



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P. (MD)No.2699 of 2020

C.Nesaiyan

... 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.

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the first respondent to refix the compensation for the trees as per the value fixed by the Horticulture Department, ie., at the rate of Rs.15,000/- per rubber tree and for other trees and pay the same to the petitioner by applying the provisions of the National Highways Act as well as New Act 30/2013 by passing orders on the representation dated 08.01.2020.

For Petitioner	: Mr.G.Justin
For R1 and R2	: Mrs.V.P.M.Vaishnavi Government Advocate
For R3	: Mr.Su.Srinivasan

ORDER

This Writ Petition is filed to direct the first respondent to refix the compensation for the trees as per the value fixed by the Horticulture Department, ie., at the rate of Rs.15,000/- per rubber tree and for other trees and pay the same to the petitioner, by applying the provisions of the National Highways Act as well as New Act 30/2013, by passing orders on the representation, dated 08.01.2020.



2. Heard Mr.G.Justin, learned counsel appearing for the petitioner, Mrs.V.P.M.Vaishnavi, learned Government Advocate appearing for the respondents 1 and 2 and Mr.Su.Srinivasan, learned counsel appearing for the third respondent.

3. According to the petitioner, he is the owner of the land comprised in Survey No.105/1 and 105/8A-1 measuring an extent of 24 ½ cents and the said land was acquired by the National Highways No.47 between Kerala and Tamil Nadu border. The land acquisition proceeding was initiated by the respondents, as per the provisions of the National Highways Act, 1956. Section 3D(1) Notification No.374-SO438E, dated 25.02.2011, was published in the official gazette of India. Thereafter, public notice, as per Section 3G(3) of National Highways Act, was published on 20.07.2011 in New Indian Express and Daily Thanthi. Further, Section 3A Notification No.547-SO670E, dated 23.03.2010, was also published in the official gazette of India. After due enquiry, award was passed on 14.08.2015, wherein, the compensation was determined by the second respondent. Further, the land in Survey No.105/1 measuring an extent of 580 sq.mtr was acquired and the second respondent had passed a compensation amount of Rs.23,82,239/-. In respect of Survey No.105/8A-1, measuring an extent of 400 sq.mtr, which was acquired, the second respondent had passed a compensation amount of Rs.12,51,117.56/-.

4. Further, as per Section 3G(7) d, of the National Highways Act, additional compensation was not awarded to the petitioner. While awarding the compensation for trees, the first and second respondents failed to determine the compensation in accordance with Section 3G(7) of the National Highways Act, 1956, for future earnings from the trees. Therefore, the first respondent has rejected the claim of the petitioner on 13.06.2019. Challenging the said order, the petitioner has filed a writ petition in W.P.(MD). No.17631 of 2019 before this Court. Thereafter, the petitioner made a representation, dated 08.01.2020 to refix the compensation for the trees, as per the value fixed by the Horticulture. Since no action has been taken, the petitioner is before this Court.

5. In view of the above, this Court is of the opinion that since the petitioner has not satisfied with the award passed by the Arbitrator, already he has challenged the said award in the above mentioned writ petition and the same is pending. Therefore, the present petition being filed independently, without seeking remedy in the said award, the writ petition is not maintainable. If the petitioner is having any grievance, he ought to have raised the said grounds either before the Arbitrator or before the writ petition and work-out his remedy. Thus, no prima facie case is made out to entertain the present writ petition and the same is not maintainable. Accordingly, the Writ Petition is liable to be rejected.



6. With the above observation, this Writ Petition is dismissed. No costs.

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Sd/-

Assistant Registrar (CS-II)

/ /2020

Sub Assistant Registrar (CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Collector,
Kanyakumari District,
Nagercoil.
2. The Competent Authority &
District Revenue Officer,
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+1 CC to Mr.SU. SRINIVASAN, Advocate (SR-16262[F]dated
08/09/2020)

+1 CC to SPL GP (SR-16327,16333[F] dated 09/09/2020)

W.P. (MD)No.2699 of 2020
08.09.2020

VB (28.09.2020) 3P 6C