

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:01.10.2019

Coram:

THE HONOURABLE DR.JUSTICE G. JAYACHANDRAN

Writ Petition No.28862 of 2019

and

W.M.P.No.28604 of 2019

R.Srinivasan

.. Petitioner

/versus/

1.Union of India
Rep.by Secretary,
National Highways Department,
G 5&6, Sector-10, Dwarka,
New Delhi 110 075.

2.National Highways Authority of India,
Rep.by its Project Director,
In charge of NH 45,
Dindivanam,
Moovendar Nagar,
Villupuram District,
Villupuram 605 602.

3.The Competent Authority (Land acquisition) and
The Special District Revenue Officer,
(Land Acquisition National Highways),
NH-45, Dindivanam Bye Pass,
Villupuram Collectorate,
Collector Office Road,
Moovendar Nagar,
Villupuram District,
Villupuram 605 602.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records on the file of the third respondent relating to proceedings initiated by the third respondent in Ref.A/SDRO/LA/NH/1247/2015, dated 04.12.2018 and to quash the same and directing the respondents to pay the correct compensation in accordance with Section 23(1)(A), Section 23(2) and other provisions of the Land Acquisition Act, 1894 as amended pertaining to the petitioner's land situated at survey No.11/1A and 11/2A measuring an extent of 10980 sq.mtr and 315 sq.mtr in all measuring 11295 sq.mts at Kidangal Village, Dindivanam, Villupuram District.

For Petitioner :Mr.David Tyagaraj

For Respondents:Mr.Su.Srinivasan,st.c for R1 & R2
Mr.D.Raja, AGP for R3

O R D E R

The petitioner herein is the erstwhile owner of the land, which has been acquired under the National Highways Act 1956.

2. The grievance of the petitioner is that inspite of specific direction of this Court, the award passed by the third respondent does not carry interest for solatium and the award is contrary to the principles of law settled by this Court and the Hon'ble Supreme Court.

3.The prayer of the petitioner herein is that the award passed by the third respondent relating to the acquisition proceedings pursuant to the direction of this Court has to be quashed and the third respondent has to be directed to pay the correct compensation in accordance with the Section 23(1)(A) and 23(2) of the Land Acquisition Act, 1894

4. The learned counsel appearing for the petitioner would rely upon the judgement of this Court in T.Chakrapani & others vs. 1.Union of India rep.by Secretary, National Highways Department, New Delhi and others reported in [2011 Writ L.R.193], which has been confirmed by the Hon'ble Supreme Court. The compensation component under the National Highways Act, 1956 should be in tune with Sections 23(1)(A) and 23(2) of the Land Acquisition Act, but the third respondent herein has omitted to pay the interest on solatium.

5.The learned standing counsel appearing for the respondents 1 and 2-National Highways Department and the Additional Government Pleader for the 3rd respondent would submit that the third respondent has taken into consideration all necessary component for awarding compensation for the land acquired including solatium and interest. If the petitioner is aggrieved over the amount determined by the competent authority, he has remedy to approach the Arbitrator appointed by the Government.

6.In this case, the District Collector is the Arbitrator appointed by the Government and the petitioner herein can approach the District Collector/Arbitrator and seek redressal.

7. The provisions of the National Highways Act, 1956, while dealing with the determination of amount payable as compensation has formulated the procedure for determination of compensation as well as the appellate remedy. If the parties are not agreeable with the amount determined by the competent authority, Section 3G(5) which reads as below gives the petitioner herein the right to approach the Arbitrator for determining the compensation, which according to him the third respondent has failed to consider.

"3-G(5): Determination of amount payable as compensation:- 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 arbitrator to be appointed by the Central Government."

8. Therefore, the writ petitioner is disposed of giving liberty to the petitioner herein to make his representation to the Arbitrator/District Collector, within a period of four weeks, from the date of receipt of a copy of this order. On receiving the representation from the petitioner, the Arbitrator/District Collector shall dispose of the representation of the petitioner, after affording opportunity to the parties, within a period of six months, from the date of receipt of the representation. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CJ conf)

//True Copy//

Sub Assistant Registrar

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To:

1.The Secretary, Union of India
National Highways Department,
G 5&6, Sector-10, Dwarka,
New Delhi 110 075.

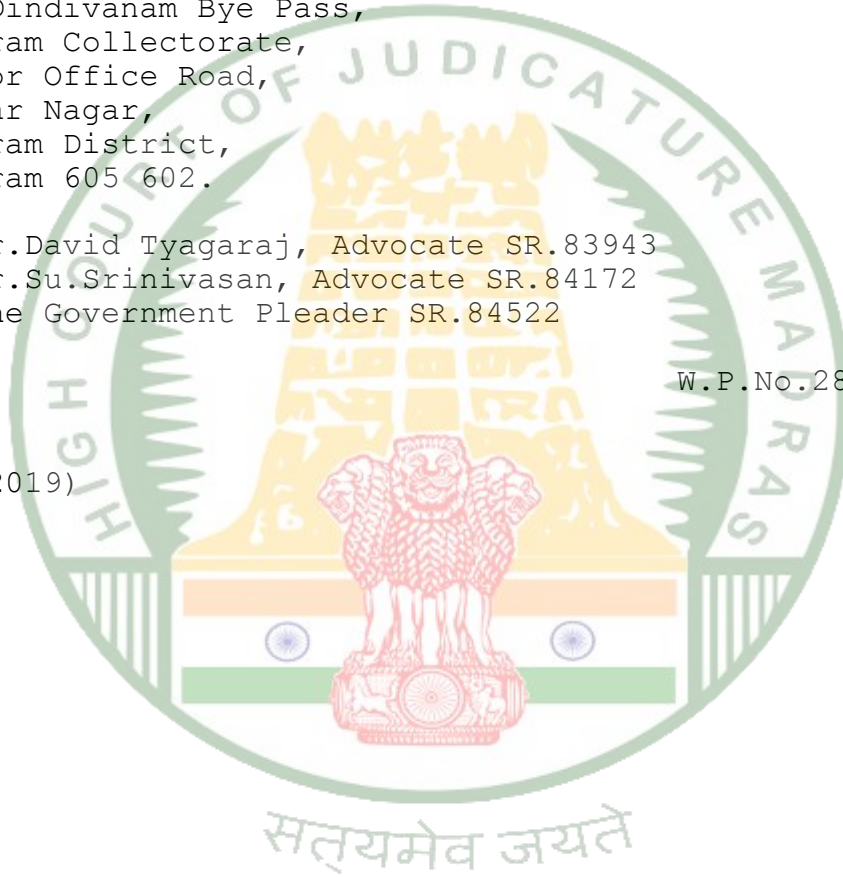
2.The Project Director,
National Highways Authority of India,
In charge of NH 45,
Dindivanam,
Moovendar Nagar,
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Villupuram 605 602.

+lcc to Mr.David Tyagaraj, Advocate SR.83943
+lcc to Mr.Su.Srinivasan, Advocate SR.84172
+lcc to the Government Pleader SR.84522

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LN(CO)
CB(05/11/2019)



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