording all reasonable and effective opportunity to the petitioners concerned to put forward their cases. With above directions all the writ petitions are disposed of. No costs.

Sd/-

Assistant Registrar(CS IX)

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Sub Assistant Registrar

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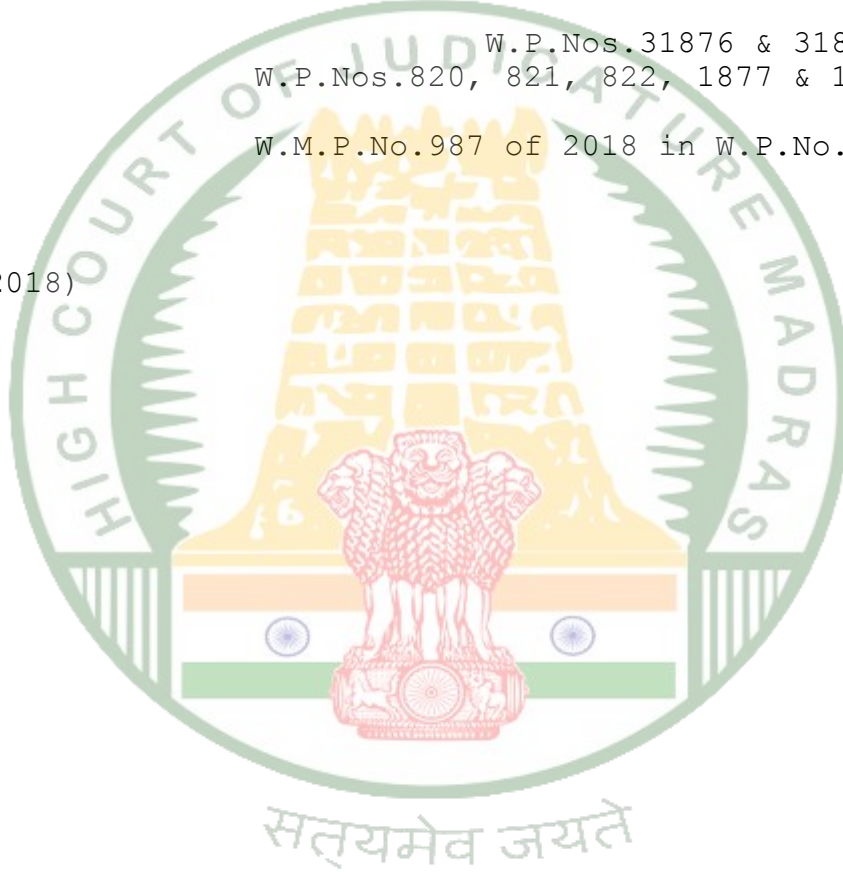
1. The District Collector,
Namakkal District.
2. The Competent Authority,
(NHAI)/District Revenue Officer,
NH-7 & 47, Namakkal District.

+2cc to Mr.S.R.Sumathy, Advocate SR.No.16088, 16089

+6cc to Mr.S.Senthil, Advocate SR.No.16393 to 16399

W.P.Nos.31876 & 31877 of 2017,
W.P.Nos.820, 821, 822, 1877 & 1878 of 2018
and
W.M.P.No.987 of 2018 in W.P.No.822 of 2018

GN(03/04/2018)



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