

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P.No. 19230 of 2016

1.T.Durai Mudaliar
2.Smt.Poongothai Ammal

... Petitioner

Vs

1.The Collector of
Villupuram District
O/o Collectorate
Villupuram

2.The Competent Authority,
(Land Acquisition)
Special District Revenue Officer,
National Highways,
Villupuram.

3.The Project Director,
National Highways Authority of India,
Ministry of Road Transport and Highways,
10, Govindasamy Nagar,
Vazhuda Reddy Post,
Villupuram.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorified Mandamus to call for the records on the file of the first respondent made in NaKa (Arbit) B1/3743/2015 dated 05.10.2015 and quash the same and further directing the first respondent to pay additional market value, solatium and interest in respect of petitioner's lands in survey Nos.66/4, 66/5, 66/1 & 66/2 situated at Salavathy Village, Thindivanam Taluk, Villupuram District in pursuant to the order of acquisition by the second respondent in Na.Ka.No.அ.த.மா.வ.அ.நி.தே.நெ.66/133/2010 31.10.2011

For Petitioner : Mr.V.Balakrishnan

For Respondents : Mrs.D.Raja for R1 and R2
Additional Government Pleader
Mr.S.R.Sumathy for R3

O R D E R

This Writ Petition has been filed challenging the order passed by the first respondent/ District Collector cum Arbitrator under Section 3G(5) of the National High Ways Act.

2. According to the petitioner, the petitioner's land was sought to be acquired for extending of NH45, and an award was also passed by the competent authority on 31.10.2011. Challenging the award, the petitioner had filed an Arbitration petition before the first respondent under Section 3 (G) (5) of the National Highways Act, and now the first respondent, without considering the objections raised by the petitioner for enhancing the compensation, has simply dismissed the application. Challenging the same, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the first respondent, while passing the impugned order, failed to consider none of the objections raised by the petitioner and the materials produced by him to show the value of the land. But, he simply accepted the award passed by the second respondent and passed the impugned order. He would further submit that since the first respondent has passed an order without considering his objections, the order may be set aside. He has also relied upon the order passed by this Court in W.P.No.24146 of 2013 dated 05.02.2015.

4. Per contra, Mr. D.Raja, Additional Government Pleader, appearing for the respondents 1 and 2 would submit that against the award passed by the first respondent, the only remedy available to the petitioner is to file a petition under Section 34 of the Arbitration Act to set aside the award and he cannot maintain a Writ Petition. That apart, the first respondent/District Collector also given reason for rejecting the petitioner's claim and on merit also the petitioner cannot challenge the award passed by the first respondent.

5. I have considered the rival submissions and perused the materials available on record carefully.

6. As rightly contended by the learned counsel appearing for the first respondent, against the award passed by the District Collector/first respondent, under Section 3(G)(5) of the National Highways Act, the remedy available to the petitioner is to file a petition under Section 34 of the Arbitration and Conciliation Act and the petitioner cannot maintain the Writ Petition before this Court. The Judgment relied upon by the learned counsel for the petitioner is not factually applicable to the present case on hand .

7. In such circumstances, without going into the merits of the case, this Writ Petition is dismissed with liberty to the petitioner to file a petition challenging the award in the manner known to law. The petitioner is also permitted to file a petition for condoning the delay in filing the petition under Section 34 of the Arbitration and Conciliation Act. On such application is filed, the same should be considered on merits, and in accordance with law. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mrp/rst

To

1.The Collector of
Villupuram District
O/o Collectorate
Villupuram

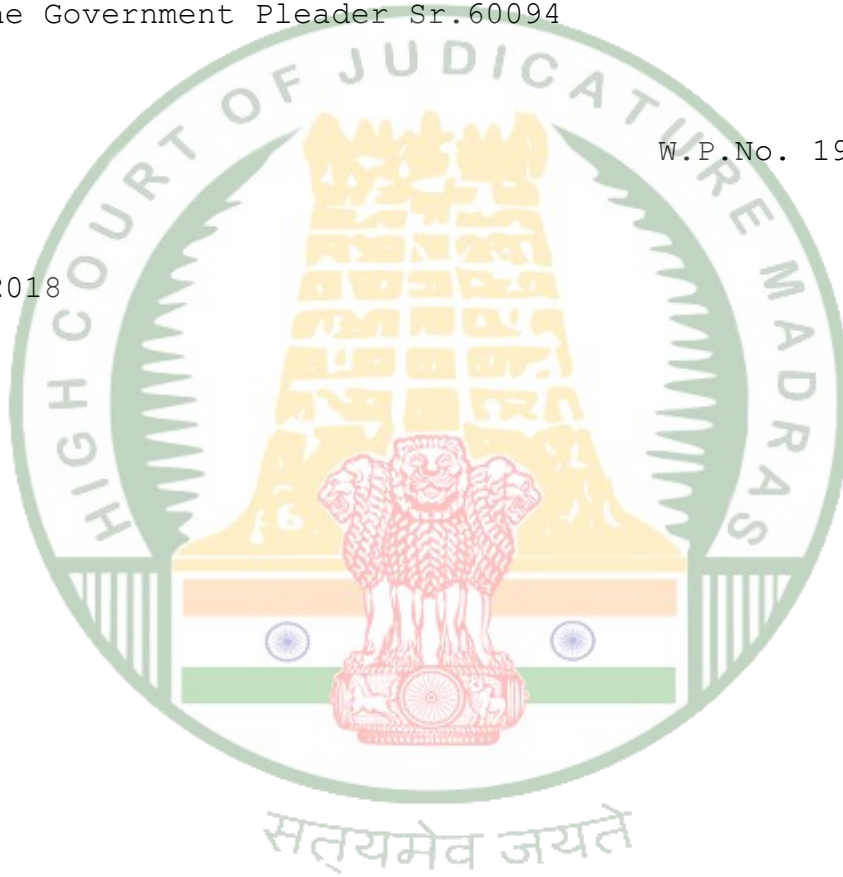
2.The Competent Authority
(Land Acquisition)
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3.The Project Director
National Highways Authority of India
Ministry of road Transport and Highways
10, Govindasamy Nagar
Vazhuda Reddy Post
Villupuram.

+lcc to Mr.J.Raja Rao, Advocate Sr.60072
+lcc to the Government Pleader Sr.60094

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gmr[co]
srg 4/10/2018



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