



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 27.09.2019	Pronounced on: 03.10.2019
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Coram::

The Honourable Dr.Justice G.Jayachandran

Writ Petition Nos.28514 & 28517 of 2019
& W.M.P.Nos.28238 & 28241 of 2019

A.Muthuramalingam,
S/o.K.Athinamelagi,
No.53, 2nd Street, Lazer Nagar,
Avadi, Chennai - 600 071. Petitioner
in W.P.No.28514 of 2019

R.Malathy Raghu,
W/o.Raghu,
No.31, 2nd Street, Lazer Nagar,
Avadi, Chennai - 600 071. Petitioner
in W.P.No.28517 of 2019

/versus/

1. The Project Director,
No.54, 1st Floor,
Natarajapuram,
North Colony,
Medical College Road,
Tanjore - 613 004.
2. The Competent Authority-cum-
Special District Revenue Officer,
(Land Acquisition) (in-charge),
National Highway,
No.45-C, Highway Land Acquisition,
Villupuram Collector Office,
Villupuram. Respondents
in both cases.

Prayer in W.P.No.28514 of 2019: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Declaration, declaring the award dated 20.12.2016 issued by the 2nd respondent in Na.Ka.aa/N.H.-45C/1059/2013 has lapsed and null and void in respect of petitioner's lands measuring an extent of land of 67 sq.mtr (721.18 sq.ft) situate in survey No.110/5, Panankuppam village, Villupuram Taluk & District and consequently forbear the respondents from disturbing the possession based in the lapsed award dated 20.12.2016 issued by

the 2nd respondent in Na.Ka.aa/N.H.-45C/1059/2013 and pass such other suitable orders as this Hon'ble Court may deem fit.

Prayer in W.P.No.28517 of 2019: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Declaration, declaring the award dated 20.12.2016 issued by the 2nd respondent in Na.Ka.aa/N.H.-45C/1059/2013 has lapsed and null and void in respect of petitioner's lands measuring an extent of land of 297 sq.mtr (3196.88 sq.ft) situate in survey No.110/5, Panankuppam village, Villupuram Taluk & District and consequently forbear the respondents from disturbing the possession based in the lapsed award dated 20.12.2016 issued by the 2nd respondent in Na.Ka.aa/N.H.-45C/1059/2013 and pass such other suitable orders as this Hon'ble Court may deem fit.

For Petitioner : Mr.M.Naraayanaswamy
in both cases

For R1 : Mr.SU.Srinivasan
in both cases

For R2 : Mr.D.Raja,
in both cases Additional Government Pleader

C O M M O N O R D E R

Heard the Learned Counsel for the Petitioners and the Learned Counsel for the Respondents.

2. The Two petitioners are owners of plots situated in S.No. 110/5 (old Survey No.110/2) at Panankuppam Village, Villupuram Taluk & District. According to the petitioners, the land in the above Survey number was plotted out and sold to various persons. The petitioner/R.Malathy Raghu in W.P.No.28517 of 2019 purchased plots bearing numbers 95 to 100 in the year 2002 and duly registered. Out of these 6 plots, she sold plot number 99 to the writ petitioner/A.Muthuramalingam in W.P.No.28514 of 2019 vide sale deed dated 14.01.2011.

3. The common grievance of these two writ petitioners are, on 16.09.2014, the 2nd respondent/District Revenue Officer, (Land Acquisition), Villupuram, published notification under Section 3 A of the National Highways Act for the purpose of formation of 4 way National Highways No.45-C, in respect of portion of their land and later published section 3-D(i) notification on 12.04.2015. Award was passed on 20.12.2016 by the 2nd respondent. It is contented that the award was not passed in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and

Resettlement Act, 2013. Hence, the acquisition proceedings has to be quashed, since the possession has not taken so far.

4. The Writ Petitions are misconceived. According to Section 105 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, any acquisition proceedings under the special acts mentioned in fourth schedule of the said act, the provision of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, will not apply to the said Special Act. The National Highways Act, 1956, is one of the special acts mentioned in fourth schedule and exempted from the purview of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, except with reference to compensation in certain circumstances.

5. Section 105 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 reads as below:

105. Provisions of this Act not to apply in certain cases or to apply with certain modifications:- (1) Subject to sub-section (3), the provisions of this Act shall not apply to the enactments relating to land acquisition specified in the Fourth Schedule.

(2) Subject to sub-section (2) of section 106, the Central Government may, by notification, omit or add to any of the enactments specified in the Fourth Schedule.

(3) The Central Government shall, by notification, within one year from the date of commencement of this Act, direct that any of the provisions of this Act relating to the determination of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families, shall apply to the cases of land acquisition under the enactments specified in the Fourth Schedule or shall apply with such exceptions or modifications that do not reduce

the compensation or dilute the provisions of this Act relating to compensation or rehabilitation and resettlement as may be specified in the notification, as the case may be.

(4) A copy of every notification proposed to be issued under sub-section (3), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses of Parliament.

6. To dispel the doubt in the mind of the landowners and to remove the difficulty in the Act, as passed by the Parliament in the year 2013, the following order has been passed by the Government

1. (i). This Order may be called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Removal of Difficulties) Order, 2015.

(ii). It shall come into force with effect from the 1st day of September, 2015.

2. The provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, relating to the determination of compensation in accordance with the First Schedule, Rehabilitation and Resettlement in accordance with the Second Schedule and Infrastructure amenities in accordance with the Third Schedule shall apply to all cases of Land Acquisition

under the enactments specified in the Fourth Schedule to the said Act.

[F.No. 13011/01/2014-LRD] K. P. KRISHNAN, Addl. Secy." It is thus clear that the Ordinance as well as the notification have applied the principle contained in Nagpur Improvement Trust (supra), as the Central Government has considered it necessary to extend the benefits available to landowners generally under the 2013 Act to similarly placed landowners whose lands are acquired under the 13 enactments specified in the Fourth Schedule, the National Highways Act being one of the aforesaid enactments. This being the case, it is clear that the Government has itself accepted that the principle of Nagpur Improvement Trust (supra) would apply to acquisitions which take place under the National Highways Act, and that solatium and interest would be payable under the 2013 Act to persons whose lands are acquired for the purpose of National Highways as they are similarly placed to those landowners whose lands have been acquired for other public purposes under the 2013 Act. This being the case, it is clear that even the Government is of the view that it is not possible to discriminate between landowners covered by the 2013 Act and landowners covered by the National Highways Act, when it comes to compensation to be paid for lands acquired under either of the enactments. The judgments delivered under the 1952 Act as well as the Defence of India Act, 1971, may, therefore, require a re-look in the light of this development. In any case, as has been pointed out hereinabove, the case of Chajju Ram (supra), has been referred to a larger Bench. In this view of the matter, we are of the view that the view of the Punjab and Haryana High Court is correct, whereas the view of the Rajasthan High Court is not correct.

7. This fact has been also dealt by the Hon'ble Supreme Court in Union of India & Another Versus Tarsem Singh & Others reported in CDJ 2019 SC 1097.

8. Thus, the Act protects the person having interest over the land acquired to get fair and adequate compensation which shall not be less than what he will be entitled under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Therefore, if the compensation component not satisfactory to the petitioners and if they are aggrieved with the quantum of compensation awarded, it is always open to the petitioners to preferred appeal for enhanced compensation under section 3 G(5) of the National Highways Act, within 60 days, from the date of receipt of the award. Inadequacy of compensation or any violation of procedure while arriving at the award, cannot be a ground to quash the acquisition proceedings.

9. For the above reasons, this Court finds no merit in the Writ Petitions. Hence, the Writ Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

bsm

To,

1. The Project Director,
No.54, 1st Floor, Natarajapuram,
North Colony, Medical College Road,
Tanjore - 613 004.
2. The Competent Authority-cum-Special District Revenue Officer,
(Land Acquisition) (in-charge), National Highway,
No.45-C, Highway Land Acquisition,
Villupuram Collector Office,Villupuram.

+2cc to Mr.M.Naraayanaswamy, Advocate SR.No.83280 (09/12/2019)

+2cc to Government Pleader SR.No.85522, 85523

W.P.Nos.28514 & 28517 of 2019

PM(CO)
GMY (01/11/2019)