



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 18.07.2018
CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P(MD)No.20725 of 2017
and W.M.P.(MD) No.16996 of 2017

Parvathy

.. Petitioner

Vs.

1.The District Revenue Officer,
National Highways Land Acquisition,
National Highways, NH 49,
District Collector Office,
Ramanathapuram.

2.The District Collector,
Sivagangai District,
Sivagangai.

3.The Special Tahsildar,
(Land Acquisition),
National Highways, NH 49,
Unit II, Manamadurai,
Sivagangai District.

4.The Project Officer,
National Highways Office,
Madurai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of mandamus directing the respondents to refer the award in reference No.Na.Ka./N.H.49 Unit V/63/2013 dated 21.10.2016 under Section 18 of Land Acquisition Act to the Sub-Court, Sivagangai in accordance with law, within time stipulated by this Court.

For Petitioner	: Mr.J. John
For R1 to R3	: Mrs.J. Padmavathi Devi Special Government Pleader
For R4	: Mr.C.Arulvadivel @ Sekar

O R D E R

The petitioner's land was acquired under National Highways Act, 1956, and an award was also passed. Against the award, the petitioner raised an arbitration before the second respondent District Collector on 16.10.2017. Even though arbitration application was filed, no action was taken by the second respondent.



The third respondent Tahsildar Land Acquisition Officer has informed by his letter dated 17.10.2017 that proper report has already been submitted before the second respondent and the award will be passed within a short time. Since no order is forthcoming from the second respondent, the petitioner sought for reference under Section 18 of Land Acquisition Act before the Sub Court, Sivagangai for the purpose of arriving at the enhanced compensation.

2. The fourth respondent has filed a counter before this Court stating that the writ petition itself is not maintainable as the land is acquired under the provisions of National Highways Act and the petitioner had received the award of compensation and submitted himself before the second respondent by way of arbitration application under Section 3G(5) of National Highways Act, 1956 and therefore, he cannot seek reference under Section 18 of the Land Acquisition Act and the writ petition is liable to be dismissed.

3. Heard the submission made on either sides.

4. Admittedly, the petitioner's land was acquired by the fourth respondent National Highways Authorities and compensation was also awarded. From the records produced before this Court, it is seen that on 16.10.2017 the petitioner has filed an application for arbitration before the second respondent for enhancement of compensation. It is also seen from the letter of the third respondent dated 17.10.2017 that an arbitration application has been taken on file and the valuation certificate and other relevant certificate were submitted before the second respondent for his consideration.

5. An award is expected to be passed shortly from the date of an application. However, no such award was passed so far. The prayer sought in the writ petition to refer the matter under Section 18 of Land Acquisition Act, 1894 is not sustainable. Admittedly, the petitioner's land was acquired under National Highways Act and the petitioner has also received compensation and submitted an application under Section 3G(5) of National Highways Act and after having submitted an application under National Highways Act, it is not open to the petitioner to seek relief under a different Act.

6. Under such circumstances, this writ petition is not maintainable. However, considering the long pendency of the arbitration application, a direction is issued to the second respondent to conclude arbitration proceedings as expeditiously as possible in respect of the petitioner's land. In any event, the second respondent shall pass an award within a period of two months from the date of receipt of a copy of this order.

7. At this juncture, the learned counsel for the petitioner would make a fervent request that 15 days time be granted for



shifting the business of the petitioner to an alternative place.

8. Considering the prayer, a direction is issued to the fourth respondent to defer demolition of the petitioner's building till 03.08.2018.

9. With the above direction, this writ petition is disposed of. No costs. Consequently, connected W.M.P.(MD) No.16996 of 2017 is closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar(CS-I)

To,

- 1.The District Revenue Officer,
National Highways Land Acquisition,
National Highways,
NH 49,District Collector Office,
Ramanathapuram.
- 2.The District Collector,
Sivagangai District,
Sivagangai.
- 3.The Special Tahsildar, (Land Acquisition),
National Highways,
NH 49,Unit II,
Manamadurai,
Sivagangai District.
- 4.The Project Officer,
National Highways Office,
Madurai.

+1CC to Mr.J.John Advocate in SR.No.73581.

+1CC to Mr.C.Arul Vadivel @ Sekar Advocate in SR.No.73696.

+1CC to The Special Government Pleader in SR.No.73851.

CM

DS/SV/SAR-1 :25.07.2018: 3P/8C

W.P(MD)No.20725 of 2017
and W.M.P. (MD) No.16996 of 2017
18.07.2018