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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2021

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 7570 of 2015

P.Kuppusamy

.. Petitioner

Vs

1.The District Collector,
Coimbatore District.

2.The Special District Revenue Officer (Land Acquisition),
National Highways - 47,
No.3, Savarimuthu Chettiar Street,
Red Fields, Coimbatore - 45.

3.K.Subramaniam

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the second respondent in Na.Ka.No.327/2010 dated 09.12.2014 and to quash the same and consequently to direct the second respondent to disburse the compensation amount of Rs.43,90,800/- along with 15% interest for the land acquired in S.F. No.141/4I2 to the extent of 1573 Sq.m., for the National Highways No.47, to the petitioner within a time frame fixed by this Court.

For Petitioner : Mr. D.R.Arun Kumar

For Respondent 1&2 : Mr. M.Elumalai
Additional Government Pleader
3 : Mr. B.Nedunchezian

O R D E R

This writ petition is filed for issuing a writ of certiorarified mandamus to quash the order passed by the second respondent dated 09.12.2014 and consequentially to direct the



second respondent to disburse the compensation amount of Rs.43,90,800/- along with interest and other statutory benefits.

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2. The petitioner claims right over certain property which was acquired under the provisions of National Highways Act. It is admitted that a suit was filed by the third respondent as against the petitioner's vendor for specific performance of an agreement of sale in relation of the same property. Though it is stated that the suit was dismissed and on appeal the decree was confirmed by the appellate Court, it is admitted that a second appeal is pending. Though the learned counsel for the petitioner submitted that the second appeal was also dismissed for default, a petition for restoration of second appeal was stated to have been filed. It is also represented that the second appeal is now restored on its file.

3. The petitioner has filed the present writ petition for disbursement of compensation that was awarded for the lands acquired under the National Highways Act. The representation of the petitioner for disbursement of compensation was turned down by the respondent on the ground that the dispute relating to apportionment or entitlement to receive compensation, can be decided only after the second appeal in S.A. No.467 of 2006 is decided one way or the other.

4. This Court does not find any error or irregularity in the order passed by the second respondent. Though the agreement holder does not have any right over immovable property, the enforceable right on the basis of contract will certainly result in enabling the third respondent to receive the compensation for the lands if he succeeds in the second appeal. Section 3H(4) of the National Highways Act, certainly enables the affected persons to approach the Civil Court if the dispute relates to apportionment of compensation. In such view of the matter, this Court does not find any merit in the writ petition as the pendency of the second appeal is admitted. Subject to the outcome of the second appeal, it is open to the petitioner to approach the respondent regarding disbursement of compensation. Since it is admitted that the amount which was awarded by way of compensation is already invested in a bank, it is needless to say that the petitioner is entitled to other statutory benefits and that the respondents are bound to disburse the compensation along with the statutory benefits irrespective of the rate of interest for the money which is lying in Court deposit.



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5. Accordingly, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

bkn

To

1.The District Collector,
Coimbatore District.

2.The Special District Revenue Officer (Land Acquisition),
National Highways - 47,
No.3, Savarimuthu Chettiar Street,
Red Fields, Coimbatore - 45.

+lcc to the Government Pleader Sr.21052
+lcc to Mr.B.Nedunchezhan, Advocate Sr.21353

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srg 16/07/2021