

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2018

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

W.P.No.2660 of 2018
and WMP.No.3288 of 2018

R.Srinivasan

... Petitioner

Vs.

1.Union of India

Rep. by Secretary
National Highways Department
New Delhi.

2.National Highways Authority of India

Rep by its Project Director
In charge of NH 45
Dindivanam
Villupuram District.

3.The Competent Authority (L.A.) cum

The Special District Revenue Officer
(Land Acquisition National Highways)
NH-45, Dindivanam Bye Pass,
Villupuram Collectorate
Villupuram District.

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the third respondent relating to proceedings initiated by the third respondent in Ref.No.A/SDRO/LA/NH/1247/2015 dated 22.06.2017 and to quash the same and directing the respondents to pay the correct compensation in accordance with Section 23(1)(A) Section 23(2) and other provisions of the Land Acquisition Act 1894 as amended pertaining to the petitioner's land situated at Survey No.11/1A and 11/2A measuring an extent of 10980 sq.mtr. and 315 sq.mtr. in all measuring 11295 sq.mts. At Kidangal Village, Dindivanam, Villupuram District.

For Petitioner : Mr.David Tyagaraj

For Respondents: Mr.J.Madhangopal Rao

CGSC [for R1]

Mrs.S.R.Sumath [for R2]

Mr.A.Zakir Hussain

Government Advocate [for R3]

ORDER

The petitioner has rushed to this Court seeking to quash the proceedings of the third respondent denying him compensation in terms of the judgment in T.Chakrapani & Others Vs. Union of India & Others [2011 Writ L.R.193] and also seeks a direction to the said authority to pass an award in terms of the same.

2. The case of the petitioner is that his property was acquired under the provisions of the National Highways Act, 1956, and a notice under Section 3A was issued on 14.10.2004, and on 18.03.2006 an award was passed, and the petitioner has challenged the award and raised an arbitral dispute for enhancement of compensation and the same is pending. While so, in T.Chakrapani & Others Vs. Union of India & Others, Sec. 3-J of the National Highways Act which excluded the operation of the Land Acquisition Act, 1894 was struck down as unconstitutional Vide the judgment of this Court reported in [2011 Writ L.R.193] which was subsequently confirmed by the Hon'ble Supreme Court, and therefore, the petitioner moved the authorities with a representation dated 30-09-2016 to grant him compensation in terms of the aforesaid Order of the Hon'ble Supreme Court, and has also obtained an order of this Court in W.P.43711 of 2016 to consider the said representation, that notwithstanding the same, he is yet to be paid solatium and interest consequent to the striking down of Sec. 3J as unconstitutional. Though as per the impugned award dated 22.06.2017, the Competent Authority has awarded payment of interest, the petitioner states that the grant of interest is not in conformity with statute and has also provided a calculation statement made available in Page 71 of the typed set of papers.

3. Mr.J.Madhangopal Rao, learned Central Government Standing Counsel enters appearance for the first respondent, Mrs.S.R.Sumathy, learned counsel for the second respondent and Mr.A.Zakir Hussain, learned Government Advocate for the third respondent.

4. The scope of this petition is very narrow and limited and in that the petitioner only seeks the third respondent to re-work the solatium and interest in terms of his legal entitlement consequent to the striking down of Sec.3-J of the National Highways Act, 1956, as unconstitutional. This Court, therefore set aside the order and directs the petitioner to file a fresh representation along with appropriate calculation to the third respondent, within a period of four weeks from the date of receipt of a copy of this order, whereupon the third respondent shall dispose of the same after affording an opportunity to the petitioner to explain his case, within a period of twelve weeks thereafter.

5. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

ds

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Villupuram Collectorate
Villupuram District.

+1cc to Mr.J.MADANAGOPAL RAO, Advocate, S.R.No.12428

+1cc to Mr.S.R.SUMATHY Advocate, S.R.No.12259

+2cc to Mr.DAVIDTYAGARAJ, Advocate, S.R.No. 11992

+1cc to the Government Pleader, S.R.No. 12524

W.P.No.2660 of 2018

TR(16/03/2018)

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