



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).No.27014 of 2019

K.Tamilselvan

.. Petitioner

Vs.

1.The District Collector, Thanjavur,
Land Acquisition, Rehabilitation,
& Resettlement Authority,
Office of the District Collector,
Thanjavur.

2.The Authorized Officer,
District Revenue Officer (Land Acquisition),
National Highways No.45-C,
(Vikravandi - Kumbakonam, Thanjavur Division)
No.12, Tamizh Nagar, Vilamal,
Thiruvavur.

.. Respondents

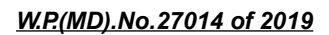
Prayer: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to consider the petitioner, Reference application, dated 24.09.2019 filed by the petitioner under Section 64 Proviso of the Act on merits within a period to be fixed by this Court, pertaining to the award No.6/2018-2019, ந.க.802-2017-அ.தே.நெ/திருவாரூர் - நாள்-14/06/2018 pertaining to R.S.No.109/1C1B Kovilacherry Village, Kumbakonam taluk 374 sq. mtrs. of Nanjai Manai with 34 X 20 R.C.C. Building (54 sq. mtrs. As referred in award) and with all assets attached to it and thatched house as provided under Section 69 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioner : Mr.M.V.santharaman

For Respondent : Mrs.V.P.M.Vaishnavi
Government Advocate

ORDER

This writ petition is filed for issuing a writ of Mandamus, to the 1st respondent to consider the petitioner's, Reference application, dated 24.09.2019 filed by the petitioner under the proviso to Section 64 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, on merits within a period to be fixed by this Court, pertaining to award No.6/2018-2019, ந.க.802-2017-அ.தே.நெ/-திருவாரூர் - நாள்-14/06/2018. in respect of property in R.S.No.109/1C1B Kovilacherry Village, Kumbakonam Taluk 374 sq. mtrs. of Nanjai Manai with 34 X 20 R.C.C. Building (54 sq. mtrs. As referred in award) and with all assets attached to it and thatched house as provided under Section



both part
admission

3.The petitioner states that he is the owner of the land having an extent of 374 sq. feet in Kovilacherry Village, Kumbakonam Taluk in R.S.No.109/1C1B with terraced house building. It is also admitted by the petitioner that the property belonged to the petitioner was acquired. However, it is stated by the petitioner that the acquisition was under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (herein after referred as Act 30 of 2013. Though it is contended by the petitioner that an award was also passed on 14.06.2018 under Act 30 of 2013, from the proceedings, it is seen that the acquisition was under the National Highways Act. However, the petitioner submitted a representation earlier seeking reference under Section 64(1) and (2) of Act 30 of 2013.

4. The petitioner submitted a representation claiming fair compensation, under the Provisions of Act 30 of 2013. In response to the representation submitted by the petitioner, a reply has been given to the petitioner's counsel, stating that the acquisition was made under the National Highways Act and that the petitioner cannot seek reference under Section 64 (1) and (2) of Act 30 of 2013. It was further stated that the petitioner can approach the District Collector by way of appeal. Despite the petitioner's application being rejected by the second respondent, the petitioner submitted a further petition before the second respondent requesting once again reference under Section 64 of Act 30 of 2013. Since the representation was not considered by the first respondent, the petitioner has approached this Court with the above writ petition.

5. The learned counsel for the petitioner submitted that the Land Acquisition proceedings initiated by the second respondent should be treated as a proceedings under Act 30 of 2013. It is the grievance of the petitioner that the second respondent has not included the value of building for the purpose of arriving at fair compensation in terms of Act 30 of 2013.

6. The contention of the petitioner that the petitioner is entitled to compensation as determined under Act 30 of 2013 may be right. However, the procedure to be followed for land acquired under the National Highways Act is different from the provisions of Act 30 of 2013. The petitioner cannot seek reference under Section 64 of Act 30 of 2013, in a case, where his land was acquired under the National Highways Act, merely because, the petitioner is entitled to compensation as payable under Act 30 of 2013. It cannot be contended that the provision of Act 30 of 2013 should be made



applicable to the petitioner for enabling him to seek reference under Section 64 (1) of the Act.

7.The petitioner has produced before this Court the typed set containing a petition under Section 64(1) submitted to the first respondent seeking a reference. As it is informed by the second respondent to the petitioner, the petitioner's grievance can be redressed by the District Collector in the appeal that will be filed by the petitioner before the first respondent. Since the petitioner has already submitted a petition under Section 64(1) claiming higher compensation, this Court is of the view that the first respondent can treat the said petition as an appeal, so that he can pass appropriate order as an arbitrator.

8.Hence, this writ petition is dismissed. No costs. However, the respondent is directed to consider the petitioner's representation, dated 24.09.2019 as an appeal preferred under Section 3(G) of the National Highways Act and dispose of the same in accordance with law after hearing and giving sufficient opportunity to the petitioner. The District Collector shall pass appropriate orders within a period of three months from the date of receipt of the copy of this order.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The District Collector, Thanjavur,
Land Acquisition, Rehabilitation,
& Resettlement Authority,
Office of the District Collector,
Thanjavur.

2.The District Revenue Officer (Land Acquisition),
National Highways No.45-C,
(Vikravandi - Kumbakonam, Thanjavur Division)
No.12, Tamizh Nagar, Vilamal,
Thiruvarur.

+2 CC to M/s.M/S.T.R.SUBRAMANIAN, Advocate (SR-105800[F] dated 19/12/2019)

+1 CC to M/s.SPL.GP (SR-106466[F] dated 26/12/2019)

W.P. (MD).No.27014 of 2019

19.12.2019

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