

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2020

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE
AND

The Hon'ble Mr.JUSTICE SUBRAMONIUM PRASAD

W.A.Nos.2627 to 2637 & 2641 to 2644 of 2019
and C.M.P.Nos.23078 to 23092 of 2019

S.John ...Petitioner in WP.2627/19
C.Ramamoorthy ...Petitioner in WP.2628/19
Dr.M.R.Kanthi Raj ...Petitioner in WP.2629/19
K.Venkatesan ...Petitioner in WP.2630/19
R.Lakshmipathy ...Petitioner in WP.2631/19
T.Girija Ammal ...Petitioner in WP.2632/19
A.Mohammed Sayed ...Petitioner in WP.2633/19
Ammu ...Petitioner in WP.2634/19
S.Manohar ...Petitioner in WP.2635/19
G.Santha Bai ...Petitioner in WP.2636/19
J.Chandralekha ...Petitioner in WP.2637/19
R.Arumugam ...Petitioner in WP.2641/19
A.R.J.Ramesh ...Petitioner in WP.2642/19
Dr.P.Venkatesh ...Petitioner in WP.2643/19
Dr.J.Sathish Kumar ...Petitioner in WP.2644/19

-vs-

1. Regional Officer,
Regional Office,
National Highways Authority of India,
Chennai - 32.
2. The Project Director (PIU),
National Highways Authority of India,
No.259/1, Salem Main Road,
Krishnagiri - 635001.
3. The Special District Revenue Officer (CALA),
Land Acquisition - National Highways,
Vellore - 9.

Writ Appeal filed under clause 15 of the Letters Patent Act praying this court to set aside the order dated 31/01/2019 passed in WPs.2258,2247,2246,2252,2251,2254,2248,2255, 2249,2239,2241,2256,2242,2257 & 2245/19 by the Hon'ble Court.

Common WPs Prayer:Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents 1 to 3 to consider the Petitioner's representation dated 19/10/2018 and to pass appropriate orders within time frame to compute the compensation by following the mandates of the circulars and to pay the difference of amount of compensation to be paid by the respondents 1 to 3.

For Appellants : Mr.Sudesh Kumar P.A.
(in all WAs)

For Respondents : Mr.V.Anandhamoorthy
(in all WAs) [R1 & R2]
Mr.Su.Srinivasan [R3]

COMMON JUDGMENT

(Delivered by The Hon'ble Chief Justice)

Heard learned counsel for the appellants.

2. The contention raised is that the competent authority proceeded to declare the award under the National Highways Act, ignoring the amendment made under Section 105(3) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. It is not disputed that the National Highways Act has been kept outside the purview of the 2013 Act, under the IV Schedule thereof, but by virtue of an amendment on which reliance has been placed by the learned counsel for the appellants while determining compensation, the provisions of the Act have been applied to an award of compensation under the National Highways Act.

3. Learned counsel has vehemently urged that this aspect of the matter has been completely overlooked by the competent authority and inspite of repeated circulars and directions issued, the award has been delivered ignoring the same. In this circumstance, a petition under Article 226 was maintainable and the learned Single Judge has therefore, erroneously declined to interfere in the matter.

4. The contention therefore, in short is that the remedy as provided under Section 3-G(5) of the National Highways Act, 1956, cannot be resorted to by the appellants, as the Arbitrator does not have this jurisdiction to entertain for which further reliance is placed on Section 3-G(7) of the Act.

5. We have heard learned counsel for the appellants, learned counsel appearing for the National Highways Authority of India as well as the learned counsel for the State.

6. The provisions of Section 3-G(5) provide for a dispute being raised with regard to the compensation payable and its determination, in the event, a party feels aggrieved by raising it before the Arbitrator. Learned counsel contends that Section 3-G(7) restricts the area within which the Arbitrator can proceed to determine such compensation and therefore, if any statutory amendment has been ignored while determining compensation, the same cannot be gone into by the Arbitrator.

7. We are unable to agree with this proposition in as much as the amendment which is alleged to have been ignored is in relation to the issue of award of compensation and the provisions of 2013 Act, relating to determination of compensation have been made applicable. Accordingly, it is an amendment relating to determination of compensation and therefore, it does not in any way create an impediment in the determination of the amount by the Arbitrator. To the contrary, the Arbitrator will be bound to take into consideration the said provisions, as it directly relates to the quantum and determination of compensation.

8. The learned Single Judge has therefore, in our opinion rightly declined to entertain the writ petition, leaving it open to the appellants to seek their remedy as per the 1956 Act.

9. These Writ Appeals therefore, fail and the same are rejected, accordingly. Connected civil miscellaneous petitions are closed.

-s/d-
Assistant Registrar

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Sub-Assistant Registrar

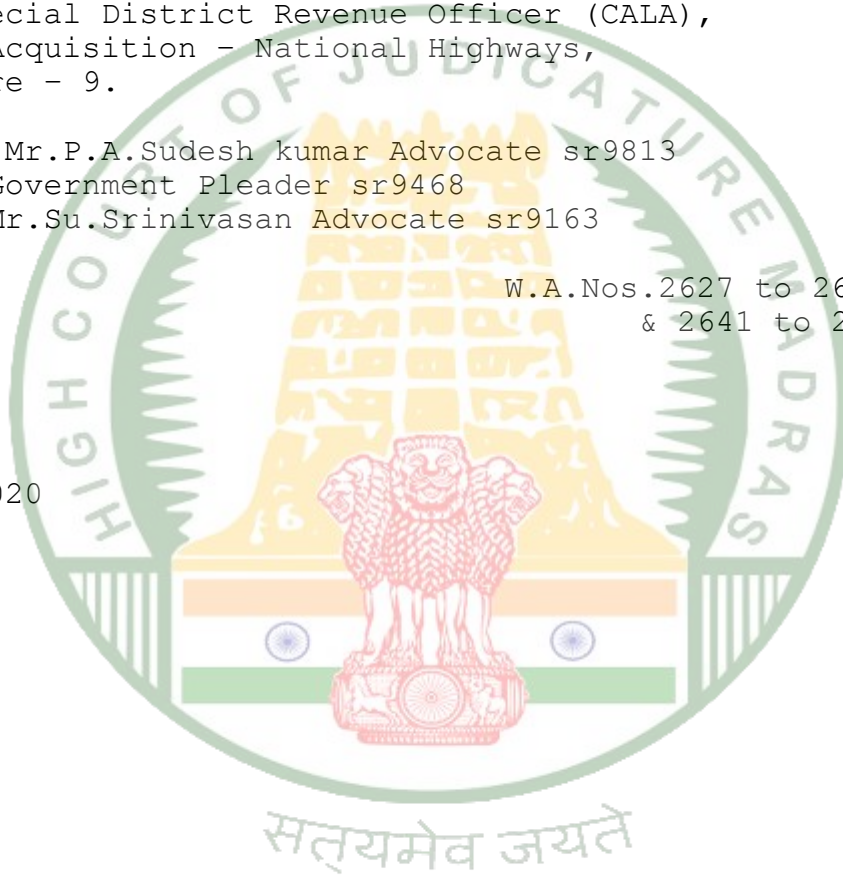
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To

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- +2 ccs to Mr.P.A.Sudesh kumar Advocate sr9813
+1 cc to Government Pleader sr9468
+1 cc to Mr.Su.Srinivasan Advocate sr9163

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