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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.16103 of 2019

T.S.Sivakumar,
S/o.T.K.Loganathan

...Petitioner

Vs.

1. The District Collector,
Tiruvallur District,
Tiruvallur-602 001.
2. The Special District Revenue
Officer (L.A.),
National Highways Scheme-205-
Tiruvallur, Periyakuppam,
Tiruvallur District.
3. The Project Director,
National Highways Authority of
India, Chennai-32.

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 1st Respondent to dispose the Arbitration petition dated 22.09.2016 filed by the petitioner under Sec.3-G(5) of the National Highways Act, 1956 for enhanced compensation to the acquired land of the petitioner in Survey Nos.132/21A2, 132/21B2, 132/21C, 132/21D2, 132/26B, 132/28A1B, 132/28A2, 132/28B1B, 132/28B2B, 132/29B and 132/30B to a total extent of 4526 sq.mts. situated at No.41, Panapakkam Village, Tirutani Taluk, Tiruvallur District within the time stipulated by this Hon'ble Court.

For Petitioner : Mr.P.S.Kothandaraman

For Respondents : Mr.Yogesh Kannadasan,
Government Advocate for R1 & R2

Mr.Su.Srinivasan for R3



O R D E R

(The case has been heard through video conference)

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The Writ Petition has been filed seeking a direction directing the 1st respondent to consider the petitioner's application filed under Sec.3-G(5) of National Highways Act before the 2nd respondent seeking for enhancement of compensation.

2. According to the petitioner, the petitioner's land was acquired by the respondents for National Highways Scheme-205, subsequently, an award came to be passed on 24.08.2011. Thereafter, the petitioner has filed an application under Sec.3-G(5) of National Highways Act on 22.09.2016 seeking for enhancement of compensation. But, so far, that application was not considered and no order has been passed on it. Hence, the present writ petition has been filed by the petitioner.

3. Earlier, notice ordered to the respondents. Today, when the matter taken up for hearing, Mr. Su.Srinivasan, learned counsel appearing for 3rd respondent National Highways Authority would submit that, admittedly, the award was passed on 24.08.2011 and the petitioner has submitted his application on 22.09.2016. He would submit that, under Art.137 of Limitation Act, the application ought to have been filed within a period of three years. Since the application has been filed beyond that period, the 2nd respondent cannot entertain the application as it is barred by limitation. The learned counsel has also fairly submitted that, earlier, the Division Bench of this Court in W.A.No.308 to 312 of 2016 vide order dated 25.04.2018 has held that, the provisions of Art.137 of Limitation Act, is not applicable to the arbitration proceedings under Section 3-G(5) of National Highways Act. However, the above said judgment has been stayed by Hon'ble Supreme Court in S.L.P. (C) Diary No.36319 of 2018 dated 19.11.2018 and the said S.L.P. is still pending. In the said circumstances, until Hon'ble Supreme Court decides the issue, the 1st respondent District Collector cannot consider the petitioner's application.

4. I have considered rival submissions made by learned counsel appearing for petitioner, learned Government Advocate appearing for respondents 1 and 2 and also learned counsel appearing for 3rd respondent and perused the records.

5. Considering the fact that, the question of limitation for filing arbitration proceedings under Section 3-G (5) of National Highways Act is now pending with Hon'ble Supreme Court, this Writ Petition is disposed of with a direction to the 1st



respondent District Collector to consider the petitioner's application subject to the outcome of judgment passed by Hon'ble Supreme Court in the above said S.L.P. Accordingly, this Writ Petition stands disposed of. No costs.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rpp

To

1. The District Collector,
Tiruvallur District,
Tiruvallur-602 001.
2. The Special District Revenue
Officer (L.A.), National Highways
Scheme-205 Tiruvallur, Periyakuppam,
Tiruvallur District.
3. The Project Director,
National Highways Authority of
India, Chennai-32.

+1cc to Government Pleader, Sr.30819.

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PL[co]
NSK 02/08/2021