



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2019

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THE HON'BLE MR.JUSTICE R.SURESH KUMARW.P.(MD) No.13818 of 2019andW.M.P.(MD) No.10336 of 2019

WEB COPY

V.Jyothi

...Petitioner

-Vs-

1. The District Collector,
Kanyakumari District.
Nagercoil.
2. The Competent Authority & District
Revenue Officer,
Land Acquisition National Highways,
Tirunelveli @ Nagercoil,
Kanyakumari District.
3. The Project Director cum DGM(Tech)
No.314E, K.P.Road,
Near Ayappan Kovil,
Parvathipuram, Nagercoil - 629 003,
Kanyakumari District.
4. The Union of India,
rep. by its Secretary,
Ministry of Road Transport and Highways,
Transport Bhawan,
No.1, Parliament Street,
New Delhi.
5. The Special Tahsildar (LANH Unit III),
Vilvancode, Thiruthuvapuram,
Kanyakumari District.
6. The Tahsildar,
Kalukulam Taluk,
Kanyakumari District.

...Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the 1st respondent to pass orders on the Appeal dated 21.11.2018 for re-fixation of compensation awarded, in the modified award No.5/2015-15 dated 04.10.2017 in proceedings No.ROC J3/13/2010, as per the Second Schedule, R/W (Sections 31(1), 38(1) and 105(3) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central



For Petitioner : Mr.G.Justin
For Respondents : Mr.M.Rajarajan, G.A.
For RR1, 2, 5 and 6
Mr.Su.Seenivasan, for R3
Mr.R.Rajaraman, for R4

The prayer in this writ petition is for a Writ of Mandamus, directing the 1st respondent to pass orders on the Appeal dated 21.11.2018 for re-fixation of compensation awarded, in the modified award No.5/2015-15 dated 04.10.2017 in proceedings No.ROC J3/13/2010, as per the entitlement in the Second Schedule, R/W (Sections 31(1), 38(1) and 105(3) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) and by applying multiplier four and pay the revised compensation together with interest and other benefits to the petitioner.

2. Heard Mr.G.Justin, the learned counsel appearing for the petitioner and Mr.M.Rajaraman, learned Government Advocate appearing for the respondents 1, 2, 5 and 6 and Mr.Su.Seenivasan, learned standing counsel appearing for the 3rd respondent and Mr.R.Rajaraman, learned standing counsel appearing for the 4th respondent.

3. By consent of both sides, this writ petition is taken up for final disposal at the admission stage itself.

4. The petitioner, as against the modified award No.5/2015 passed in respect of his land, which was acquired for public purpose under the Highways Act, preferred an appeal before the 1st respondent, who is the Competent Authority, on 21.11.2018 and the same is still pending with the 1st respondent. Hence, in order to dispose of the same, with the aforesaid prayer, the petitioner has approached this Court.

5.I have heard the learned Government Advocate appearing for the respondents 1, 2, 5 and 6, who would submit that, the appeal dated 21.11.2018 pending before the 1st respondent may be a belated appeal, as, against the award of the year 2015, the appeal has been filed only in 2018. Therefore, whether appeal was filed in time has to be initially decided and then only, the appeal has to be decided on merits. At any rate, on all that issues, the appeal would be decided on merits by the 1st respondent within a time to be specified by this Court.



6.Considering the said submission made by the learned Government Advocate, this Court is inclined to dispose of this writ petition, with the following direction:

The 1st respondent, being the competent authority, under the National Highways Act, can decide the appeal dated 21.11.2018 of the petitioner on merits and in accordance with law. While making such decision, it is open to the 1st respondent decide as to whether appeal filed was within the time and accordingly, a decision on merits can also be taken by the 1st respondent. The needful as indicated above shall be undertaken by the 1st respondent, within a period of six weeks from the date of receipt of a copy of this order.

7.With this direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The District Collector,
Kanyakumari District. Nagercoil.
2. The Competent Authority & District
Revenue Officer,
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3. The Special Tahsildar (LANH Unit III),
Vilvancode, Thiruthuvapuram,
Kanyakumari District.
4. The Tahsildar,
Kalukulam Taluk, Kanyakumari District.

+ 1 CC TO Mr.G.Justin, ADVOCATE IN SR No.70171

+ 1 CC TO Mr.Su.Srinivasan, ADVOCATE IN SR No.70550

Order made in
W.P. (MD) No.13818 of 2019