

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.9519 of 2010

Dr.M.Kumaresan
Petitioner

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Vs

1. The District Revenue Officer cum
Competent Authority,
National Highways (Land Acquisition),
Indian National Highway-68, Salem.
 2. The Project Director,
National Highways Authority of India,
V.S.A. Complex, Near New Bus Stand, Salem.
 3. The Executive Engineer, PWD,
Buildings (C&M) Division, Salem-7.
- Respondents

Prayer:- Writ Petition is filed under Article 226 of the
Constitution of India, praying to issue a Writ of Mandamus
directing the respondents to pay compensation of
Rs.87,50,000/- as per the petitioner's representation dated
29.02.2010 to the petitioner.

For Petitioner : Mr.A.P. Rajaprabhu

For RR 1 & 3 : Mr.M. Elumalai
Government Advocate

For R2 : Mr.Su. Srinivasan

ORDER

This writ petition has been filed by the petitioner
seeking a direction to the respondents to pay the compensation
of Rs.87,50,000/- as per the petitioner's representation dated
29.02.2010 to the petitioner.

2. The grievance of the writ petitioner is that the
land owned by the petitioner in Survey No.32/2, in Chinna
Goundapuram Village, Vallapadi Taluk, Salem District,
measuring to an extent of 36643 sq.mtrs, was acquired for the
formation of Four Laning Road of NH-68, by the respondents,
including the petitioner's patta land, house, open Well, bore-

Well in the Well, irrigation tank, irrigation pipeline, cable line and iron barbed fence. Thereafter, he had submitted a representation dated 29.02.2010 to the third respondent/Executive Engineer of PWD seeking to enhance the compensation as the compensation fixed by the third respondent to the tune of Rs.6,12,061/- towards Well and Rs.2,11,486/- towards house was very meagre. But, there was no response from the third respondent, hence, the petitioner has come forward with the present writ petition for the payment of compensation based on the representation dated 29.02.2010.

3. Counter affidavit has been filed by the third respondent, wherein it is stated that the petitioner's acquired land was revalued and fixed the compensation as follows:

Sl. No.	Name of the Owner	Village	SF.No.	Value (Rs.)
1.	Dr.M.Kumaresan	Chinnagoundapuram/ Tiled House	32/2B, 4B, 4C, 5A1, 5C, 24/1B	2,11,486/-
2.	Dr.M.Kumaresan	Chinnagoundapuram/ Open Well	-do-	6,12,061/-

Thereafter, he made a representation stating that the revaluation arrived at by the third respondent was meagre and objected to the amount of revaluation prepared by Public Works Department. The Competent Authority (Land Acquisition) forwarded the representation and sought for the Joint Inspection of Superintending Engineer, Public Works Department with Competent Authority. Thereafter, the site was inspected on 11.03.2010 by the Superintending Engineer, Public Works Department, along with Project Director, NHAI and competent authority in the presence of the petitioner. During the inspection, there was no presence or evidence of presence of 1000 feet side bore-well, cable lines and barbed wire fencing as claimed by the petitioner. Therefore, the contention of the respondent is that if the amount determined by the Competent Authority under sub-Section (1) or Sub-Section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the learned Arbitrator to be appointed by the Central Government. He further submitted that the petitioner's land was not acquired by Public Works Department and the Public Works Department is responsible for valuation of properties only and is not liable for the payment of compensation. Therefore, the compensation amount as fixed by the respondents has not been altered or arrived at by the respondents/department. Therefore, the respondents prayed to dismiss the above writ petition.

4. Heard Mr.A.P. Rajaprabhu, learned counsel appearing for the petitioner and Mr.M. Elumalai, learned Government

Advocate appearing for the respondents 1&3 and Mr.Su. Srinivasan, learned counsel appearing for the second respondent and perused the materials available on record before this Court.

5. According to the learned counsel appearing for the respondents, the petitioner has also preferred an appeal under Sub-Section 5 of Section 3G of the National Highways Act, 1956, before the learned Arbitrator (District Collector), Salem. The said appeal was considered by the learned Arbitrator and passed by order dated 08.11.2014. In view of the aforesaid facts and circumstances of the case, the writ petition is not maintainable and the same is liable to be dismissed.

6. Recording the above said statement of the learned counsel appearing for the respondents, since the claim of the petitioner seeking to determine the proper compensation was already considered by the learned Arbitrator/District Collector, Salem, nothing survives in the writ petition. However, it is left open to the writ petitioner to file an appeal in the manner known to law, if he is so aggrieved against the order passed by the learned Arbitrator. The respondents are directed to communicate a copy of the award passed by the learned Arbitrator to the petitioner.

7. Accordingly, for the reasons stated above, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

msm

To

1. The District Revenue Officer cum
Competent Authority,
National Highways (Land Acquisition),
Indian National Highway-68, Salem.
2. The Project Director,
National Highways Authority of India,
V.S.A. Complex, Near New Bus Stand, Salem.
3. The Executive Engineer, PWD,
Buildings (C&M) Division, Salem-7.

+1 cc to Government Pleader Sr.No. 89738

+1cc to Mr.A.P.Raja Prabhu, Advocate SR.No. 89172

+1cc to Mr.Su.Srinivasan , Advocate SR.No. 89585

W.P.No.9519 of 2010