

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.30881 of 2016
and
W.M.P.No.26747 of 2016
and
W.M.P.No.34817 of 2016

R.Pargunam

... Petitioner

Vs

1. The Government of Tamil Nadu,
Represented by the Principal Secretary to Government,
Highways and Minor Ports (HW2) Department,
Fort St.George,
Chennai-600 009.

2. The District Revenue Officer,
Thiruvallur District, Thiruvallur.

3. The Tahsildar,
Thiruvallur Taluk,
Thiruvallur.

4. The Divisional Engineer (Highways Department),
Project Division-II,
Teynampet,
Chennai-600 018.

5. The Assistant Divisional Engineer
(Highways Department),
Projects Sub Division-4, (Addl. Charge),
Chrompet,
Chennai-600 004.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 3rd respondent herein vide his proceedings in order No.5/2015 dated Nil.09.2015 Na.Ka.No.9250/2015/A1 dated

Nil.01.2015 signed on 25.01.2016 and the order passed by the 5th respondent herein vide his proceedings No.NIL dated 08.08.2016 under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 and quash them as illegal, arbitrary, unreasonable being violative of rules and principles of natural justice and thereby Direct the respondents to fix the compensation to the petitioner and quash the same and by invoking Sections 23, 26, 27, 28 and 29 of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013(30 of 2013) for the petitioner's lands in Survey No.489/6B2 measuring an extent of 50 sq. metre or 544.50 sq.ft. at Thozhuvur Village, Thiruvallur Taluk, Thiruvallur District.

For Petitioner : Mr.A.R.Suresh
For Respondents : Mr.Akhil Akbar Ali
Government Advocate
[For R1 & R2]

ORDER

The case of the petitioner is that the petitioner's property ad measuring an extent of 2,618 Sq.ft., in S.No.489/6B2 of Thozhur Village, Thiruvallur Taluk, Thiruvallur District was sought to be acquired under the provisions of the Tamil Nadu Highways Act, 2001, for constructing a railway over bridge. The petitioner was subsequently served with a proceeding under Section 19(3) r/w. Section 19(6) of the Tamil Nadu Highways Act, 2001, (Tamil Nadu Act 34 of 2002) dated 05.10.2015 by the 3rd respondent and determined the interim compensation at Rs.5,64,918/- with a direction to the petitioner to produce certain documents to facilitate transfer of funds to the petitioner's account. The petitioner has come to this Court on the ground that in an acquisition proceeding that was commenced in the year 2010, award was passed only on 25.01.2016. In the meantime, the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013(Central Act, 30 of 2013) has come into force, that as per Section 105A(2) of the said Act the Land Acquisition Authority cannot dilute the payment of compensation or provisions regarding rehabilitation on resettlement that may be provided under the Central Act, shall not be denied to those owners of the land, whose lands were acquired under the provisions of the Tamil Nadu State Highways Act.

2. Mr.Akhil Akbar Ali, learned Government Advocate enters appearance for the respondents, and he specifically brought to the notice of this Court that in the award itself it was mentioned as an interim award, that the entire award of

compensation would be paid only in terms of the Central Act, 30 of 2013, and the need to follow it is also available in the said Act. Since the interim award itself clarifies the position. Nothing more is required to allay petitioner's anxiety to have the compensation worked out in terms of the Central Act, 30 of 2013.

3. The learned Government Advocate submitted that the amount as per interim award has been deposited in the Court, which the petitioner is permitted to withdraw. As and when the final award passed consistent with the beneficial provisions of the Central Act 30/2013, the compensation now paid shall be deducted or adjusted. The possession shall not be taken unless at least 50% of such compensation is paid based on the G.O.Ms.No.298, Revenue & Disaster Management Department (LA-I (1))/Dt.20.09.2017 and the instruction of the Additional Chief Secretary and Commissioner of Land Administration, Chennai-5, Dt.13.11.2017.

4. With the above direction, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ssn
To

1. The Principal Secretary to Government,
Government of Tamil Nadu,
Highways and Minor Ports (HW2) Department,
Fort St.George,
Chennai-600 009.

2. The District Revenue Officer,
Thiruvallur District.
Thiruvallur.

3. The Tahsildar,
Thiruvallur Taluk,
Thiruvallur.

WEB COPY

4. The Divisional Engineer (Highways Department),
Project Division-II,
Teynampet,
Chennai-600 018.

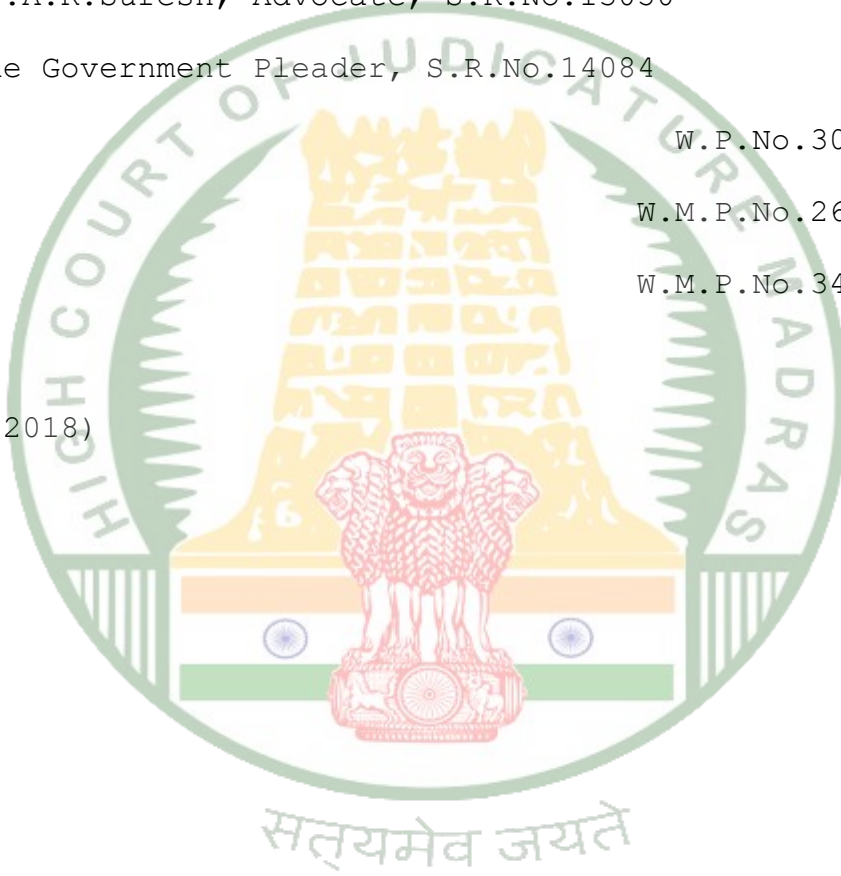
5. The Assistant Divisional Engineer
(Highways Department),
Projects Sub Division-4, (Addl. Charge),
Chrompet,
Chennai-600 004.

+1cc to Mr.A.R.Suresh, Advocate, S.R.No.13050

+1cc to the Government Pleader, S.R.No.14084

W.P.No.30881 of 2016
and
W.M.P.No.26747 of 2016
and
W.M.P.No.34817 of 2016

gmi (CO)
GSP (05/04/2018)



WEB COPY