

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2018

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

W.P.No.31170 of 2016
and WMP.Nos.27019 & 27020 of 2016

S.Anthoniraj

... Petitioner

Vs.

1.The Government of Tamil Nadu
Rep by its Secretary to Government
Revenue Department
Fort St.George, Chennai – 600 009.

2.The District Collector
Thiruvallur District.

3.The Tahsildar
Thiruvallur Taluk.

4.The Special Tahsildar (Land Acquisition)
Thiruvallur Taluk and District.

5.The Sub Divisional Engineer (Highways)
Project Sub Division-4
Chennai – 600 044.

... 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 relating to the impugned order of the third respondent passed in his proceedings in Na.Ka.No.9250/2008/A1 dated 05.10.2015 and the consequential eviction notice dated 08.8.2016 of the fifth respondent and quash the same and consequently direct the respondents to grant fair and equitable compensation for the petitioner's property of an extent of 50 sq.mtrs. (or) 538 sq.ft. comprised in S.No.501/1A at Thozhur Kuppam

Village, Thiruvallur Taluk, Thiruvallur District by invoking the provisions under the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013 (30 of 2013).

For Petitioner : Mr.A.Ramalingam
For Respondents : Mr.E.Neelakandan
Government Advocate

ORDER

The case of the petitioner is that he owned a property admeasuring an extent of 903 sq.ft. in Survey No.501/1A of Thozhur Kuppam Village, Thiruvallur Taluk, Thiruvallur District and that an extent of 50 sq.mtrs. (or) 538 sq.ft. was sought to be acquired by the Acquisition Authority 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) by the third respondent and determined the interim compensation at Rs.10,00,033/- with a direction to the petitioner to produce certain documents to facilitate transfer of funds to the petitioner's account, and that the said amount was deposited in petitioner's bank account. The petitioner contends that the respondent had issued an eviction notice dated 08.08.2016, wherein directed the petitioner to vacate the property by 03.09.2016. The petitioner has come to this Court on the ground that in an acquisition proceeding that was commenced in the year 2010, an award was passed only on 05.10.2015. 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 or 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.E.Neelakandan, 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. As already mentioned, the interim compensation amount has already been deposited in the petitioner's account, as and when the final award is 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 atleast 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, dated 13.11.2017.

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

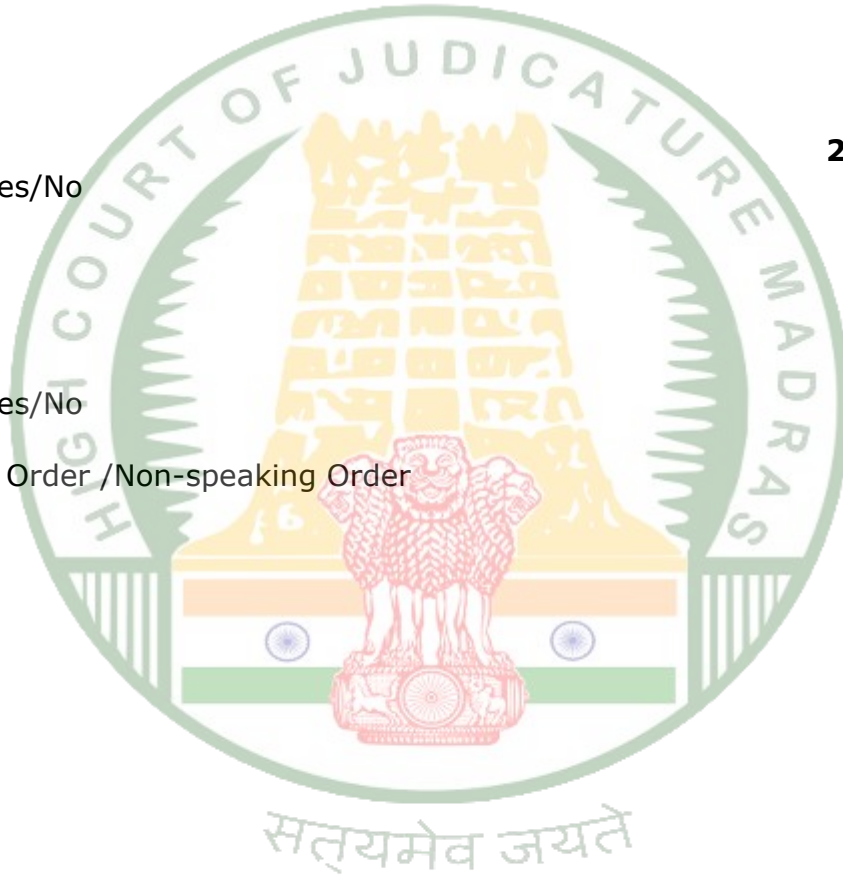
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Index : Yes/No

Speaking Order /Non-speaking Order



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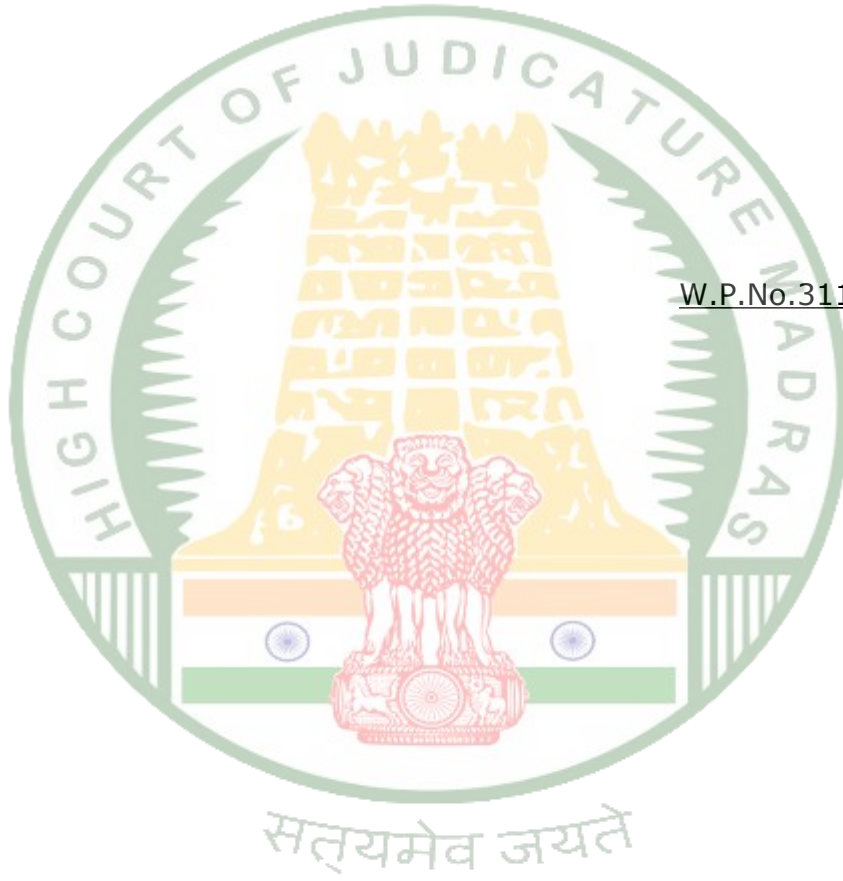
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N.SESHASAYEE, J.,

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