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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.32326 of 2017

S.Raja Mahendra Kumar

... Petitioner

Vs

1. The Arbitrator and District Collector,
District Collector Office,
Sathuvachari, Vellore.

2. The Special District Revenue Office,
(Competent Authority, Land Acquisition),
Land Acquisition, National Highways,
District Collector Office,
Sathuvachari, Vellore.

3. The Special Tahsildar, (Arbitration),
National Highways Unit-I,
B.Block, District Collector Office,
Sathuvachari,
Vellore District - 9.

4. The General Information Officer and
Special Tahsildar,
National Highways Unit-I,
B.Block, District Collector Office, Sathuvachari,
Vellore.

5. The Project Director,
National Highways Authority,
No.259/1, Near KAKL Petrol Bunk,
Salem Main Road,
Krishnagiri-635 001.
(R5 suo-motu impleaded as per
order dated 11.01.2018 by NSSJ
in W.P.No.32326 of 2017).

... Respondents



Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in RC.G4/11764/04, dated 14.07.2010 and quash the same and consequently direct the 1st and 2nd Respondents to pass an award of compensation of Rs.43,16,019/- along with interest and other statutory benefits to the petitioner.

For Petitioner : Mrs.A.Subadra

For Respondents : Mr.Akhil Akbar Ali
Government Advocate
[For R1 to R4]

Mr.Richordson Wilson
For Mr.P.Wilson Associates
[For R5]

O R D E R

The case of the petitioner is that the petitioner owned a piece of property, that it was acquired under the provisions of National Highways Act, 1956, and that an award too was passed on 05.04.2006 where under compensation amount payable was determined at Rs.2,92,934/- by the Competent Authority. Aggrieved by the award of the Competent Authority, the petitioner has moved to statutory arbitrator / the 1st respondent and raised an arbitral dispute for enhancing the compensation. The petitioner is running a petrol Bunk in the said property under the name and style of Iyyappan & Co., as a dealer of M/s Bharat Petroleum Corporation Ltd., The petitioner had invested more than Rs.25,00,000/- for running the business in the petrol bunk. Before the Arbitrator, the petitioner made a claim for Rs.43,55,000/- less the compensation amount already received. While so, during 2011, the petitioner was issued a cheque for Rs.3,39,138/-. The petitioner has received the said amount but thought that the amount paid him is interim compensation amount awarded by the Arbitrator. The petitioner was not called for any enquiry and he finally obtained an information under the Right to Information Act that the award was passed by the 1st respondent on 14.07.2010.

2. This petition was filed some seven years after the Arbitrator has passed his award and some six years after the petitioner has received the compensation amount of Rs.3,39,178/-. The only grievance of the petitioner is that neither the petitioner was served with any notice nor given an opportunity to produce such relevant materials before the Arbitrator.



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3. Mr.Akhil Akbar Ali, the learned Government Advocate is appearing for the respondents 1 to 4 and Mr.Richordson Wilson for Mr.P.Wilson Associates is appearing for the 5th respondent. No counter is filed.

4. The learned counsel for the respondents has brought to the notice of this Court that the Arbitrator has stated in the award that one Mr.K.Udhaya Kumar represented the petitioner and others before him in the arbitral proceedings and none of the claimants including the petitioner have produced any relevant materials to conclude that there existed a case for enhancing the compensation.

5. To a pointed query by this Court as to the nature of documents which the petitioner claims that he produced before the Arbitrator which the latter has ignored to consider, the learned counsel took this Court to page No.32 of the typed set of papers which is a representation filed before the 1st respondent, enclosing some 11 documents.

6. The two facts that are against the petitioner, and they are:

a) During the pendency of the arbitral proceedings, the petitioner has received Rs.3,39,138/- and if according to the petitioner an award was yet to be passed by the Arbitrator, it is not known under what right, he received the said compensation. The minimum which the petitioner should have done as a reasonable and prudent man is to ascertain the basis for the respondent issuing the cheque for Rs.3,39,138/-. The typed set of papers does not indicate that the petitioner has taken any such step before he obtained information under the Right to Information dated 22.09.2017. It does not stand to reason that someone would receive amounts without knowing its basis and still keep quiet without seeking to know why it was paid.

b) Some seven years have lapsed since the compensation of the award by the 1st respondent and the petitioner has approached the Court at a belated hour. While latches in approaching Courts may not always be counted as a formula to deny the citizen of his just right in law, yet it can not also be ignored till the party could explain any disability, legal or otherwise as to why he could not approach the Court in time. Perhaps to get over this, the petitioner puts forth a contention that he came to know of the passing of the final award in



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this matter only through the information obtained under Right to Information Act, and proceeds to qualify that he believed that the award passed was an interim award. But, then it is only a statement under a perception of this Court.

7. In the final analysis, this Court does not find any merit in this petition, and the petition too is hit latches and consequently it is dismissed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ssn

To

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No.259/1, Near KAKL Petrol Bunk,
Salem Main Road,
Krishnagiri-635 001.



+1cc to Mr.P.Wilson Associates, Advocate, S.R.No.14951

+1cc to Mr.M.Malar, Advocate, S.R.No.14466

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W.P.No.32326 of 2017

ssv (CO)

GSP (11/04/2018)