IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2018

CORAM

THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P.No.12017 of 2012
and M.P.Nos.1 of 2012 and 1 of 2013

P.Punitha ... Petitioner

Vs.

1. Authorised Officer
and Special District Revenue Officer,
(Land Acquisition)
National High ways - 67,
Nagapattinam - Thanjavur Section,
Tamil Nagar, Villamal Post,
Tiruvarur District.

2. District Collector,
District Collector's Office,
Tiruvarur.

3. M.Ramadass,

4. K.Prasanna ... Respondents

R4 impleaded as per order dated 09.10.2017 by VPNJ in WMP.No.25468 of 2017 in W.P.No.12017 of 2012.

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 and 2 herein to consider the objections dated 05.10.2010 and 01.11.2011 sent by the petitioner and pay to the petitioner the entire compensation for the Punja land belonging to the petitioner in survey No.111-2 (48 cents) and Survey No.110-2 (20 cents) totally admeasuring 68 cents in Ammaiyappan Village, Kodavasal Taluk, Thiruvarur district acquired for widening National Highways No.67 and refer the dispute on payment of the compensation amount to the Principal District Judge, Thiruvarur under section 3(H) of the National High Ways Act and for other consequential relief.

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For Petitioner : M/s.Sridhar Association.

For Respondents : Mr.J.Pothiraj,
Spl.Govt.Pleader for R1 & R2
M/s.R.Meenal for R3
Mr.G.Dhamodaran for R4

O R D E R

The prayer in the writ petition is for issuance of Writ of Mandamus directing the respondents 1 and 2 herein to consider the objections dated 05.10.2010 and 01.11.2011 sent by the petitioner and pay to the petitioner the entire compensation for the Punja land belonging to the petitioner in survey No.111-2 (48 cents) and Survey No.110-2 (20 cents) totally admeasuring 68 cents in Ammaiyappan Village, Kodavasal Taluk, Thiruvarur district acquired for widening National Highways No.67 and refer the dispute on payment of the compensation amount to the Principal District Judge, Thiruvarur under section 3(H) of the National High Ways Act and for other consequential relief.

2. According to the petitioner she has entered into a written sale agreement dated 05.02.2007, with the third respondent for purchase of his property Punja land to the extent of 68 cents comprised in R.S.No.111/2 (48 cents) and 110/2 (20 cents) situated at Ammaiyappan Village, Panchanthopu Hamlet, Kodavasal Taluk, Tiruvarur District. The total sale consideration was fixed at Rs.1,46,000/-. According to the petitioner she had paid an advance of Rs.1,00,500/- on the date of execution of the sale agreement and was put in possession of the said land. Subsequently the balance sale consideration of Rs.45,500/- was paid on 16.02.2008 and Rs. 10,000/- was paid on 31.03.2008. Subsequently, the sale consideration of Rs.45,500/- was paid on different dates. According to the petitioner the entire sale consideration was paid and she was making arrangements for registration of the sale deed.

3. The case of the petitioner is that after she entered into the sale agreement, she came into the possession of the property and the original title deeds of the property were also handed over to the petitioner. It appears that the petitioner had also constructed a thatched hut in the property and she was residing with her husband and two children since February 2008. The petitioner has also been issued with patta and paying taxes to the Revenue authorities.

4. While so, the first respondent/Ministry of Highways and Road Transport, Government of India, issued a notification dated 09.07.2010, in proceedings Na.ka.Na.38/2010 under Section 3(A)

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(1) of the National Highways Act. (Act 48 of 1956), for acquisition of land for the purpose of National Highway No.67 Nagapattinam – Thanjavur Section Km 00/000 to Km 80/000. The acquisition included an extent of 1300 sq.mts in Survey No.110/2 and 1450 sq.mts in Survey No.111/2 in Ammaiyappan Village, which land was in possession of the petitioner, as she claimed. Objection was called from the owners of the land and in response to the same, petitioner sent a representation on 29.09.2010 and 05.10.2010. Further representation was made on 01.11.2011, requesting that the compensation amount to be paid in full to the petitioner.

5. Upon notice Mr.J.Pothiraj, Special Government Pleader entered appearance and filed counter on behalf of the first and second respondents. During the pendency of the writ petition, the fourth respondent has been impleaded by the order of this Court.

6. According to the counter affidavit of the Official Respondents there was no mutation of the revenue records and the subject land is still in the name of the third respondent. So, according to the counter affidavit, since the sale agreement was not a registered agreement, there was no change in the revenue records and therefore, the petitioner was not entitled to get compensation as the title had still not been transferred.

7. While matters stood thus, it appears that the third respondent had sold the land in question to the fourth respondent, by a registered sale deed dated 29.11.2013 and the fourth respondent, on such execution of sale deed dated 29.11.2013 applied for title alteration of the property and that is the reason the fourth respondent is now impleaded as a party.

8. When the matter is taken up for hearing the learned counsel for the petitioner would draw the attention of this Court to the National Highways Act, 1956, more particularly to page No.5, under the head " 3-H Deposit and Payment of amount", which reads as under:-

> 1. The amount determined under section 3-G shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority before taking possession of the land.
>
> 2. As soon as may be after the amount has been deposited under sub-section (1) the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.
>
> 3. Where several persons claim to be interested

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in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

4. If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated.

5. Where the amount determined under Section 3-G by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at nine percent per annum on such excess amount from the date of taking possession under section 3-D till the date of the actual deposit thereof.

6. Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority and the provisions of sub-sections (2) to (4) shall apply to such deposit.

9. According to the learned counsel for the petitioner, the competent authority shall determine the person, who is entitled to compensation, if there are several persons claiming to be interested in the compensation amount and he would also decide in any case of more than one person entitlement apportionment to such other claimants. Therefore, the learned counsel requests the Court to direct the first respondent to make an enquiry under the above said section of the National Highways Act and to pass orders on merits within a time determined by this Court.

10. At this juncture, the learned counsel for the respondents would have no valid objection, since the Act itself provides for resolution of such dispute. In such view of the matter this Court directs the first respondent to conduct an enquiry in terms of Section 3-H of National Highways Act 1956 and determine as to who is eligible for the compensation amount and shall make such payment to the person who is eligible under the Act. The authority shall give an opportunity of personal hearing to the petitioner as well as to the fourth respondent in this connection and pass orders on merits, within a period of eight weeks from the date of receipt of a copy of this order.

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11. With the above observations and directions this writ petition is allowed. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-
Deputy Registrar(CO)

//True Copy//

Sub Assistant Registrar

dpq

To

1. The Authorised Officer
and Special District Revenue Officer,
(Land Acquisition)
National High ways - 67,
Nagapattinam - Thanjavur Section,
Tamil Nagar, Villamal Post,
Tiruvarur District.

2. The District Collector,
District Collector's Office,
Tiruvarur.

+2cc to Mr.G.Dhamodaran, Advocate, S.R.No.28321

+1cc to Mr.K.Sridhar Associates, Advocate, S.R.No.28039

+1cc to the Government Pleader, S.R.No.28438

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M.P.Nos.1 of 2012 and 1 of 2013

RRK(19/04/2018)

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