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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 23.03.2021

Judgment Pronounced on : 07.10.2021

CORAM : JUSTICE N.SESHASAYEE

W.P.No.2637 of 2021

Shahidha Banu Sahiba

..... Petitioner

Vs

1.The Sole Arbitrator cum the District Collector
(National Highways-4 & 46 Land Acquisition)
Vellore District
Sathuvachary
Vellore - 632 009.

2.The Project Director
NHAI

Krishnagiri.

..... Respondent

[R2 - suo motu impleaded Vide Order dated 25.02.2021
in W.P.No.2637 of 2021]

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the respondent herein to dispose the petitioners' enhancement claim application filed on 23.12.2006 with the respondent herein following the procedures as laid down in the National Highways Act, 1956 including affording an opportunity of personal hearing to the petitioner to resolve the dispute relating to the compensation in respect of acquisition for making NH 4 & 46 (Chennai - Bangalore Highways) to a four lane and pass suitable orders within the time stipulated by this Court.

For Petitioner : Mr.G.Saibaba

For Respondents : Mr.D.Raja

Additional Government Pleader for R1

Mr.Su.Srinivasan

Standing Counsel for R2

ORDER

|1. Dissatisfied with the quantum of compensation determined by the Competent Authority under the National Highways Act, vide proceedings dated 07.07.2005, the petitioner herein has



preferred a Claim petition dated 23-12-2006 before the statutory arbitrator. Alleging that the statutory arbitrator has kept the matter in cold storage, the petitioner now seeks a direction to the statutory arbitrator to dispose of the proceedings pending before him for close to 15 years.

2. Mr.D.Raja, learned Additional Government Pleader enters appearance for the first respondent. The Project Director, NHAI, Krishnagiri is suo-motu impleaded in this case as second respondent, and Mr.Su.Srinivasan, learned Standing Counsel takes notice for NHAI. No counter in this case has been filed. Heard both sides.

3. During the pendency of this proceedings, this Court was informed that the arbitrator had completed his proceedings as early as on 06.01.2015, that it was left uncommunicated to the petitioner for the last about 6 years. This truly is an information that will lighten up any mind that ponders over, or wonders on the administrative efficiency.

4. However, this Court chose not to dispose of the matter, as solatium and interest were not awarded, and hence it tagged this petition along with another batch of cases in W.P.No.697 of 2021, where the issue concerning the obligation of the NHAI to pay solatium and interest in all cases where the statutory arbitrator had disposed of the arbitral proceedings before the judgement of the Hon'ble Supreme Court in Tarsem Singh v Union of India [(2019) 9 SCC 304] was under challenge. And, this Court is aware that the payment of solatium and interest is not pointedly involved in this case.

5. On 04-10-2021, this Court allowed W.P.No.697 of 2021 & batch of cases, and has held that all the land owners whose claim have been disposed of by the Statutory Arbitrator, before the judgement in the Tarsem Singh case, will have to be paid the solatium and interest. The summary of the judgement in W.P.697 of 2021 & batch of cases is:

- The effect of the Tarsem Singh case ratio is not prospective and that it applies to all the cases that are pending and disposed of by the CALA or the statutory arbitrator.
- Solatium and interest are part of compensation, that compensation is part of Article 300 A of the Constitution, that Art.300 A in turn is readable in Article 21, and hence the right to be paid solatium and interest cannot be waived.
- That the NHAI may have to pay solatium and interest even without a demand, as it is its statutory obligation.
- That inasmuch as solatium and interest is part of Article 21, limitation as a defence is not available to the NHAI.

The Order in W.P.697 of 2021 & batch of cases is required to be read as part of this Order.



6. Since the statutory arbitrator has disposed of the claim of the petitioner, nothing survives for consideration. The petitioner is at liberty to approach the Competent Authority, or the Project Director, for payment of solatium and interest in accordance with the dictum in Tarsem Singh v Union of India [(2019) 9 SCC 304].

7. With the above observation, this writ petition is disposed of. No costs.

Sd/-
Deputy Registrar (CS)

//True copy//

Sub Assistant Registrar

ds

To:

1. The Sole Arbitrator cum the District Collector
(National Highways-4 & 46 Land Acquisition)
Vellore District
Sathuvachary
Vellore - 632 009.
2. The Project Director
NHAI
Krishnagiri.

+1cc to Government Pleader SR.No.53497

W.P.No.2637 of 2021

SR II (CO)
GMY (17/11/2021)