

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.03.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

W.P.No.41666 of 2016
and
W.M.P.Nos.35655 & 35656 of 2016

M.Munusamy

...Petitioner

Versus

1. Union of India,
Rep. by Secretary,
National Highways Department,
New Delhi.
2. National Highways Authority of India,
Rep. by its Project Director,
In charge of NH 4 & NH - 46,
Vellore District,
Vellore - 632 009.
3. The District Collector,
Sathuvachari,
Vellore - 632 012.
4. The Competent Authority (L.A) cum
Special District Revenue Officer,
Land Acquisition (NH 4 & NH - 46),
Vellore District,
Vellore - 632 009.

...Respondents

सत्यमेव जयते

Writ Petition filed under Article 226 of the Constitution of India praying for a issuance of a Writ of Certiorarified Mandamus calling for the records on the file of the fourth respondent relating to proceeding in R.C.G5/20354/02 dated 23.02.2006 and arbitration award passed by the third respondent in Na.Ka.No.G4/11764/2004 dated 20.07.2007 pertaining to the petitioner's lands acquired in Old Survey No.366/2 and New Survey No.366/2A measuring 2550 Sq.mts or 27448 Sq.ft at Vannivedu Village, Wallajahapet Post, Vellore District by quashing the same and by directing the fourth respondent to grant compensation to the petitioner under the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013 (30 of 2013) in Old Survey No.366/2

and New Survey No.366/2A measuring 2550 sq.mts or 27448 sq.ft at Vannivedu Village, Wallajahpet Post, Vellore District.

For Petitioner : Mr.David Tiagaraj
For Respondent - 1 : Mr.J.Madhanagopal Rao,
Central Govt. Standing Counsel
Respondent - 2 : Mr.Richardson Wilson
for Wilson Associates
Respondents - 3 & 4 : Mr.M.Karthikeyan,
Additional Government Pleader

ORDER

The petitioner claims that he is a owner of a block of land measuring to an extent of 2,550 sq.mts or 27,448 sq.ft in Survey No.366/2 and New Survey No.366/2A of Vannivedu Village, Wallajahpet Post, Vellore District and the same was acquired by the fourth respondent/Competent Authority under the National Highways Act for expansion of National Highways 4 (NH-4) and National Highways 46 (NH-46) at Vellore. Necessary Notifications were issued under Section 3-A of the Act on 30.04.2003. Thereafter, the petitioner has raised an arbitral dispute concerning the value of the property. The Statutory Arbitrator/District Collector has passed his award on 20.07.2007, wherein, he has held that petition seeking arbitration is not maintainable. This is now in challenge.

2. The learned counsel for the petitioner submitted that the petitioner has not been informed about the passing of the award in time, and that he has gathered all the information only by invoking Right to Information Act. This appears to have consumed as much as seven years. The Collector cum Statutory Arbitrator has passed the Arbitration Award dated 20.07.2007. He argued that the impugned order shows a refusal of the Arbitrator to apply his mind when there is an arbitral dispute as the said conclusion was arrived on the ground that the award amount determined by the Competent Authority had not been disbursed to the petitioner. Payment of compensation amount or even its receipt is not a pre-condition for entertaining a dispute for arbitration.

3. Heard Mr.J.Madhanagopal Rao, the learned Central Government Standing Counsel for the first respondent, Mr.Richardson Wilson, the learned counsel for the second respondent and Mr.M.Karthikeyan, the learned Additional Government Pleader for the respondents 3 & 4. Counter Affidavit

has not yet been filed by the respondents.

4. The learned counsel for the second respondent argued,
- That when the Collector has held that the petition for arbitration is not maintainable and the remedy open to the petitioner is to move the concerned Principal Court of Original Civil Jurisdiction under Section 34 of the Arbitration and Conciliation Act, 1996.
 - That the petitioner has approached this Court after a lapse of about ten years seeking a remedy and hence, the petition is not maintainable as it is hit by latches.

5. This Court considers that the submissions of the learned counsel for the second respondent is valiant but still not adequate enough to convince the Court as to the legality of the award passed. In the impugned award of the District Collector/third respondent, nowhere was indicated that the petitioner's prayer for arbitration was made beyond time. Therefore, this Court has to presume that the same was within time. Turning to the specific point raised by the counsel for the second respondent, this is a case where the Collector by a misconception of law has refused to apply his mind while discharging his responsibility as the statutory arbitrator. The Statute nowhere says that payment of compensation is a pre-condition for entertaining arbitration and the District Collector appears to have read something that the Statute does not contain. Relying on factors that are extraneous while discharging statutory responsibilities can hardly be termed legal. Thirdly, an issue ancillary to the whole issue at hand is that nobody apparently has provided the petitioner with any information about the status of the arbitration-proceedings. The typed set of papers filed by the petitioner in this case is essentially a compilation of many informations, both direct and ancillary, obtained from Public Information Officer under Right to Information Act. Where is the question of latches, when delay is induced by the authorities themselves? In other words, where a citizen's right is not adequately respected and where he is left blind folded in the labyrinthine web of administration, the defaulter cannot take refuge in his own default.

6. This Court necessarily has to interfere with the said order. In the result, this Court allows this Writ Petition and quashes the arbitration award passed by the third respondent in Na.Ka.No.G4/11764/2004 dated 20.07.2007 pertaining to the petitioner's lands acquired in Old Survey No.366/2 and New Survey No.366/2A measuring 2,550 sq.mts or 27,448 sq.ft at Vannivedu Village, Wallajahapet Post, Vellore District and remand the matter back to the third respondent and directs him to take the arbitral dispute to his file and dispose of the

matter within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mrr

To

1. The Secretary,
National Highways Department,
New Delhi.
2. The Project Director,
National Highways Authority of India,
In charge of NH 4 & NH - 46,
Vellore District,
Vellore - 632 009.
3. The District Collector, Vellore
Sathuvachari,
Vellore - 632 012.
4. The Competent Authority (L.A) cum
Special District Revenue Officer,
Land Acquisition (NH 4 & NH - 46),
Vellore District,
Vellore - 632 009.

+2ccS to Mr.David Tiyyagaraj, Advocate, S.R.No.19106
+1cc to Mr.J.Madhanagopal Rao,, Advocate, S.R.No.19032

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SKS (CO)
CS/07/06/18