

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2018

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

W.P.No.25740 of 2017

S.Palanimuthu

... Petitioner

Vs.

1. The District Collector
O/o. The District Collector
Salem.
2. The Special Tahsildar (Land Acquisition)
NH-68, 6.458, Bypass Road
Opp to TNEB, Ammapettai (South)
Salem.
3. The Project Director
National Highways Authority of India
Narsothipatti, Salem.
[R3 - suo moto impleaded]

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 01.09.2017.

For Petitioner : Mr.I.Abrar Md. Abdullah

For Respondents: Mr.Akhil Akbar Ali

Government Advocate [for R1 & R2]

Mrs.S.R.Sumath [for R3]

ORDER

The case of the petitioner is that the petitioner owns a piece of land in Survey No.175/6, Masinaickenpatti Village, Valapatti Taluk, Salem District measuring 5.80 acres and that the land was proposed to be acquired under the provisions of the National Highways Act, 1956. The petitioner received a communication dated 27.04.2009 from the Competent Authority to appear for an enquiry on 08.5.2009, to determine the compensation amount payable, following which an award was passed. Thereafter, the petitioner has moved the Arbitrator/first respondent seeking enhancement of compensation and the same is pending. Since the petitioner heard nothing from the Statutory Arbitrator/first respondent, on 01.09.2017, the petitioner made a representation for

passing of the award. As no response was forthcoming, the petitioner has come forward with this petition.

2. The learned counsel for the petitioner argued that the grievance of the petitioner is that the property was acquired long back, but the petitioner was inadequately compensated. It is imperative that the arbitrary proceedings are pending apparently for four years and the petitioner was put to considerable hardships. He further added that during the pendency of the arbitrary proceedings, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30/2013) has come into force and in the context to arbitral proceedings, the same must be treated as continuation of the earlier proceedings. Therefore, the Arbitrator as of now, should also consider applying the provisions of Central Act 30/2013, given the spirit behind Section 105-A(2) of the Central Act 30/2013.

3. The Project Director, National Highways Authority of India, Narsothipatti, Salem is suo moto impleaded as third respondent to this proceedings and Mrs.S.R.Sumathy enters appearance for the third respondent.

4. Heard Mr.I.Abrar Md. Abdullah, learned counsel for the petitioner and Mr.Akhil Akbar Ali, learned Government Advocate for respondents 1 and 2.

5. As to the first part of the petitioner's representation, there cannot be any objection that the District Collector/Statutory Arbitrator should complete the arbitral proceedings within a reasonable time, since the petitioner's fundamental right to dignified life depends on his economic status, which the long pending arbitral proceedings unconsciously infringes upon. As to the second part, the petitioner is directed to file an additional set of grounds before the Arbitrator to enable the Arbitrator to consider the application of the Central Act 30/2013 in the context of the submissions made by within two weeks from the date of receipt of a copy of this order. The first respondent is directed to pass an award as per law and on the basis of the materials to be produced by the petitioner, within three months thereafter after affording effective opportunity of personal hearing to the petitioner. With the above directions, this petition is allowed. No costs.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

ds

To:

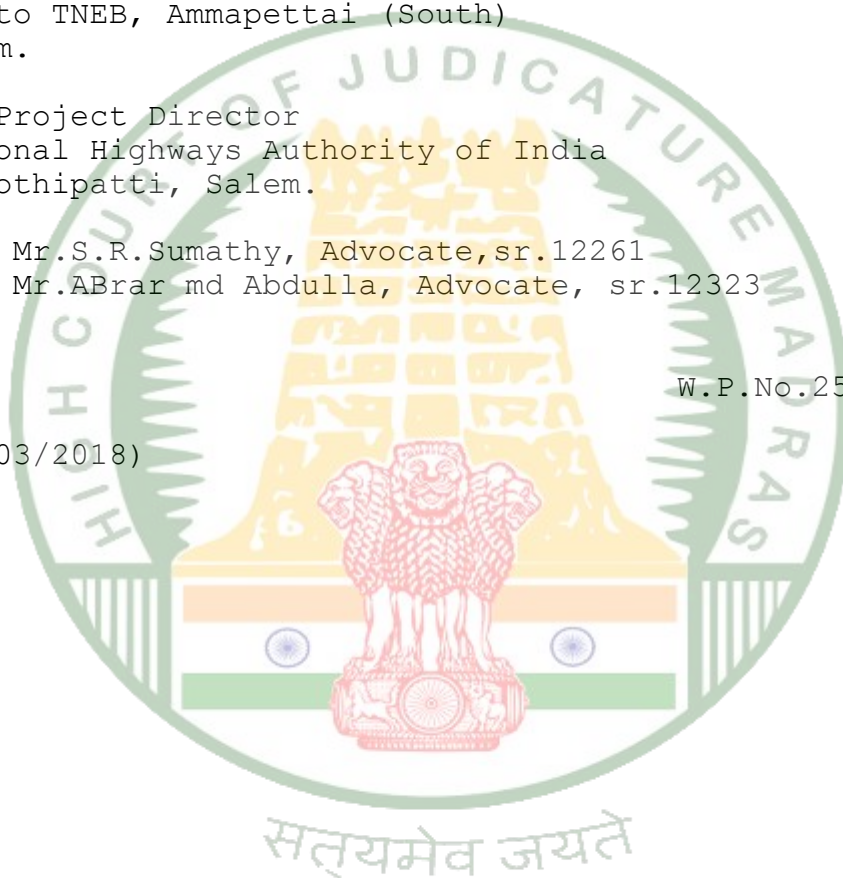
1. The District Collector
O/o. The District Collector
Salem.
2. The Special Tahsildar (Land Acquisition)
NH-68, 6.458, Bypass Road
Opp to TNEB, Ammapettai (South)
Salem.
3. The Project Director
National Highways Authority of India
Narsothipatti, Salem.

+1cc to Mr.S.R.Sumathy, Advocate,sr.12261

+1cc to Mr.ABrar md Abdulla, Advocate, sr.12323

W.P.No.25740 of 2017

RMP (22/03/2018)



WEB COPY