

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2018

CORAM : THE HON'BLE Mr.JUSTICE N.SESHASAYEE

W.P.No.15472 of 2017

Dhanasekaran

... Petitioner

Vs.

1.The District Collector cum Arbitrator,
Under the National Highways Act,
Collectorate, Kancheepuram,
Kancheepuram District.

2.The Competent Authority &
Special District Revenue Officer (LA),
National Highways,
Kancheepuram,
Kancheepuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent District Collector cum Arbitrator in Na.Ka.11143/2016/F5 dated 30.12.2016 and quash the same and consequently direct the 1st respondent to conduct the enhancement proceedings as mentioned in the orders passed in W.P.(M.D.)No.3832 of 2010.

For Petitioner : Mr.D.Muthukumar

For Respondents : Mr.Akhil Akbar Ali
Government Advocate

सत्यमेव जयते
O R D E R

1.1 The petitioner whose lands were acquired under the provisions of the National Highways Act, 1956 and having obtained an award passed by the Competent Authority under Section 3(G) of the National Highways Act, had preferred a dispute to be arbitrated by the Collector/statutory arbitrator under Section 3(G)(5) of the said Act. The Arbitrator in turn has passed an award on 30.12.2016 and this is now under challenge in this petition.

1.2. The arbitral award states that the enquiry has originally commenced on 16.04.2016, that on the request of the petitioner, time was extended to 23.09.2016, that on 23.09.2016, some

representation was made, but the contents of the same are not disclosed.

1.3 The grievance of the petitioner is that she has not been given complete and effective hearing before passing of the impugned award by the statutory arbitrator.

2. Counter is not filed in this case. Mr.Akhil Akbar Ali, learned Government Advocate, appeared for the respondents. He however made available the files/proceedings of the arbitral proceedings of the 1st respondent and it disclosed that on 23.09.2016, only a vakalat was filed by the counsel for the petitioner before the Arbitrator, and thereafter no effective hearing appeared to have taken place.

3. No Authority including Arbitrator can violate any of the principles of natural justice. That no decision/award be passed, which has civil consequences on the rights of the person before them, without affording such person an effective opportunity of being heard in the matter is the gyrating philosophy controls adjudicatory mechanism, and it is indispensable, inviolable and uncompromisable. The files do not indicate that the Arbitrator's proceedings were in conformity with this. While it is appreciable that a proceeding must be fast tracked, the same should not be at the expense of a right of hearing vested in anyone whose rights are being decided.

4. The learned counsel for the petitioner submitted that an arbitral dispute is a continuation of the award passed by the competent authority, therefore, Arbitrator should consider the relevant provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act, 30 of 2013) especially in the context of the second part of Section 105(3) of the said Act, which insists that none of the benefits conferable on the owners of the land under the Central Act 30/2013 shall be denied to anyone whose lands are acquired under any of the Acts enumerated in Schedule V of the said Act.

5. In conclusion, the proceedings of the 1st respondent/the District Collector cum Arbitrator in Na.Ka.11143/2016/F5 dated 30.12.2016 is quashed and the matter is remitted back to the 1st respondent District Collector cum Arbitrator, that the petitioner is permitted to file additional set of grounds before the Arbitrator within four weeks from the date of receipt of a copy of this order, who shall now give adequate and effective opportunity to the petitioner and dispose of the matter within a period of six months thereafter. The petitioner is also directed to give utmost co-operation in the matter without taking any unnecessary adjournments.

The petition is accordingly allowed with the above directions.
No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ssn

To:

- 1.The District Collector cum Arbitrator,
Under the National Highways Act,
Collectorate, Kancheepuram,
Kancheepuram District.
- 2.The Competent Authority &
Special District Revenue Officer (LA),
National Highways,
Kancheepuram,
Kancheepuram District.

+1cc to Mr.Paul & Paul, Advocate, S.R.No.12805

+1cc to the Government Pleader, S.R.No.14085

W.P.No.15472 of 2017

SSI (CO)

RRK(11/04/2018)

सत्यमेव जयते

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