

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.Nos.33749,33750,33751,33752 and 33753 of 2015

- 1.Mrs.B.Revathi ... Petitioner in W.P.No.33749 of 2015
- 2.Mr.V.T.M.Sivakumar ... Petitioner in W.P.No.33750 of 2015
- 3.Mr.N.Azhguvel ... Petitioner in W.P.No.33751 of 2015
- 4.Mrs.M.Chitra ... Petitioner in W.P.No.33752 of 2015
- 5.Mr.M.Mahadevan ... Petitioner in W.P.No.33753 of 2015

Vs

1. The Principal Secretary to
Government of Tamil Nadu,
Highway and Minor Port (HW2) Department
Fort St. George,
Chennai - 600 009.
 2. The Land Acquisition Officer-cum-
District Collector, Kancheepuram,
Kancheepuram District.
 3. The Special Tahsildar (Land Acquisition)
Inner Ring Road Scheme
Chrompet, Chennai - 600 044.
 4. The Divisional Engineer (Highways)
Projects Division-I
No.110/A, GST Road,
Chrompet, Chennai.
- ... Respondents in all WPs.

Common Prayer: Writ petition are filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the Respondents 1 & 2 herein to pass an award under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013, in respect of the land in S.No.13(1)(B) measuring an extent of 0017.0 Square Meter in W.P.No.33749 of 2015, and T.S.No.553/9F1A2 measuring an extent of 0105.0 Square Meter in W.P.No.33750 of 2015, and T.S.No.553/7A2 measuring an extent of 0030.0 Square Meter in W.P.No.33751 of 2015, in T.S.No.13/1B measuring an extent of 0096.0 Square Meter in W.P.No.33752 of 2015, and T.S.Nos.553/1E1B and 553/9C1A2 measuring an extent of 0014.5 Square Meter and 0060.5 Square Meter in all 0075.0 Square Meter in W.P.No.33753 of 2015 respectively, acquired by them from the respective Petitioners in pursuance of the notification made in G.O (Ms)No.51 dated 01-04-2013, Highways and Minor Ports Department (HW2) issued under Section 15(1) of the Tamil Nadu Highways Act, 2001, published in Part II Section 2, Tamil Nadu Government Gazette dated 24-04-2013.

For Petitioners : Mr.M.D.Tharanipathi
in all WPs
For Respondents : Mr.Akhil Akbar Ali
in all WPs Government Advocate.

COMMON ORDER

The petitioners herein owned independent parcels of lands in various Survey Numbers at Chengalpattu Town, Chengalpattu Taluk, Kancheepuram District. The details of the same are tabulated herein.

W.P.Nos.	Name of the Petitioner	Survey Number	Extent in Sq.Mtr .
33749 of 2015	Mrs.B.Revathi	S.No.13(1) (B)	0017.0
33750 of 2015	Mr.V.T.M.Sivakumar	T.S.No.553/9F1A2	0105.0
33751 of 2015	Mr.N.Azhguvel	T.S.No.553/7A2	0030.0
33752 of 2015	Mrs.M.Chitra	T.S.No.13/1B	0096.0
33753 of 2015	Mr.M.Mahadevan	T.S.Nos.553/1E1B and 553/9C1A2	0014.5 and 0060.5 in all 0075.0

2. These lands were notified for acquisition under the provisions of the Tamil Nadu Highways Act, 2001 under Section 15 (1) on 01.04.2013. Thereafter, the petitioners were served with notice calling upon them to appear for an enquiry to enable the Land Acquisition Authority to pass an award. However, no award was passed till 01.01.2014 when on that date, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act, 30 of 2013) came into force. Therefore, the petitioners seeks a direction to the authorities concerned to pass an award in terms of the provisions of 105-A of the said Act.

3. In the counter filed by the respondents it is essentially pleaded that the said Act will not apply to acquisition under the Tamil Nadu Highways Act in view of the Tamil Nadu Amendment Act under Section 105 (2) of the Act to the Central Act, 30 of 2013. This counter was filed in July 2016. However, this counter overlooked the fact about passing of the award dated 20.04.2016, which is stated as interim award and the award itself has made clear that the same is passed by G.O.Ms.No.59, Highways and Minor Ports (HF1), Department, dated 29.05.2014 by which instructions are issued to determine the amount of compensation payable as interim compensation as per procedure provided under the Land Acquisition Act, 1894, subject to the payment of additional compensation being paid in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act, 30 of 2013).

4. In view of the very statement made in the award dated 20.04.2016 and terms made therein the final amount of compensation has to be determined in terms of the Right to Fair Compensation Act, no specific finding as such is required. This is also consistent with the spirit behind Section 105-A(2) of the Central Act, 30 of 2013 which provides that in cases of acquisition under any of the special State enactments listed in Schedule V of the Right to Fair Compensation Act, there cannot be any dilution in payment of compensation, Re-settlement or Rehabilitation as is payable or required to be provided in terms of the Central Act, 30 of 2013.

5. Accordingly, these writ petitions are disposed of with a direction that the respondents shall pass a final award in terms of the provisions of the Right to Fair Compensation Act, after issuing notices to all the petitioners to the respective addresses given in the writ petitions and after affording them an opportunity to participate in the enquiry. Any amount paid

under the interim award of the Land Acquisition Officer, dated 20.04.2016 is directed to be deducted from such amount as might be determined in the final award to be passed with the said directions. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

ssn

To:

1. The Principal Secretary to Government of Tamil Nadu, Highway and Minor Port (HW2) Department Fort St. George, Chennai - 600 009.
2. The Land Acquisition Officer-cum-District Collector, Kancheepuram, Kancheepuram District.
3. The Special Tahsildar (Land Acquisition) Inner Ring Road Scheme Chrompet, Chennai - 600 044.
4. The Divisional Engineer (Highways) Projects Division-I No.110/A, GST Road, Chrompet, Chennai.

+1cc to the Government Pleader, sr.no.20925

सत्यमेव जयते W.P.Nos.33749 to 33753 of 2015

KAN (CO)

RRK (30/05/18)

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