

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P. 7367 of 2009

and

M.P.s 1 & 2 of 2009

N.Ramasamy Gounder

... Petitioner

Vs

1. The Competent Authority and
Special District Revenue Office (LA),
National Highways - 68
(Salem Ulundurpet),
Salem - 4.

2. Government of India,
rep. by its Secretary to
Government,
Ministry of Shipping Road Transport
and Highways,
Department of Road Transport and
Highways, New Delhi.

3. The Project Director,
National Highways Authority of India,
VSA Commercial Complex, II Floor,
9-11, Omalur Main Road,
Near New Bus Stand,
Salem - 636 004.

.. Respondents

(R3 impleaded as per order dated 30.10.2009 vide W.P.7367/2009)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in his memo Roc 128/2009 NH-68 dated 23.03.2009, quash the same and to direct the 1st respondent to give solatium, interest, additional market value and severance compensation as provided under Land Acquisition Act, 1894 along with the amount of compensation to be determined for the lands acquired from the petitioner viz., 10141 sq. meter in S.No.24/1A of Chinnagoundapuram Village, Salem District forthwith.

For Petitioner : Mr.P.Jagadeesan
For Respondents : Mr.W.Richard for R1 & R3,

Mr.J.Madanagopal Rao for R2

O R D E R

This Writ Petition has been filed challenging the impugned order of the 1st respondent and quash the same and consequently directing the 1st respondent to give solatium, interest, additional market value and severance compensation as provided under the Land Acquisition Act.

2. The case of the petitioner is that the petitioner's land was acquired for the purpose of forming highways project by invoking National Highways Act, 1956 and after acquisition, the petitioner has submitted a representation dated 23.03.2009 to the 1st respondent to fix the compensation in terms of Land Acquisition Act, 1894 and the said request was rejected. Challenging the said rejection, the present Writ Petition has been filed.

3. The very same issue was raised before the Division Bench of this Court and the Division Bench of this Court has allowed Writ Appeals in W.A. Nos. 62 of 2019 etc. batch, wherein this Court has held as follows :-

"13. Further it is submitted that if any positive direction is issued for payment of additional market value, Solatium and interest, it will be a severe drain on the finances of the appellants and the projected expenses is more than Rs.2000 crores. In our considered view, the writ Court cannot at this stage issue any positive direction to pay additional market value, solatium or interest, but however, this Court is well within its jurisdiction to issue directions to consider the claim of the respondent/writ petitioners in terms of Section 3G(5) of the National Highways Act.

16. Thus, for all the above reasons, the writ appeal is partly allowed and the order and direction issued by the learned Single Bench to the first respondent is set aside and the following directions are issued :-

- (i) The respondent/writ petitioners are directed to submit appropriate petition in the proper form before the District Collector, Salem on or before 15.05.2019 from the date of receipt of copy of this order along with copies of the earlier representation claiming whatever reliefs they

want as claimed in the writ petition i.e., additional market value, solatium and interest.

(ii) On receipt of the petition, the District Collector, Salem, shall afford an opportunity of personal hearing to the respondent/writ petitioners or their representative within a period of 30 days from the date of presentation of the petition in terms of the direction in the above para (i).

(iii) After hearing the respondent/writ petitioners in person, the District Collector/Arbitrator shall take note of the documents that will be placed before him as well as the legal submissions made by them and pass a reasoned order on merits and in accordance with law.

17. It is well open to the respondent/writ petitioners to place all materials including the decisions of this court and the Hon'ble Supreme Court before the District Collector/Arbitrator. The final orders in terms of this directions be passed by the District Collector/Arbitrator within a period of 40 days from the date of which the personal hearing is concluded."

4. The Division Bench of this Court has allowed the appeals in part and issued a direction to the landowners/claimants therein to file appropriate petition before the District Collector/Arbitrator appointed under Sec.3(G)(5) of the Act and if any petition is filed, the District Collector is directed to pass order in the above terms.

5. With the above lines, the Writ Petition stands closed with a liberty to the petitioner to file appropriate petition before the District Collector/Arbitrator within a period of thirty days from the date of receipt of copy of this order. On receipt of the petition, the District Collector, Salem shall afford an opportunity of personal hearing to the petitioner within a period of thirty days from the date of presentation of the petition and after hearing the petitioner in person, the District Collector/Arbitrator, Salem shall take note of the documents that will be placed before him as well as the legal submissions made by him and pass a reasoned order on merits and in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-

Assistant Registrar(CS VIII)

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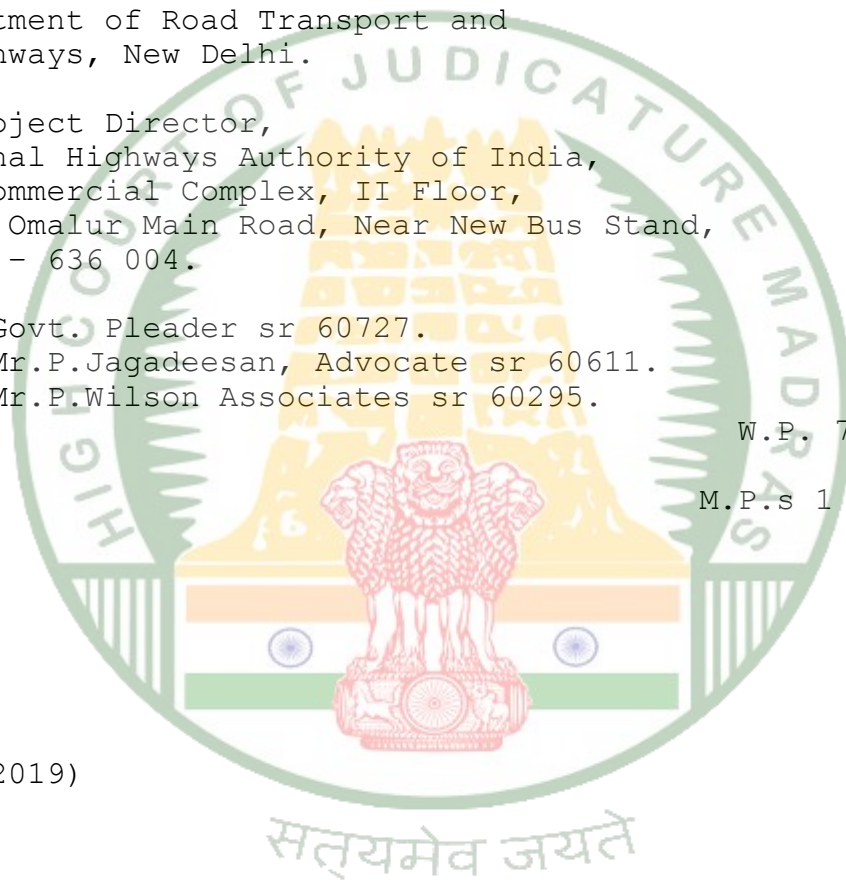
Sub-Assistant Registrar

To

1. The Competent Authority and
Special District Revenue Office (LA),
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 2. The Secretary to Government,
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 3. The Project Director,
National Highways Authority of India,
VSA Commercial Complex, II Floor,
9-11, Omalur Main Road, Near New Bus Stand,
Salem - 636 004.
- +1 CC to Govt. Pleader sr 60727.
+1 CC to Mr.P.Jagadeesan, Advocate sr 60611.
+1 CC to Mr.P.Wilson Associates sr 60295.

W.P. 7367 of 2009
and
M.P.s 1 & 2 of 2009

JP (CO)
SP (19/08/2019)



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