



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.10.2018

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

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W.P (MD) Nos.17916 & 17917 of 2018

A.Sahul Hameed
A.Abubakkar

.. Petitioner in W.P.(MD)17916/18
.. Petitioner in W.P.(MD)17917/18

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Deputy General Manager (Tech) cum
Project Director,
National Highways Authority of India,
Project Implementation Unit - I,
2nd Floor, Subramaniapuram 3rd Street,
Karaikudi - 630 002, Sivagangai District.

3.The Special District Revenue Officer,
(Land Acquisition - National Highways),
Collector Office Campus,
Ramanathapuram,
Ramanathapuram District.

4.The Special Tahsildar,
(Land Acquisition - National Highways - Unit - I),
Melkarai, Sivagangai Road,
Manamadurai,
Sivagangai District.

.. Respondents in both Wps

COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents 1 and 3 to pay the fair compensation to the acquired land and house building of the petitioner situated at Survey No.318/1B1J of Muthanenthal Revenue Village, Manamadurai Taluk, Sivagangai District as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Compensation, Rehabilitation and Resettlement and Development Plan) Rules, 2015 as well as S.26 and S.30, 31 & 32 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and as per the representations of the petitioners dated 27.07.2015 & 26.02.2016, respectively.



For R.1, R.3 & R.4

: Mr.A.Thiyagarajan,
Government Advocate

For R.2

: Mr.C.Arul Vadivel @ Sekar
(In all WPs)

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COMMON ORDER

As the issue involved in both the cases are similar in nature, they are disposed of by way of this common order.

2. According to the petitioners, the subject properties belong to them and as such, they are all acquired by the authorities for National Highways project. For the said acquisition, compensation amount was fixed at Rs.6,64,059/- & Rs.4,10,212/-, respectively. Being dissatisfied with the compensation awarded, the petitioners have filed applications under Section 3(G)5 of National Highways Act before the first respondent / District Collector, being the Arbitrator, who, in turn, after conducting enquiry, has enhanced the compensation by Rs.4,78,152/- and Rs.4,51,726/- respectively, which, according to the petitioners, are not fair and just, as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Compensation, Rehabilitation and Resettlement and Development Plan) Rules, 2015 as well as Sections 26, 30, 31 & 32 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and therefore, they are before this Court.

3. The grievance of the petitioners is that for the same extent of land and for the same type of house property, different compensation was awarded. Reasoning for such biased fixation of compensation was not at all averred by the authorities and thence, the learned Counsel for the petitioner prays for a direction to the authorities to fix a just and fair compensation, by considering the representations of the petitioners dated 27.07.2015 & 26.02.2016, respectively.

4. Learned Government Advocate, on instructions, would submit that the acquisition proceedings were carried out as per law and compensation amount was also fixed. Having dissatisfied with the compensation awarded, the petitioners have preferred applications under Section 3(G)5 of the National Highways Act, based on which, the District Collector / first respondent has enhanced the compensation. If still the petitioners are not satisfied with the compensation awarded, as per Arbitration Act, they have to approach the concerned Civil Court by filing Arbitration Original Petition and therefore, prays for dismissing the present writ petitions.

5. Heard the learned Counsel on either side and perused the documents placed on record.

6. Perusal of record shows that for the acquisition in question, compensation was initially fixed and awarded by the second



respondent and dissatisfied with such award, the petitioners approached the District Collector under Section 3(G)5 of the National Highways Act and the compensation was also enhanced. It is not in dispute that the compensation is fixed based on the area, type of construction, standing trees, etc., and there might be variation in the compensation based on the existing structures. Even otherwise, if the petitioners are aggrieved by the award passed by the Arbitrator, ie., District Collector and/or if they are not satisfied with the award, as rightly contended by the learned Government Advocate, the remedy available to them is to file an Arbitration Original Petition before the District Court, as per Arbitration Act and therefore, the present writ petitions fail.

7. In such a view of the matter, these writ petitions are dismissed, with liberty to the petitioners to work out their remedy in the manner known to law. No costs.

Sd/

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar(CS-I)

To

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Special District Revenue Officer,
(Land Acquisition - National Highways),
Collector Office Campus,
Ramanathapuram,
Ramanathapuram District.

3.The Special Tahsildar,
(Land Acquisition - National Highways - Unit - I),
Melkarai, Sivagangai Road,
Manamadurai, Sivagangai District.

+2cc to Mr.K.C.RAMALINGAM, Advocate, SR.No. 90020,90021
+1cc to Mr.C.ARUL VADIVEL @ SEKAR, Advocate, SR.No.89776

W.P (MD) Nos.17916 & 17917 of 2018
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GK

KK/SV/SAR-1/14.11.2018/3P-7C