



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

W.P. (MD) No.16825 of 2017

Gandhimathi

... Petitioner

vs.

1. The District Collector,
Nagercoil, Kanyakumari District.

2. The Special District Revenue Officer,
Land Acquisition
National Highways, Nagercoil,
Kanyakumari District.

3. The Project Director,
National Highways Authority of India,
Tirunelveli.

... Respondents

(R3-is impleaded vide court order dated 21.09.2017
made in WMP(MD)No.13870/2017)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for records pertaining to the impugned order in Na.Ka.No.J3/534/2015 dated 18.08.2017 passed by the 2nd respondent and quash the same and consequently direct the respondents to conduct re-enquiry by taking into account the letter No.NHAI/11013/DGM (LA & Coord)/2015 -FTS - 586/06 dated 03.02.2016 issued by the National Highways Authority of India and to enhance the compensation for the acquisition of the petitioner's land in Survey No.223/1A, situated at Pothaiyadi, Thamaraikulam Village, Kanyakumari District for the formation of four lane road NH-47 (Kerala - Tamilnadu Border to Kanyakumari and NH-47B (Nagercoil to Kavalkinaru).

For Petitioner : Mr.M.Ramu

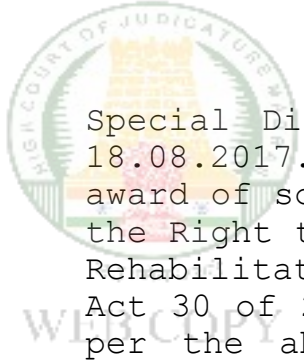
For Respondents : Mrs.V.P.M.Vaishnavi

Government Advocate for RR-1 & 2

Mr.K.K.Senthilvelan

Standing Counsel for R-3

ORDER



Special District Revenue Officer, Tirunelveli at Nagercoil, dated 18.08.2017. The competent authority has rejected the request for award of solatium at 100% and additional compensation of 12%, as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, (hereinafter referred as Act 30 of 2013). The authority had stated that the compensation as per the above Act will apply only to the awards passed beyond 01.01.2015 and not for the awards passed before 2015.

2. In the instant case, the third respondent issued a notification for acquisition of land on 10.04.2010. Following the procedures of calling for objections, personal hearing and consideration of objections, final order was passed by the competent authority on 25.02.2013. The amount was deposited and the appropriate compensation was received by the petitioner. Aggrieved over the inadequate compensation, the petitioner raised an arbitration proceeding before the District Collector, which was also decided on 04.12.2015. Thereafter, the petitioner made a representation on 04.05.2017 and on the basis of the information provided under the Right to Information Act, the present writ petition came to be filed.

3. The claim of the petitioner that the provisions of Act 30 of 2013 should be invoked for an award passed on 25.02.2013 was rejected by the second respondent. In fact, the legal position is that Act 30 of 2013 came into force from 01.01.2015 and any acquisition proceedings, which was completed before 2015 shall be made under the appropriate Act, in the instant case, it is National Highways Act, 1956. The request for invoking the later Act for the completed acquisition proceedings is not sustainable and the authority has rightly rejected the request made by the petitioner. I do not find any infirmity in the order passed by the second respondent and the writ petition is liable to be dismissed.

3. Accordingly, the writ petition is dismissed. No costs. However, the request of 100% solatium and 12% additional compensation cannot be entertained. However, the contention of the learned counsel for the petitioner that the judgment of the Honourable Supreme Court in **Chakrapani & Others Vs. Union of India and Others**, reported in (2011) Writ L.R.193, declaring the Constitutional validity of Section 3J of the National Highways Act, 1956 that the land owner shall be paid compensation as per the Land Acquisition Act, 1894 is concerned, it is open to the petitioner to raise this issue before the appropriate authority and get redressal of his grievances.

Sd/-
Assistant Registrar (AS)

/True Copy/



To:

1. The District Collector,
Nagercoil, Kanyakumari District.

2. The Special District Revenue Officer,
Land Acquisition
National Highways, Nagercoil,
Kanyakumari District.

3. The Project Director,
National Highways Authority of India,
Tirunelveli.

+ 1 CC TO Mr.RAMU, ADVOCATE IN SR No. 71360

+ 1 CC TO Mr.K.K.SENTHIL VELAN, ADVOCATE IN SR No. 71143

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 71269

VS

TE/SKN-RSK/SAR-4 : 18/07/2018 : 3P/7C

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04.07.2018
(1/5)