

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2018

CORAM

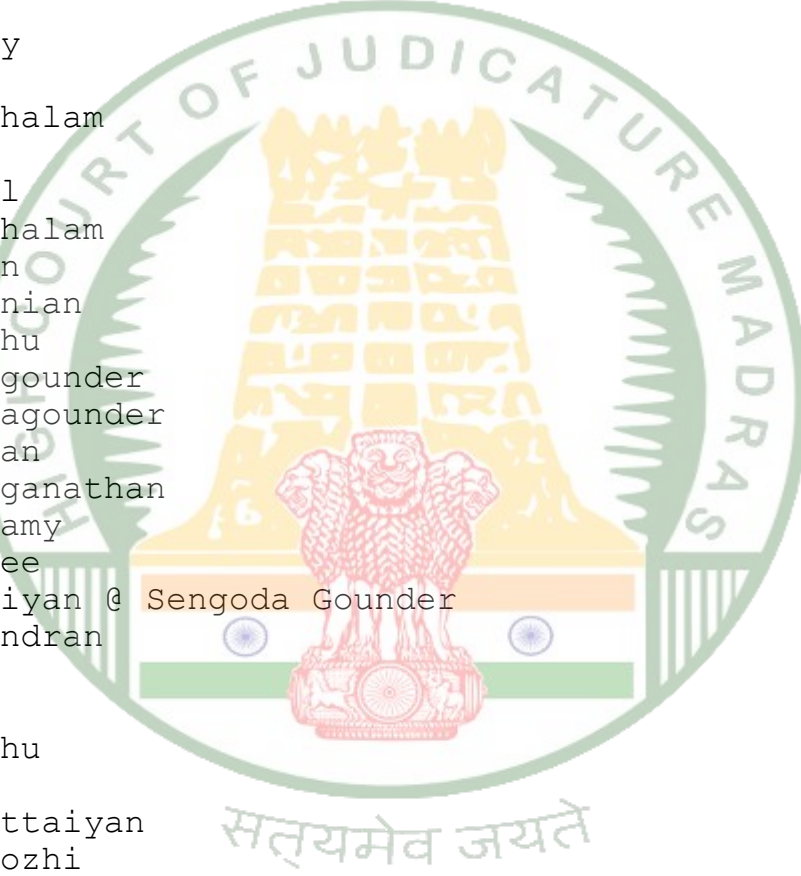
THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P. 22263 of 2018

1. K.Ayyavu
2. Rani
3. Ramaswamy
4. Ponmalai
5. Venkatachalam
6. Rasappan
7. Palanivel
8. Venkatachalam
9. Elangovan
10. Subramanian
11. Kalimuthu
12. Sengodagounder
13. Nallaiyagounder
14. Jayaraman
15. Sri Ranganathan
16. Periyasamy
17. Perumayee
18. Ponnupaiyan @ Sengoda Gounder
19. Ravichandran
20. Sekar
21. Kumar
22. Manimuthu
23. K.Raju
24. A.Sengottaiyan
25. S.Thenmozhi
26. S.Ramamoorthy
27. R.Selvam
28. Selvam

Uthu Kadu Kongu Vellala Gounder
& Kongu Nattu Gounder Trust.

29. S.Santhi
30. Saravanan
31. Chitra
32. T.Chandira
33. Chandira
34. Kavitha



35. Janaki
36. President, Society Congregation,
Sister's St. Joseph Cluny
Fatima Convent, Line Medu,
Gugai, Salem - 636006.
37. Thangarajan
38. D.Venkatesan
39. Jayamani Kamaraj
40. K.Raju
41. Valarmathi
42. Sri Muruganandha Sathu Sabai
Madalayam,
Sri Dakshninamoorthy Thirukoil,
Iraipani Mandra Committee,
Sri Dakshinamoorthy Temple,
Seelanaickenpatty Post,
Salem - 636201.
43. K.Raju (HUF) Petitioners

Vs

1. The District Collector and
Sole Arbitrator,
Salem Collectorate,
Salem-636 001.
2. The Special DRO (Land Acquisition)
Office,
National Highways No.68,
Ram Nagar, Swarnapuri II Gate,
Salem-636 004.
3. Special District Revenue Office (LA),
NH.7, 46 & 47,
Salem-Krishnagiri District,
Krishnagiri. Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the appointment of an Independent Arbitrator preferably a retired Judge of this Hon'ble Court to conduct the Arbitration proceedings in respect of acquisition of the petitioners lands in National Highways 7, 46, 47 & 68

as per the representation made by the Writ Petitioners dated 23.07.2017, 26.07.2017, 18.09.2017, 19.09.2017 and 20.09.2017.

For Petitioner : Mr.P.B.Sampathkumar

For Respondent : Mr.D.Raja,
Addl. Government Pleader
for 1st Respondent

: Mrs.S.R.Sumathy,
Standing Counsel for
Respondents 2 and 3

O R D E R

1. The Writ Petition has been filed seeking for a direction to appoint an independent Arbitrator preferably a retired Judge of this Hon'ble Court and to conduct the arbitration proceedings in respect of the petitioners lands acquisition proceedings.

2. According to the petitioners, their lands are sought to be acquired under the National Highways Act for widening of National highways 7 and 68. Earlier, an award was also passed and against the award passed by the authorised officer, the petitioners have filed applications under Sec.3-G(5) of the National Highways Act before the 1st respondent. Since the petitioners applications were not considered, earlier, the petitioners moved a Writ Petition before this Court in W.P. No.2151 of 2018 seeking for a direction to the 1st respondent to consider their representation and this Court by an order dated 08.02.2018 had passed the following order :-

"3. Heard both sides. The limited prayer of the petitioners is that their arbitration proceedings initiated separately are pending with the first respondent since 2010 may be disposed of at the very earliest. This Court, therefore directs the first respondent to dispose of the arbitration proceedings pertaining to all the 43 petitioners herein, within three months from the date of receipt of a copy of this order after affording

effective and meaningful hearing to the petitioners."

Despite the order passed by this Court, the 1st respondent so far had not passed any order in the applications filed under Sec.3G(5) of the National Highways Act (The Act). In the said circumstances, the present Writ Petition has been filed.

3. I have heard the submissions made by Mr.P.B.Sampathkumar, learned counsel for appearing for the petitioners as well as Mr.D.Raja, learned Addl. Government Pleader for 1st respondent and Mrs.S.R.Sumathy, learned standing counsel for the respondents 2 and 3.

4. Admittedly, the petitioners have already approached this Court seeking for a direction to the 1st respondent District Collector to consider their applications and this Court by an order dated 08.02.2018 directed the District Collector to consider the applications filed by the petitioners under Sec.3-G(5) of the National Highways Act and pass suitable orders within three months from the date of receipt of copy of the order, but so far no orders have been passed.

5. Merely because, the 1st respondent has failed to pass any order, the petitioners cannot seek for appointment of an independent arbitrator, which cannot be granted, for the reason that, under Sec.3-G(5) of the Act, by an order dated 28.03.2018, the District Collector was appointed as Sole Arbitrator by the Government. In pursuant to the same, the Sole Arbitrator/District Collector had also issued notice to the petitioners calling upon them to appear for enquiry and further proceedings are in progress. In the said circumstances, the prayer sought for by the Writ Petitioners cannot be granted.

6. However, as the petitioners applications are pending for a long time and this Court had already directed the 1st respondent to dispose the petitioners applications within a period of three months, the 1st respondent is directed to consider the petitioners applications seeking for enhancement of compensation and pass suitable orders within a period of four weeks from the date of receipt of the copy of this order.

7. Accordingly, with the above direction, the present Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

rpp

To

1. The District Collector and
Sole Arbitrator,
Salem Collectorate,
Salem-636 001.
2. The Special DRO (Land Acquisition)
Office,
National Highways No.68,
Ram Nagar, Swarnapuri II Gate,
Salem-636 004.
3. Special District Revenue Office (LA),
NH.7, 46 & 47,
Salem-Krishnagiri District,
Krishnagiri.

+2cc to Mr.P.B. Sampathkumar, Advocate SR.No.

+1cc to Government Pleader SR.No.59317

W.P. 22263 of 2018

GM(04/09/2018)

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