



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.02.2020
CORAM

THE HONOURABLE MR. JUSTICE **S.S. SUNDAR**

WEB COPY

W.P. (MD) No. 2297 of 2020

P. Shanmugam

: Petitioner

vs.

1. The District Collector,
Sivagangai District,
Sivagangai - 630 562.

2. The Deputy General Manager (Tech)
and Project Director,
National Highways Authority of India,
No. 1, 2nd Floor, Subramaniapuram 3rd Street,
Karaikudi, Sivagangai District - 630 002.

3. The Special District Revenue Officer
(Land Acquisition),
National Highways No. 49 (Unit - II Manamadurai),
Collectorate, Sivagangai - 630 562.

4. The Special Tahsildar (Land Acquisition),
National Highways No. 49 (Unit - II Manamadurai),
Collectorate, Sivagangai - 630 562.

: Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the fourth respondent to initiate the process of the Land Acquisition proceedings through his letter Na.Ka.Aa1/17/2013, dated 15.10.2019 in view of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 by responding the petitioner's representation, dated 01.01.2020 within a stipulated time fixed by this Court.

For Petitioner	: Mr. C. Masilamani
For R1, R3 and R4	: Mr. M. Rajarajan
For R2	: Mr. C. Arul Vadivel @ Sekar

O R D E R

This Writ Petition is filed for issuing a Writ of Mandamus to direct the fourth respondent to initiate the process of the Land Acquisition proceedings through his letter Na.Ka.Aa1/17/2013, dated 15.10.2019 in view of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement



Act 2013 by responding the petitioner's representation, dated 01.01.2020 within a stipulated time fixed by this Court.

2.It is the case of the petitioner that the fourth respondent has acquired the petitioner's land measuring to an extent of 77 sq.mt., for the project of second respondent and passed an award on 01.08.2014 without observing the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (Act 30 of 2013). It is the further case of the petitioner that once again acquisition proceedings was initiated for acquiring further extent of land belongs to the petitioner for expansion of existing National Highway by the second respondent. By the the process of second acquisition, it is stated that an extent of 48 sq.ft. of land belongs to the petitioner had been acquired by the National Highways Authorities. Hence, the petitioner has approached this Court.

3.The second respondent, the Project Director, has filed a counter affidavit and submitted as follows:

"5.It is submitted that the Service Road has been constructed and drain has been formed on both sides except the building, situated in Survey No.6/1A of Kirungakottai Village which are found encumbrance and protruding from other acquired structure. Due to encroachment and non-availability of sufficient width, NHAI is not able to form the service road and drain to the full width. So, the additional land is acquired in Survey No.6/1A1, an extent of 48 sq.mt., of Kirungakottai Group, Manamadurai Taluk, Sivagangai District. Accordingly notification u/s 3A(1) of the National Highways Act 1956, has been published in Gazette of India No.2267, S.O.No.2493(E) part-ii, section 3, sub section (iii), dated 11.07.2019 and the substance of notification has been published in local Newspaper Daily Thanthi (Tamil) and The Hindu (English) on 21.07.2019. Accordingly, notification under section 3D of the National Highways Act 1956, has been published by the central government in Gazette of India No.3214, S.O.No.3525(E), dated 27.09.2019 and the substance of notification has been published in local Newspaper Daily Thanthi (Tamil) and the Hindu (English) on 15.10.2019. The 3G(3) enquiry was conducted by 3rd respondent on 23.10.2019. The award is yet to be passed as per NH Act, 1956 and the compensation will be determined based on RFCTLARR Act 2013."

4.In view of the categorical admission of the second respondent that the compensation will be paid under Act 30 of 2013, this Court is inclined to allow this Writ Petition. Accordingly, this Writ Petition is allowed and the third respondent is directed to determine and pay compensation for the land acquired from the



petitioner as per the provisions of Act 30 of 2013 (Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013) within a period of two months from the date of receipt of a copy of this order.

5. This Court has seen from several cases that the Competent Authority, who is empowered to fix compensation for the land, is not following the procedure contemplated under Act 30 of 2013. This Court, in the case **J. Siluvairajan vs The District Collector and others** in **W.P. (MD) No. 2691 of 2020**, dated 12.02.2020, has indicated the procedures to be followed by the National Highways Authority, who has to determine the compensation for the land acquired for National Highways as per the provisions of Act 30 of 2013. The procedure indicated by this Court shall be followed scrupulously by the third respondent while fixing compensation for the petitioner's land. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

To

1. The District Collector,
Sivagangai District,
Sivagangai - 630 562.
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(Land Acquisition),
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Collectorate, Sivagangai - 630 562.
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National Highways No. 49 (Unit - II Manamadurai),
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+1 CC to M/s. C. MASILAMANI, Advocate (SR-6488[F]
+1 CC to M/s. C. ARUL VADIVEL@SEKAR, Advocate (SR-5909[F]
+1 CC to M/s. Special Govt. Pleader (SR-6112[F]

W.P. (MD) No. 2297 of 2020
12.02.2020

cmr

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