

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.A.No.1837 of 2011
and
M.P.No.1 of 2011

V.Saravanan

...Appellant

-vs-

1. Union of India
rep. by its Secretary,
Ministry of Home,
Transport & Highways,
New Delhi.
2. The Authorised Officer-cum-Special
District Revenue Officer,
National Highways No.68 (Acquisition),
Salem-636 004.
3. The Project Director,
National Highways Authority of India,
9/11, 2nd Floor,
Omalur Main Road,
Near New Bus Stand,
Salem-636 004.

4. Shanthi
(R4 deleted as per order dated 28.02.2011)

...Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge made in W.P.No.4568 of 2011 dated 30.08.2011.

Prayer in W.P.No.4568 of 2011: Writ petition filed under Article 226 of the constitution of India praying to issue a writ of Declaration, declaring that the entire enquiry proceedings conducted by the 2nd respondent in respect of proposed

acquisition of the petitioner lands morefully described in the Schedule of the accompanying writ petition under the National highways Act 1956 is null and void for not following the directions of this Honourable Court passed in W.P.No.13186 of 2009 and W.P.No.16679 of 2010 by common order dated 25.01.2011

For Appellant : Mr.T.V.Ramanujam,
Senior Counsel
for M/s.T.V.Krishnamachari

For R2 : Mr.T.Arun Kumar,
Government Advocate

For R3 : Mr.P.Wilson,
Senior Counsel
for M/s.Wilson Associates

For R1 : Notice Not - Ready

JUDGMENT

(Judgment of the Court was pronounced by T.RAJA.J)

This Writ Appeal has been filed against the Common Order of the learned Single Judge made in W.P.No.4568 of 2011 dated 30.08.2011.

2. The Writ Petition in W.P.No.4568/2011 has been filed seeking to issue a Writ of Declaration, declaring that the entire enquiry proceedings conducted by the 2nd respondent, namely, the Authorized Officer-cum-Special District Revenue Officer, National Highways No.68 (Acquisition), Salem, in respect of the proposed acquisition of the writ petitioner/ appellant's lands under the National Highways Act, 1956, is null and void for not following the directions of this Court issued in the orders passed in W.P.No.13186/2009 and W.P.No.16679/2010 dated 25.01.2011. While so, the learned Single Judge in his order dated 30.08.2011 made in W.P.No.4568/2011 holding that the various objections raised by the appellant that the compensation has not been properly determined, can be canvassed before the arbitrator or in any appropriate proceedings, dismissed the writ petition, however, giving liberty to challenge the award.

3. Learned Senior Counsel appearing for the appellant submitted that the writ petition No.4568/2011 was filed on 22.02.2011 whereas the award was passed on 28.02.2011. He further submitted that though the learned Single Judge declined to accept the relief sought for by the appellant, however,

liberty has been granted to pursue his remedies before the Arbitrator. Therefore, the appellant may be given liberty to pursue his objections before the arbitrator in respect of the enhanced compensation only.

4. Per contra, learned Senior Counsel appearing for the 3rd respondent stated that the appellant has admittedly received the determined compensation. However, with regard to the enhanced compensation, he sought for liberty from this Court to approach the arbitrator. But it is not known how he can pursue the remedy in view of the expressed limitation under Section 3G(6) of the National Highways Act, 1956. He also stated that since the appellant has already given up their challenge to the land acquisition proceedings, in order to get only the enhanced compensation, he has to work out his remedy in the manner known to law.

5. We are also fully agree that when the writ petition was filed on 22.02.2011 seeking to issue a Writ of Declaration, declaring that the entire enquiry proceedings initiated by the 2nd respondent in respect of the proposed acquisition of the appellant's lands under the National Highways Act, 1956 is null and void for not following the directions of this Court passed in W.P.No.13186/2009 and W.P.No.16679/2010 dated 25.01.2011, the learned Single Judge by his order dated 30.08.2011, while declining to grant the relief has given liberty to the appellant herein to pursue his objections. Since it is now reported that the appellant has also fairly given up his challenge to the land acquisition proceedings and he has also received the determined compensation, we do not find any impediment on the part of the appellant asking for enhanced compensation as per law.

6. At this stage, learned Government Advocate appearing for the 2nd respondent submitted that though the appellant has given all opportunities to pursue his claim for enhanced compensation, it appears that he has not chosen to do so in view of the period of limitation.

7. Considering the facts and circumstances of the case, more particularly, the fact that the writ petition was filed before this Court on 22.02.2011 whereas the award was passed on 28.02.2011 and now the appellant wants to pursue only for enhanced compensation, 4 weeks time is granted to initiate the arbitration proceedings and if any such arbitration proceedings are initiated within four weeks from the date of receipt of this order, the arbitrator shall consider the exclusion of the limitation period as the writ proceedings have been pending before us.

8. With the above observation and direction, the Writ Appeal

is disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

tsi

To

1. The Secretary,
Union of India,
Ministry of Home, Transport & Highways,
New Delhi.
2. The Authorised Officer-cum-Special
District Revenue Officer,
National Highways No.68 (Acquisition),
Salem-636 004.
3. The Project Director,
National Highways Authority of India,
9/11, 2nd Floor,
Omalur Main Road,
Near New Bus Stand,
Salem-636 004.

+1cc to Mr.P.Wilson Associates, Advocate, S.R.No.42155/21

W.A.No.1837 of 2011

RLD(CO)
RGA(15/09/2021)