



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.08.2019**

CORAM

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.18259 of 2019
and
W.M.P(MD) .No.14702 of 2019

T.S.Usha

... Petitioner

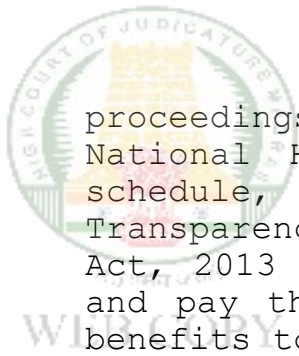
-Vs-

- 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),
Villvancode, Thiruthuvapuram,
Kanyakumari District.
- 6.The Tahsildar,
Vilavancode Taluk,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the first respondent to pass orders on the appeal dated 02.08.2019 for re-fixation of compensation awarded, in the award No.3/2015 dated 14.08.2015 in

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proceedings NO.ROC J3/24/2010, as per Section 3G(7)b, c and d of the National Highways Act, 1956 and the entitlement in the second schedule, R/W Section 30(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 from the date of notification.

For Petitioner : Mr.I.David Singh
For Respondents : Mr.Vaishnavi (for R1, R2, R5 & R6)
Government Advocate
Mr.Su.Srinivasan (for R3)
Standing Counsel
Mr.S.Karthik (for R4)

ORDER

The prayer sought for in this writ petition is to direct the first respondent to pass orders on the appeal, dated 02.08.2019 for re-fixation of compensation awarded, in award No.3/2015, dated 14.08.2015 passed by the second respondent.

2.Heard Mr.I.David Singh, learned counsel appearing for the petitioner, Mr.Vaishnavi, learned Government Advocate appearing for the respondents 1, 2, 5 and 6, Mr.Su.Srinivasan, learned counsel appearing for the third respondent and Mr.S.Karthik, learned counsel appearing for the fourth respondent.

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

4.The petitioner's land have been acquired and compensation has also been awarded. As against the award of compensation, the petitioner has filed an Arbitration Petition on 02.08.2019 under Section 3G(5) of the National Highways Act before the first respondent/District Collector, who is an Arbitrator under the Act. Therefore, the learned counsel appearing for the petitioner submits that, let the first respondent/District Collector decide the said appeal on merits by way of arbitration proceedings and pass order thereon, within a time to be stipulated by this Court.

5.I have heard Mrs.Vaishnavi, learned Government Advocate appearing for the respondents 1,2, 5 and 6, who would submit that, since the appeal filed by the petitioner, dated 02.08.2019 is a belated one, therefore, the question of delay would arise. Hence, before deciding the appeal on merits, let the first respondent decide the issue on delay and thereafter, it would be decided on merits, within a time frame to be stipulated by this Court.



6.The said stand taken by the learned Government Advocate is reiterated by the other learned counsel for the respondents 3 and 4.

7.In this context, the learned counsel for the petitioner has relied upon the order passed by this Court, dated 20.06.2019 in W.P (MD).No.13817 of 2019, where this Court, after having considered a similar situation, has passed the following order:-

"5.I have heard the learned Government Advocate appearing for the respondents 1, 2, 5 and 6, who would submit that the appeal dated 28.09.2018 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 September 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 stipulated 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 28.09.2018 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. "

8.Having regard to the said submissions made by both sides and perused the materials placed before this Court, this Court is inclined to dispose of this writ petition with the following directions:-

"that the first respondent shall decide the appeal of the petitioner, dated 02.08.2019 filed under Section 3G(5) of the National Highways Act as an Arbitration Petition, within the meaning of Sub-Section 6 of Section 3G and while deciding the same, the first



respondent shall decide the question of delay also, along with merits of the case and in this context, the earlier order cited above shall be taken as the precedent and accordingly, final order shall be passed, after giving an opportunity of being heard to the petitioner and other parties, within a period of eight weeks from the date of receipt of a copy of this order.

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9. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar

To

1. The District Collector,
Kanyakumari District, Nagercoil.

2. The Competent Authority &
District Revenue Officer.
Land Acquisition National Highways,
Tirunelveli @ Nagercoil,
Kanyakumari District.

3. The Special Tahsildar (LANH Unit III),
Villvancode, Thiruthuvapuram,
Kanyakumari District.

4. The Tahsildar,
Vilavancode Taluk,
Kanyakumari District.

+1 CC to M/s.I. DAVID SINGH, Advocate (SR-82993[F] dated 22/08/2019
+1 CC to M/s.S.KARTHIK, Advocate (SR-83051[F] dated 22/08/2019
+1 CC to M/s.SPL GP (SR-83316[F] dated 26/08/2019
+1 CC to M/s.SU. SRINI VASAN, Advocate (SR-83392[F] dated
26/08/2019

W.P. (MD)No.18259 of 2019
22.08.2019

RMK

MS/03.10.2019/4P.9C