

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.21735 of 2017

1.T.Chakrapani
2.K.G.Murali
3.Elumalai Achari
4.V.Chidambaram
5.K.Velayudam
6.K.Saravanan
7.Ranganayagi

... Petitioners

-Vs-

1.The National Highways Authority of India
Rep by its Project Director
Incharge of NH4
Thiruvallur
Thiruvallur District - 602 001.

2.The Competent Authority
NH-4, viding Nerkundram Village
Poonamallee,
Thiruvallur
Thiruvallur District - 602 001.

3.The Special Tahsildar Land Acquisition
National Highways NH-5
Poonamallee - 600 056.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the second respondent to dispose of the representations made by the first petitioner and other petitioners dated 06.02.2017 and 09.03.2017 and to grant compensation as per the Hon'ble Apex Court judgment in Civil Appeal C.A.No.129 to 159 of 2014 dated 21.07.2016.

For Petitioner : Mr.David Tyagaraj
For Respondents : Mr.A.Zakir Hussain
Government Advocate [RR2 & 3]
Mrs.S.R.Sumathy [for R1]

ORDER

By consent of the parties, the writ petition is taken up for final disposal.

2.1. The seven petitioners herein possessed separate parcels of land in different survey numbers in Nerkundram Village and these properties were acquired under the provisions of the National Highways Act, 1956, and separate awards were passed on 12.12.2006, quantifying the compensation payable. The details thereto are as follows :

Sl. No.	Name of the petitioner	Survey Nos.of the property at Nerkundram Village	Extent of the property (sq.ft.)	Award Amount (Rs.)
1.	T.Chakrapani	22/2A, 1B & 22/2A, 2B	Ground Floor: 720.55 First Floor : 620.00 Staircase leading to First Floor: 36.00 Open terrace: 82.50 Parapet Wall: 59.62 Building : 720.55 O.T.S. Area : 253.50	11,94,969/-
2.	K.G.Murali	Old Survey No.16/3B Part New Survey No.16/3B2	1100	15,93,131/-
3.	Elumalai Achari	8/1A	1069.08	2,39,644/-
4.	V.Chidambaram	Old Survey No.15/2B1A1B2B2	1700.00	14,01,380/-
5.	K.Velayudam	8/1A3B	608.20	3,19,525/-
6.	K.Saravanan	8/1A2B	612.50	2,66,270/-
7.	Ranganayagi	7/4B	1030	7,97,902/-

The aforesaid award included 10% amount quantified as the compensation amount payable for the deprivation of right of user or any right in nature of easement which the owners of the property acquired, had suffered as provided under Section 3-G(2) of the said Act. However, no solatium or interest payable thereon in the manner provided in the land Acquisition Act, 1894, was awarded to them.

2.2. Section 3J of the National Highways Act, 1956 excluded the operation of the Land Acquisition Act, 1894 in matters connected with under the former Act. As this provision created irrational and arbitrary disparity in the matter of compensating the owners whose lands were acquired under the National Highways Act, 1956 on the one hand and those whose lands were acquired under the Land Acquisition Act, 1894, the petitioner along with others moved this Court in W.P.No.15699 of 2008 and challenged the Constitutional validity of Section 3-J 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 [Chakrapani & others Vs Union of India and others, (2011 Writ L.R.193)] and declared in paragraph No.36 of its order:

"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."

Ultimately, this issue reached the Supreme Court when Union of India challenged the Order of this court declaring Sec.3J unconstitutional in Civil Appeal Nos.129-159 of 2014. The Supreme Court, however confirmed the Order of this Court holding that Section 3-J 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.

3. Thereafter, the petitioners herein moved the authorities concerned, to secure their right, consequent to the order of this Court in W.P.No.15699 of 2008 & etc., batch and confirmed by the Supreme Court as stated above, Vide their representations dated 06.02.2017 and 09.03.2017.

4. Mr.David Thyagaraj, learned counsel appearing for the petitioners submitted that while the facts as narrated in the affidavit is self-explanatory of the rights of the petitioners to seek compensation in terms of the Land Acquisition Act 1894, the respondents are yet to respond to the representations of the petitioners. He also submitted that one Mr.R.Srinivasan [Petitioner in W.P.No.15818 & 15819 of 2008], one of the petitioners in the aforesaid said batch of writ petitions, had moved this Court in yet another W.P.No.43711 of 2016, for enforcing the benefits accrued to the petitioner based on the decisions of this Court as stated above, and the said petition was allowed with a direction to the authorities concerned to dispose of his representation. The learned counsel now only seeks parity in the matter of conferring benefit of all the petitioners in W.P.No.15699 of 2008.

5. Mrs.S.R.Sumathy, learned counsel enters appearance for the first respondent and Mr.A.Zakir Hussain, learned Government Advocate enters appearance for the second and third respondent. The learned counsel appearing for the first respondent made a statement on instructions that pursuant to the order of this

Court passed in W.P.No.43711 of 2016, the authorities have considered the representation of the petitioner therein and the sum payable is being disbursed to him. Necessarily, the petitioners herein too are entitled to similar treatment. The counsel for the national Highways promised payment to the petitioner in the present case too.

6. Does addressing the consequences that emanate from the Orders of the Highest Court require another order or direction from this Court in another proceeding? The pachydermic insensitivity and slow-motioned response that has come to define the attitude of the statutory and administrative functionaries in implementing the orders and directions of the Courts unmindful of the agony the citizen endures, are disturbing. Experience has it that they invariably feed another action which results in stupendous wastage of judicial time lost in the same cause. Spate of such litigations either as Original actions, or as actions for Contempt of Court deluge this Court and others. It is therefore, time that those who approached the legal system for remedy, and those who are required to respond to them realised that the Court system belonged to them, and that they acted responsibly to minimize the occasions for approaching the Court. Every action spurred by lack of required responsibility burdens the judicial axle, drains the judicial time and buries the cries for justice in deserving causes. Those who cry foul of judicial delay should now hurry to spare concern for the congestion at the entry points to Courts. Judicial delay is not just a systemic malady as is being believed and perceived, but is also a product of tendencies that breed causes for avoidable actions. Hence, it is imperative that those for whose benefit Courts exist act with a sense of belongingness to the judicial system and avoid congestions at the entry points to Courts in order the congestion, if not perceived stagnation, at their exit-points are addressed effectively.

7. Turning to the present case, since petitioners' representations are pending consideration, the same has to be disposed of on the basis of the order passed by the Hon'ble Apex Court in Civil Appeal Nos.129 to 159 of 2014 dated 21.07.2016. Stricto sensu there is nothing for the respondent to consider since the Supreme court itself has directed payment of solatium and interest payable. Therefore, the second respondent is directed to dispose petitioner's pending representations dated 06.02.2017 and 09.03.2017, consistent with the directions of the Supreme Court in Civil Appeal Nos.129 to 159 of 2014 within a period of four weeks from the date of receipt of a copy of this order and make payment expeditiously without driving the petitioners to approach the Court yet another time.

8. In the result, this petition is allowed with the above direction. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To:

1.The National Highways Authority of India
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Incharge of NH4
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3.The Special Tahsildar Land Acquisition
National Highways NH-5
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+1 cc to Mrs.S.R.Sumathy Advocate sr 6412
+1 cc to the Govt Pleader sr 6213
+1 cc to Mr.David Thyagarajan Advocate sr 5985

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