

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.02.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

W.P.No.2591 of 2018
and
W.M.P.No.3199 of 2018

Raja

...Petitioner

Versus

The Land Acquisition Officer,
cum District Revenue Officer,
Namakkal Bypass Road Scheme,
Namakkal District.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondent to determine compensation under the Right to Fair Compensation and Transparency in Land Acquisition and Resettlement Act 2013 and to pass award by granting compensation, 100% solatium and 12% additional amount by adopting multiplier method as per First Schedule in view of Section 30(2) of the Right to Fair Compensation and Transparency in Land Acquisition and Resettlement Act 2013 with respect to the petitioner's lands in Survey Nos.294/1B, 294/1C, 292/8A2 and 292/3C2 situated at Mudalipatti Village of Namakkal Taluk and District for the purpose of forming Namakkal Bye-pass Road, based on the representation of the petitioner dated 17.01.2018.

For petitioner : Mr.Ayyathurai Senior Counsel
for Mr.S.Senthil

For Respondent : Mr.M.Karthikeyan,
Addl. Government Pleader

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O R D E R

The petitioner has approached this Court apprehending that the respondent, now in the process of acquiring the lands under the provisions of the Tamil Nadu Highways Act, 2001, may pass an award without holding a proper enquiry as contemplated under Section 19 of the Tamil Nadu Highways Act.

2. Mr.Ayyathurai, the learned counsel appearing for the petitioner submitted that the petitioner was provided with a cyclostyled form with an offer price of the Government for him to agree and he was required to sign the same. This is sought to be done against the will of the petitioner and hence he is before the Court. The learned counsel insisted that the Authorities shall not procure the consent of the petitioner in such matters and shall not thrust their offer price on an unwilling owner of the land, but insisted that they adopted such methods as are statutorily prescribed for quantifying the compensation. The learned counsel also added that notwithstanding the pendency of a batch of Writ Petitions before the First Bench of the Court, wherein, the Constitutionality of Section 105-A of the Right to Fair Compensation and Transparency in Land Acquisition and Resettlement Act 2013 (Central Act 30 of 2013) is pending, even as per the spirit behind Section 105-A of the aforesaid Act, the Authorities cannot dilute the compensation payable and the resettlement and rehabilitation programme contemplated under the said Act, even as concerning the acquisition under the Special Acts enumerated in Schedule V thereof.

3. Mr.M.Karthikeyan, the learned Additional Government Pleader instructed by Mr.R.Mathiyazhagan, Zonal Deputy Tahsildhar No.I, Namakkal Taluk Officer, Namakkal, submitted that only an offer price was shown to the petitioner and there is no intention on the part of the respondent/Land Acquisition Officer cum District Revenue Officer, Namakkal Bypass Road Scheme to over look any of the provisions that are there in the Tamil Nadu Highways Act, 2001. In an eventuality, where any of the owners of the land are not willing to accept the offer price of the respondent, the latter are only very keen to determine the compensation payable in the manner provided for in the Tamil Nadu Highways Act, 2001.

4. The statement made by the learned Additional Government Pleader is recorded. Accordingly, respondent is directed to issue notice to the petitioner at the address given above and proceed

- (a) to negotiate with the petitioner as the amount to be paid for acquiring his land;
- (b) where he is not willing then to proceed with an enquiry for passing the award.

The Authorities are also required to expedite the whole process without driving the petitioner to approach the Court again and pass an award as per the law applicable.

5. Accordingly, this Writ Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

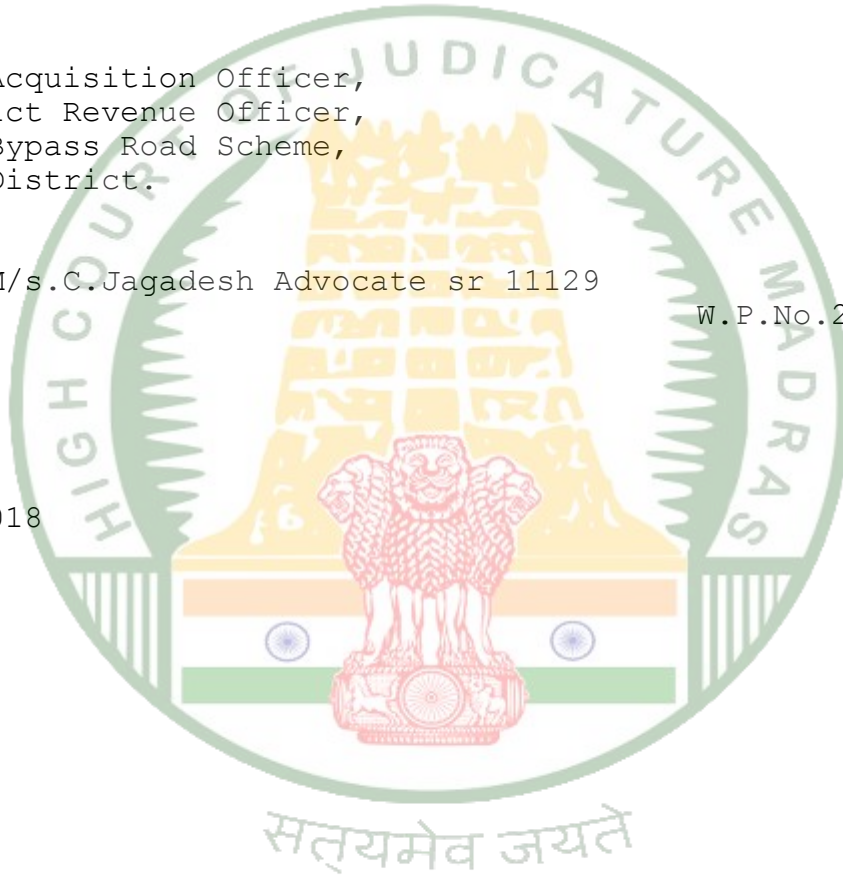
To

The Land Acquisition Officer,
cum District Revenue Officer,
Namakkal Bypass Road Scheme,
Namakkal District.

+1 cc to M/s.C.Jagadesh Advocate sr 11129

W.P.No.2591 of 2018

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