

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.02.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

W.P.No.41615 of 2016

A.Santhi

...Petitioner

Versus

1. The District Collector cum Arbitrator,
Villupuram.
2. The Competent Authority and
Special District Revenue Officer (LA),
NH 68, Salem Ulundurpet,
Four Lane Road Project, Salem.
3. The Project Director,
Project Implementation Unit,
National Highways Authority of India,
No.212-3/D3,
Srinagar Colony,
Narasothipatti,
Salem - 636 004.

...Respondents

(R3 is suo motu impleaded as per order dated 14.02.2018 by NSSJ in W.P.No.41615 of 2016)

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the first respondent to consider petitioner representation dated 20.08.2010 and thereby initiating the proceedings for enhancement of compensation under Section 3G(5) (6) of the National Highways Act 1956 by providing reasonable opportunities to lead oral and documentary evidences and conclude the same within the prescribed time limit.

For Petitioner : Mr.R.Nalliyappan

For Respondents1,2 : Mr. Akhil Akbar Ali,
Government Advocate

For Respondent 3 : Mrs.S.R.Sumathy

ORDER

1. The facts are: The petitioner's properties in Survey Nos.237/6C1, 237/6G, 237/7C1, 237/8A1, 237/8C1, 238/2 were acquired under the provisions of National Highways Act, 1956, and an award was passed on 07.09.2009. Thereafter, the petitioner has made a representation to the second respondent to refer the matter to the Arbitrator as the petitioner was dissatisfied with the quantum of compensation awarded to her. Its receipt was duly acknowledged as per the acknowledgement card dated 26.12.2009. But the matter was not referred to the Arbitrator under Section 3G(5) of the National Highways Act. Hence the petitioner has now approached the Court with this petition.

2.1. Heard Mr.R.Nalliyappan, learned counsel appearing for the petitioner and Mr.Akhil Akbar Ali, learned Government Advocate for the respondents 1 & 2.

2.2. The Project Director, Project Implementation Unit, National Highways Authority of India, Salem, is suo motu impleaded as the third respondent. Mrs.S.R.Sumathy, the learned counsel takes notice for the newly impleaded third respondent.

3. The learned counsel for the petitioner submitted that in the typed set of papers, the representation by which the petitioner has sought a reference to Arbitrator is seen dated 20.08.2016, but it is not the first representation that was given and that there was one given earlier to it. The copy of the representation is available in the typed set of papers may have been affected by an inadvertent typographical error, and that there was an earlier representation promptly given without delay is seen from the copies of the acknowledgement cards available at page No.4 that give the date as 26.12.2009. Even keeping this issue aside, it is of some importance to note that the National Highways Act, 1956, has not stipulated a time within which a request for arbitration should be made, and hence there can be no embargo in directing the second respondent to make the reference to arbitration.

4. It is apparent that the petitioner has moved the Authorities for making the reference to the Arbitrator in terms of Sec. 3G of the National Highways Act, 1956. The only point is whether it was done in 2009, or in 2016, as there is seen some discrepancy about it.

5. This Court therefore directs the second respondent to refer the matter to arbitration and take such steps as are necessary to refer the matter in the manner herein below indicated:

a) Where the petitioner can satisfy the second respondent that his earliest representation was made even in December, 2009, and that the acknowledgement card as are available in page No.4, are relatable to it, then the reference should relate back to the date of such representation. .

b) If in case, request for reference is made only in 2016, the reference shall be made but the Statutory Arbitrator may not award interest for the period from the date of the award till the date of representation, in the eventuality of the Statutory Arbitrator consider it necessary to enhance the compensation.

6. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

mrr

To:

1. The District Collector cum Arbitrator,
Villupuram.
2. The Competent Authority and
Special District Revenue Officer (LA),
NH 68, Salem Ulundurpet,
Four Lane Road Project, Salem.
3. The Project Director,
Project Implementation Unit,
National Highways Authority of India,
No.212-3/D3, Srinagar Colony,
Narasothipatti, Salem - 636 004.

+1cc to Mr.R.Nalliyappan, Advocate, sr.no.11210

+1cc to Mrs.S.R.Sumathy, Advocate, sr.no.12260

+1cc to the Government Pleader, sr.no.12886

W.P.No.41615 of 2016

SKS (CO)

RRK (30/05/18)