

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.9749 of 2021

E.Subramanian

... Petitioner

Vs.

1. The District Collector,
Office of the District Collector,
Chengalpattu District.
 2. The Special District Revenue Officer (Land Acquisition),
Office of the District Collector campus,
Kancheepuram.
- ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing the respondents to consider the representation of the petitioner and to direct the official respondents to take necessary action on the representation of the petitioner dated 14.12.2020 within a time frame fixed by this Court and direct the respondents to determine the value of the property afresh in accordance with law.

For Petitioner : Mr.G.Ilamurugu

For Respondents : Mr.K.M.D.Muhilan,
Government Advocate

O R D E R

(The case has been heard through video conference)

The writ petition has been filed seeking a direction to the respondents to consider the representation of the petitioner dated 14.12.2020, and pass orders.

2. The grievance of the petitioner is that the petitioner's land was acquired under the National Highways Act for widening NH-45 and subsequently Award also came to be passed on 18.01.2014, without proper enquiry. At the time of passing of the Award, without identifying the property properly and without

considering the guideline value and also the superstructures standing on the property the second respondent has passed the Award. In the above circumstances, the petitioner filed an application before the first respondent District Collector on 03.06.2014, seeking for re-determination of the cost of compensation. Thereafter, based on the application of the petitioner, the first respondent District Collector vide his letter dated 05.07.2016, directed the second respondent Special District Revenue Officer to submit his remarks. Thereafter, no further action has been taken. The petitioner also made several representations to the respondents, which was not considered, hence the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that without conducting any enquiry, the second respondent passed the Award and without properly identifying the property and also the superstructures standing thereon. Even though, two superstructures were standing on the property, the second respondent has taken into consideration only one superstructure and guideline value also was not properly considered by the second respondent. Therefore, he made an application to the first respondent District Collector, who is the Arbitrator under the Act and his application was also considered by the first respondent and he directed the second respondent to furnish the particulars. But, so far no orders have been passed in the said application.

4. Mr.KMD.Muhilan, learned Government Advocate appearing for the respondents submitted that the Award has been passed in the year 2014, and the Acquisition Officer has become functus officio and therefore the remedy to the petitioner is before the Arbitrator under Section 3G(5) of the National Highways Act and the petitioner cannot seek relief from the second respondent. Hence the second respondent has not considered the representation of the petitioner.

5. Heard the rival submissions and also perused the records carefully.

6. Perusal of the records would show that the Award has been passed on 18.01.2014, by the second respondent, and the petitioner also immediately approached the first respondent District Collector, who was the Arbitrator under Section 3G(5) of the Act challenging the said award. Based on the application of the petitioner, the District Collector also directed the second respondent to submit his remarks. According to the petitioner, so far no orders has been passed on his application. Considering the above circumstances, as the application filed by the petitioner is still pending, the first respondent is directed to treat the said application as filed under Section 3G

(5) of the Highways Act and pass suitable orders on merits and in accordance with law after affording an opportunity of hearing to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. This writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kk

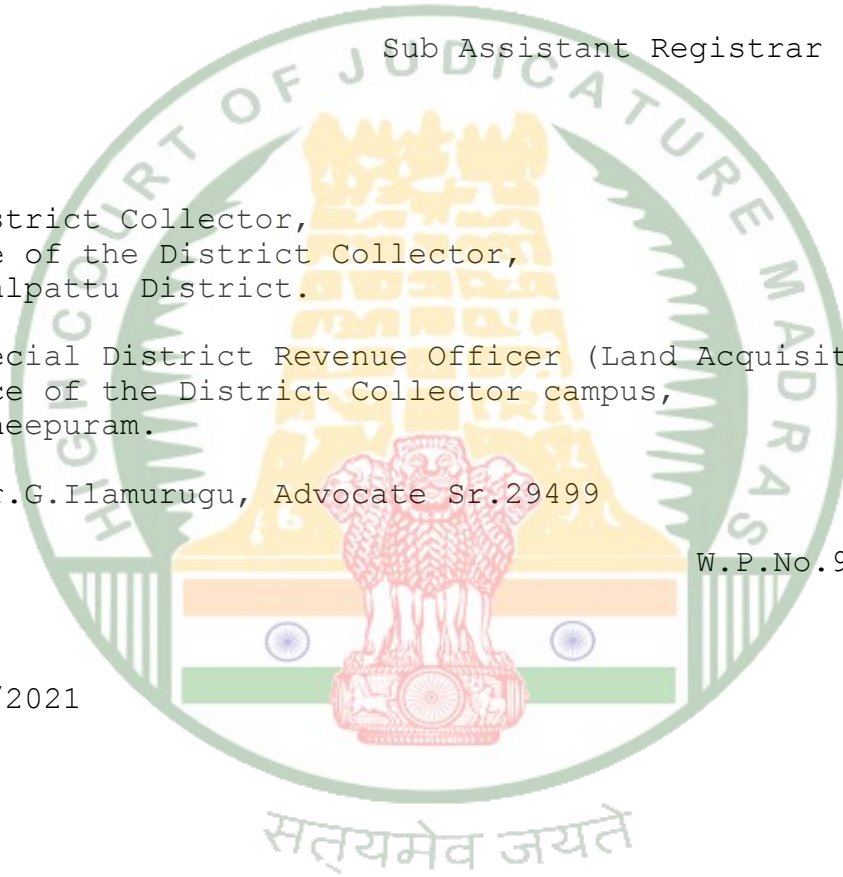
To

1. The District Collector,
Office of the District Collector,
Chengalpattu District.
2. The Special District Revenue Officer (Land Acquisition),
Office of the District Collector campus,
Kancheepuram.

+1cc to Mr.G.Ilamurugu, Advocate Sr.29499

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srg 02/07/2021



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