



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.03.2020

Coram::

The Honourable Mr. Justice N. ANAND VENKATESH

W.P.No.35530 of 2019

S.Venu,
S/o.Subramanian,
No.28/396, Bajanai Kovil Street,
Poondi Village and Post,
Walajapet Taluk, Vellore District. ... Petitioner

/versus/

1. Union of India,
Rep. by its Secretary,
National Highways Authority of India,
New Delhi.
2. The Chairman,
The National Highways Authority of India,
G-5 and 6 Sector, 10, Dwarka,
New Delhi - 110 015.
3. The National Highways Authority of India,
Rep. by its Regional Officer,
Sri Tower 3rd Floor,
DP.34(SP), Industrial Estate,
Guindy, Chennai - 600 032.
4. The Project Director (NH-4),
National Highways Authority of India,
PIU-Kancheepuram,
Sri Tower 3rd Floor, DP.34(SP),
Industrial Estate,
Guindy, Chennai - 600 032.
5. The District Collector,
Collector Office, Vellore District.
6. The Competent Authority &
The Special District Revenue Officer (L.A.N.H),
Collectors Office Complex,
Vellore - 9. Vellore District.
7. The Competent Authority &
The Special District Revenue Officer (L.A),
National Highways, Kancheepuram. ... Respondents



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, directing the respondents to pay the compensation payable to me as per award dated 23.04.2019, made in Rc.G4/2/2016 passed by the 6th respondent in respect of lands situated in New Survey Nos.108/2A1A1A, 108/2, 108/9, 38/4A1, 37/5, 37/6, 35/3B, 38/1 in Chennasamudram Village and total extent of 19983 Sq.Ft within time stipulated by this Hon'ble Court.

For Petitioner : Mr.C.Turibius Beski

For R1 to R4 : Mr.G.Karthikeyan,
Additional Solicitor General

For R5, R6 & R7: Mr.Elumalai

O R D E R

Heard the Learned Counsel for the petitioner and the Learned Counsel for the Respondents.

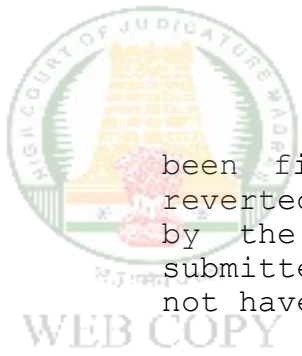
2. This Writ Petition has been filed for the issue of Writ of Mandamus directing the respondents to pay the compensation to the petitioner as per the award passed by the 6th respondent by its proceedings dated 23.04.2019.

3. The case of the petitioner is that, the property belonging to the petitioner was acquired by the National Highways Department. Thereafter, the Competent Authority conducted the award proceedings. The petitioner was also called during the enquiry and the name of the petitioner is found in Serial No.5. After hearing all the parties, the Competent Authority has determined the compensation i.e., payable to each owner. The grievance of the petitioner is that in spite of the compensation being fixed, the same has not paid to the petitioner. Therefore left with no other alternative, the present writ petition is filed before this Court.

4. The 4th respondent has filed counter affidavit in this case and has taken a stand that no award was passed and the value that was fixed for the land and the structures is yet to be finalised.

5. The 6th respondent has also counter affidavit by taking a similar stand and it is stated in the counter affidavit that there is only a draft award that was prepared and it was found that the amount that has been fixed was exorbitant and was not acceptable to the Requisitioning Authority and therefore the entire value is now in the process of being refixed.

6. The Additional Solicitor General appearing on behalf of the 4th respondent submitted that an exorbitant amount has



been fixed as compensation and therefore the same is being reverted back to the 6th respondent, based on the objections made by the Highways Authority. The Learned Counsel therefore submitted that till final award is passed, the petitioner does not have any right to claim for any compensation.

7. This Court has carefully considered the submissions made on either side and the materials available on record.

8. A careful reading of the award passed by the 6th respondent dated 23.04.2019 shows that 6th respondent had invited the objections from the owners of the property and considered the claim along with the documents submitted and has fixed the compensation amount for each of the owner. The name of the petitioner is also found in Serial No.5 of the award. Even in the tabulation that was annexed along with the award, the name of the petitioner is shown as owner for Survey Nos.37/1 & 38/1 and compensation amount has been fixed for these properties. The nature of the award that has been passed by the 6th respondent finally determines the compensation that has to be paid to the respective owners. If the respondents are aggrieved by the amount that has been fixed as compensation, the 6th respondent cannot be again asked to redo the entire exercise. The only remedy that is available under the National Highways Act, 1956, is to refer the dispute to the arbitrator under Section 3-G(5) of the Act. The provision specifically states that either of the parties can resort to this remedy.

9. In the considered view of this Court, a final award has been passed by the 6th respondent by fixing the compensation amount. Therefore, it does not lie in the mouth of the 6th respondent to file a counter to the effect that the award is only a draft award since the rate fixed by the 6th respondent was objected by the Highways Department. The Act does not contemplate a draft award and final award and there is only one award that has been provided under the Act, which has been passed by the 6th respondent. The Act itself provides for a mechanism to agitate the issue, if in case either of the parties are not satisfied with the value fixed for the property. Without resorting to the same, the 6th respondent cannot be asked to redo the entire exercise and that is something which is beyond the scope of the National Highways Act.

10. In view of the above, the petitioner is entitled for the compensation that is payable to him by virtue of the award passed by the 6th respondent. Accordingly, the petitioner is directed to make a afresh representation to the 4th respondent claiming for the compensation amount fixed by the 6th respondent by award dated 23.04.2019 and the 4th respondent shall consider the same in line with the present order and pay compensation amount to the petitioner, if he is otherwise entitled to receive the same, within a period of 12 weeks, from the date of receipt of copy of this order. It goes without saying that if the



National Highways Department is not satisfied with the value fixed by the 6th respondent, they should independently agitate the same before the arbitrator. With the above observation, the Writ Petition is disposed of. No costs.

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Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

bsm

To,

1. The Secretary,
Union of India,
National Highways Authority of India,
New Delhi.
2. The Chairman,
The National Highways Authority of India,
G-5 and 6 Sector, 10, Dwarka, New Delhi - 110 015.
3. The Regional Officer,
The National Highways Authority of India,
Sri Tower 3rd Floor, DP.34(SP), Industrial Estate,
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Collectors Office Complex,
Vellore - 9, Vellore District.
7. The Competent Authority &
The Special District Revenue Officer (L.A),
National Highways, Kancheepuram.

+lcc to M/s. G. Karhikeyan, Advocate, S.R.No.21313

+lcc to M/S. C.Turibius Beski, Advocate, S.R.No.21425

+lcc to the Government Pleader, S.R.No.21692

W.P.No.35530 of 2019

RSV(CO)

EU 6.7.2020

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