

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.18272 of 2018

V.Latha

...Petitioner

Vs.

1. The District Collector-cum-Arbitrator,
Namakkal District.
2. The Competent Authority,
(NHAI) / District Revenue Officer,
NH-7 & 47,
Namakkal District.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 1st respondent in relation to the impugned proceedings in Na.Ka.12248/2009/Arbitration dated 28.06.2018, quash the same and further direct the 1st respondent to hear the claim petitions preferred by the petitioners.

For Petitioner : Mr.S.Senthil

For Respondents : Mr.Akhil Akbar Ali, G.A.

ORDER

Mr.Akhil Akbar Ali, learned Government Advocate takes notice for the respondents. By consent of the learned counsel appearing for the parties, the writ petition is taken up for final hearing.

2. The prayer in the writ petition is for issuance of a certiorarified mandamus to quash the impugned order of the first respondent dated 28.06.2018 and direct the first respondent to hear the claim petition preferred by the petitioner.

3. The petitioner would state that her land measuring an extent of 187 sq.mt. in Survey No.398/5 of Mudalaipatti Village in Namakkal District was acquired by the second respondent, by invoking provisions of the National Highways Act. The petitioner would further state that at the time of award enquiry, she produced various records to show the

value of the land and building, but the authorities have passed the award without considering the said documents. Hence, the petitioner sent a representation dated 07.05.2018 to refer the matter to the Arbitrator, as per Section 3(G)(5) of the National Highways Act. But the first respondent by the impugned order rejected the representation on the ground that it was barred by limitation.

4. The learned counsel for the petitioner by relying upon the judgment of the Division Bench of this Court, dated 25.04.2018 in W.A.Nos.308 to 312 of 2016, submitted that the Limitation Act would not apply to the case on hand. The relevant portion of the said judgment reads as follows:

"34. We therefore make the position clear that the provisions of the Limitation Act and more particularly Article 137 would not apply to an application for reference under Section 3G(5) of the National Highway Act, 1956.

35. In view of the aforesaid reasons, the orders of the learned Single Judge in the Writ Petitions directing initiation of arbitration proceedings are confirmed. The order passed by the 1st respondent in the writ petitions dated 27.10.2015 and 31.12.2015 are quashed. There will be a direction to the respondents to refer the claims of the petitioners in the writ petitions for arbitration as contemplated under Section 3-G(5) and (6) of the National Highways Act, 1956.

36. The intra court appeals are dismissed. The writ petitions are allowed. There is no order as to costs."

5. In the light of the above judgment, the order impugned in this writ petition is set aside and the respondents are directed to initiate appropriate proceedings as per the said decision, and pass award on merits and in accordance with law, after providing an opportunity of hearing to the necessary parties. Accordingly, the writ petition is allowed. No costs.

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Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The District Collector-cum-Arbitrator,
Namakkal District.
2. The Competent Authority,
(NHAI) / District Revenue Officer,
NH-7 & 47,
Namakkal District.

+ 1 cc to M/s. S. Senthil, Advocate sr.48567

+ 1 cc to Mr. Government Pleader Sr.49359

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(CS-VIII)
EU(06/08/2018)



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