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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2021

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.NO.16798 OF 2021

C.Jayavel

... Petitioner

Versus

1. The District Collector,
Dharmapuri, Dharmapuri District,
2. The Special District Revenue Officer (L.A.),
No.844, National Highway,
Dharmapuri, Dharmapuri District.
3. The Project Director,
National Highway Department,
Krishnagiri, Krishnagiri District.
4. The Special Tahsildar (L.A.),
Unit-I, N.H-844,
Dharmapuri, Dharmapuri District.

... Respondents

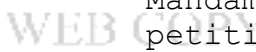
PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 2nd respondent to consider the petitioner's representation dated 09.07.2021 for providing adequate and appropriate compensation as per the market value for the petitioner's land measuring to an extent of 242 square meter in S.No.571/1C2, New S.No.571/1C2A of Kadagathur Revenue Village, Dharmapuri Taluk & District and pass appropriate orders within the time stipulated by this Court.

For Petitioner : Mr.A.Ilayaperumal

For RR 1, 2 and 4 : Mr.K.M.D.Muhilan
Government Advocate

For R3 : Mr.Su.Srinivasan
Standing Counsel



ORDER

This writ petition has been filed for issuance of a Writ of Mandamus, to direct the second respondent to consider the petitioner's representation dated 09.07.2021 for providing adequate and appropriate compensation as per the market value for the petitioner's land measuring to an extent of 242 square meter in S.No.571/1C2, New S.No.571/1C2A of Kadagathur Revenue Village, Dharmapuri Taluk & District.

2. The petitioner is the absolute owner of the land measuring to an extent of 474.41 Sq.mts in S.No.571/1C2, New S.No.571/1C2A of Kadagathur Revenue Village, Dharmapuri Taluk and District and he was purchased the aforesaid property from Mr.K.R.Govindhasamy and G.Ramu by way of a registered sale deed vide Document No.947 of 2016, dated 11.03.2016 on the file of Sub Registrar Joint-II, Dharmapuri. Subsequently, the petitioner and his family members were in possession and enjoyment of the above said property and mutated all the Revenue Records in his name and Patta No.1855 was also issued in favour of the petitioner. In the meanwhile, the aforesaid land was acquired by the second respondent for the purpose of extending the Hosur to Dharmapuri Highways/National Highways Department, the Authorities had awarded a sum of Rs.13,46,926/- as compensation for the above said acquired land by the respondents. Hence, the amount of compensation is only a meagre amount which is against the market value of his property. It is pertinent to note that either at the time of acquiring the petitioner's land or awarding the aforesaid compensation, they have not issued any notice to him to put forth his case which is against the principles of natural justice. Without giving any notice to the petitioner, the second respondent has passed the proceedings in Roc.No.16/2018/LA, dated 03.03.2021 by fixing Rs.2,025/- per Sq.mts as compensation and totally the second respondent has acquired 242 Sq.mts and awarded a sum of Rs.13,46,926/- for his acquired lands, which is a meagre amount and that a proper valuation has to be done for fixing the compensation. As per the present market value of the property is Rs.10,000/- per sqft and if the same has been calculated for per square meter, therefore, total compensation will be fetched several lakhs of rupees in addition to the original value fixed by the respondents. But, the 2d respondent has not given much importance to the present market value and they have fixed the value as against the present market value. Therefore, the petitioner and his family members fully depends on the above said land only, they do not have any other assets in their favour and unless adequate compensation is awarded himself and his family members would be put to much hardship. The action of the 2nd respondent in

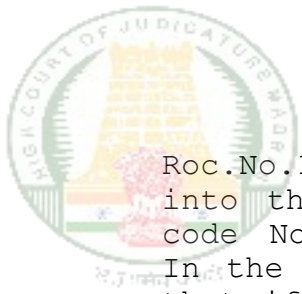


fixation of value for granting compensation for his lands are totally against the provisions of the Right to Fair compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013. Therefore, he had given a detailed representation dated 09.07.2021 to the respondents by narrating all the above said facts since the 2nd respondent has acquired his property without issuing prior notice and he has also requested the respondents to calculate the value of acquired land as Rs.10,000/- per sqft., and to provide compensation as per the above said calculation and also requested the respondents to furnish the documents pertaining to the above said land acquisition. After receiving the said representation dated 09.07.2021, but, till date, no action has been taken by the respondents. Hence, the petitioner has come forward with the present writ petition.

3. The learned counsel appearing for the petitioner submitted that he has relied upon the Hon'ble Apex Court in case of Lalchand v. Union of India, dated 30.09.2010 (2009) 15 SCC 769, wherein it has been held that the deduction of 20% to 75% of the land value can be made towards development charges. Since, the aforesaid land is unapproved sites and accordingly, to the above judgment discounted 25% of the value from the sale value towards development charges and it comes to 506.25 per sqm and remaining amount of Rs.1518.75/- per sqm has to be considered. However, there are similar sales to arrive highest average value, the sale value of Rs.2025.00 per sqm. is fixed as land value for the above category of land. Hence, the guideline value of the acquired lands in SF.No.571/1C2A is fixed at Rs.2025.00 sq.mtr.

4. The learned Government Advocate appearing on behalf of the respondents submitted that in the year 2017, the aforesaid land acquisition under the rural area and is situated within 30 km from urban area. Hence, the multiplication factor of 1.25 is applied as per the G.O.(Ms).No.300 as per the Revenue and Disaster Management Department dated 29.09.2017 and there are no structures and trees in the land under acquisition, a solatium is awarded at 100% on whichever higher value fixed and the multiplication factor as per Section 30(1) of RFCTLARR Act, 2013 and as per the same, an additional amount was calculated at the rate of 12% per annum from the date of publication of 3A(1) notification under the NH Act, 1956 to the date of passing award is also awarded of Rs.13,46,926/-.

5. During enquiry, the petitioner demanded for higher amount of compensation to him and hence, an award dated 03.03.2021 in



Roc.No.16/2018/LA was passed and the award amount was credited into the Bank Account of the petitioner by way of RTGS, IFSC code No.IDIB000P104, A/c.No.574590120, Indian Bank, Pulikarai. In the above said award, the respondents had clearly mentioned that if the petitioner is aggrieved regarding the determination of compensation, he may file an application along with necessary supporting documents for his claim under Section 3G(5) of the NH Act 1956 before the District Collector and Arbitrator, Dharmapuri, within 90 days from the date of receipt of this award. The petitioner further submits that only in the month of July, he received the award after the expiry of the limitation period for filing an appeal. He has also sent a representation dated 09.02.2021 to the 2nd respondent, who is not the competent authority to take action on the petitioner's claim.

6. Having regard to the limited scope of the prayer that is now sought for in this writ petition before this Court and taking into account the submissions made on either side, and in view of the said facts of the case, the Writ Petition is disposed of, the 2nd respondent is directed to consider the petitioner's representation dated 09.07.2021 and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner and necessary parties concerned within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
Dharmapuri,
Dharmapuri District,
2. The Special District Revenue Officer (L.A.),
No.844, National Highway,
Dharmapuri,
Dharmapuri District,
3. The Project Director,
National Highway Department,
Krishnagiri,
Krishnagiri District.



4. The Special Tahsildar (L.A.)
Unit-I, N.H-844,
Dharmapuri,
Dharmapuri District.

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+1cc to Mr.A.Ilayaperumal, Advocate, S.R.No.46728
+1cc to the Government Pleader, S.R.No.47234

W.P.NO.16798 OF 2021

GPL (CO)
PBS/09/12/2021