



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.19025 of 2017

Suyambumarachan

... 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

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 09.05.2017 and to provide the compensation for the acquisition of his 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) under the Right to Fair Compensation and Rehabilitation of the Land Acquisition Act, 2013.

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

O R D E R

The writ petitioner seeks a direction, directing the respondents to consider his representation, dated 09.05.2017 and provide compensation to the land acquired under the Right to Fair Compensation and Rehabilitation of the Land Acquisition Act, 2013.



3. The admitted facts are that a notification was issued by the National Highways Authorities on 09.04.2010 and award came to be passed on 25.02.2013 following the procedures laid down for acquisition under National Highways Act, 1956.

4. According to the learned counsel appearing for the National Highways Authorities, they have deposited the compensation amount and it was received by the petitioner and similarly placed persons and against which, they have raised an arbitration before the District Collector and order was passed on 04.12.2015. Admittedly, Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, (hereinafter referred as Act 30 of 2013) came into force with effect from 01.01.2015. For the award passed in the year 2012, the petitioner's request to invoke the provisions of Act 30 of 2013, which came into force with effect from 01.01.2015 cannot be granted, as the acquisition proceedings reached finality. It is open to the petitioner to pursue his remedies, as per the provisions of National Highways Act, 1956 by raising an arbitration for enhancement and also further appeal to the District Court as specified in the statute.

5. The contention of the learned counsel for the petitioner that as per the judgment of the Honourable Supreme Court in **Chakrapani & Others Vs. Union of India and Others, reported in (2011) Writ L.R.193**, awarding solatium and interest as per the old Act is concerned, it has to be raised before the appropriate forum in the petition filed for enhancement. The petitioner cannot canvass that point in the present writ petition.

6. In such circumstances, the writ petition as such is not maintainable and accordingly, it is dismissed. No costs. It is made clear that for award of 30% of solatium and interest on the compensation, as per the judgment of the Honourable Supreme Court is concerned, it is open to the petitioner to approach the appropriate authority.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

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. 71363
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 71268

VS

TE/SKN-RSK/SAR-4 : 18/07/2018 : 3P/6C

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04.07.2018
(3/5)