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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.13150 OF 2013

G.Devan

... Petitioner

-Vs-

1. The Collector,
Krishnagiri.
2. The Special Tahsildar,
(Land Acquisition),
Krishnagiri.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records of the first respondent in his proceeding in Na.Ka.218/2012/Ee.Thee dated 07.02.2013 and quash the same and consequently direct the respondents to enhance the compensation as per the Land Acquisition Act, 1894 and other relevant aspects.

For petitioner : Mr.K.Raja
For Mr.N.Suresh

For Respondents : Mr.Richardson Wilson,
Government Advocate

ORDER

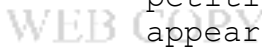
The Writ Petition has been filed to issue a writ of certiorarified mandamus calling for the records of the first respondent in his proceeding in Na.Ka.218/2012/Ee.Thee dated 07.02.2013 and quash the same and consequently direct the respondents to enhance the compensation as per the Land Acquisition Act, 1894 and other relevant aspects.



2. The case of the petitioner is that the petitioner owned land in survey No.522/1A2 admeasuring 2750 sq.mtrs. and in survey No.520/1B admeasuring 6000 sq.mtrs. The said land was acquired for the expansion of National Highway No.46 under the provisions of National Highways Act, 1956 (hereinafter called as 'the Act'). Thereafter, award has been passed and determined the value of the land at Rs.89,661/- for the land comprised in survey No.520/1B and Rs.47,034/- for the land comprised in survey No.522/1A2 as compensation. However, the petitioner contended that adjacent land was fixed at Rs.200/- per sq.ft. as market value for transaction. It was brought to the notice of the second respondent and the second respondent, he was being Arbitrator and he enhanced compensation amount to an extent of Rs.3,75,522/- without analysing or considering the said aspect by the order dated 14.07.2008. Therefore, he made another representation dated 18.12.2012 to the first respondent seeking additional market value and 30% solatium with interest as per the Land Acquisition Act, 1894. However, the first respondent rejected the said representation.

3. The learned counsel for the petitioner raised specific ground that the first respondent did not follow the procedure contemplated under Section 3 (G) (7) of the National Highways Act, 1956. Section 3J of the National Highways Act was held illegal and the persons were given right to claim compensation as per the Land Acquisition Act, 1894. As per Land Acquisition Act, 1894, the person from whom land was acquired is entitled for compensation determined under Section 23(1) of the Land Acquisition Act, 30% of solatium at the market value determined under Section 23(1) of the Land Acquisition Act. Additional amount at 12% per annum of the market value determined under Section 23(1) of the Land Acquisition Act for the period specified under Section 23(2) of the Land Acquisition Act with interest.

4. The first respondent filed counter and Mr.Richardson Wilson, Government Advocate submitted that the lands belong to the petitioner were acquired in Bargur Village of Krishnagiri Taluk and award was passed in Award No.80201 of 2003 dated 04.09.2003. The Land Acquisition Officer has fixed Rs.55,000/- per acre as compensation for dry lands. Accordingly, a sum of Rs.89,661/- for 6000 sq. mtrs in survey No.520/1B and a sum of Rs.41,090/- for 2750 sq.mtrs in survey No.522/1A2 were fixed and award has been passed in favour of the petitioner. The entire award amount has been paid to the petitioner. On receipt of the same, the petitioner filed petition before the Arbitrator and the Collector, Krishnagiri to enhance the compensation amount for the acquired land. After conducting enquiry, compensation was enhanced and fixed at Rs.1,50,000/- per acre. It is three times of the value of the award and accordingly the amount has



5. Heard, Mr.K.Raja, the learned counsel for the petitioner, and Mr.Richardson Wilson, Government Advocate appearing for the respondents.

7. In view of the above, the impugned order dated 07.02.2013 is set aside. The petitioner is directed to make a fresh representation before the first respondent within a period of two weeks from the date of receipt of copy of this order and on receipt of the same, the first respondent is directed to conduct enquiry in this regard and pass appropriate orders within a period of twelve weeks from the date of receipt of the representation.



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8. With the above directions, this writ petition is disposed of. No order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

lok

To

1. The Collector,
Krishnagiri.
2. The Special Tahsildar,
(Land Acquisition),
Krishnagiri.

+lcc to Mr.M.Kaviveerappan, Advocate, S.R.No.47333
+lcc to the Government Pleader, S.R.No.47553

W.P.NO.13150 OF 2013

KSM(CO)
PBS/29/09/2021