



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.41667 of 2016
and W.M.P.Nos.35657 & 35658 of 2016

K.Rajeswari

... Petitioner

-Vs-

1. Union of India,
Rep. by Secretary,
National Highways Department,
New Delhi
2. National Highways Authority of India,
Rep. by its Project Director,
In charge of NH 4 & NH - 46,
Vellore District,
Vellore 632 009
3. The District Collector,
Sathuvachari,
Vellore 632 012
4. The Competent Authority (L.A) cum
Special District Revenue Officer,
Land Acquisition (NH4 & NH 46)
Vellore District,
Vellore 632 009

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the fourth respondent relating to proceeding in Rc G5/20354/02 dated 23.02.2006 pertaining to petitioner's lands acquired in New Survey no.245/2B measuring an extent of 2400 sq.ft and an agricultural well situated at Vannivedu Village, Wallajahapet Post, Vellore District by quashing the same and by directing the fourth respondent to grant compensation to petitioner under The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013) in New survey No.245/2B measuring an extent of 2400 sq.ft. and an agricultural well situated at Vannivedu Village, Wallajahapet Post, Vellore District.



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For petitioner : Mr.David Tyagaraj

For Respondents

For R1 : Mr.J.Madana Gopal Rao,
Senior Central Government
Standing Counsel

For R2 : Mr.Maiyappan
for Mr.P.Wilson Associates

For R3&4 : Mr.Richardson Wilson,
Government Advocate

ORDER

The Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the fourth respondent relating to proceeding in Rc G5/20354/02 dated 23.02.2006 pertaining to petitioner's lands acquired in New Survey no.245/2B measuring an extent of 2400 sq.ft and an agricultural well situated at Vannivedu Village, Wallajahpet Post, Vellore District by quashing the same and by directing the fourth respondent to grant compensation to petitioner under The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013) in New survey No.245/2B measuring an extent of 2400 sq.ft. and an agricultural well situated at Vannivedu Village, Wallajahpet Post, Vellore District.

2. The case of the petitioner is that her property comprised in new survey no.245/2B to an extent of 2400 sq.ft. was acquired by the respondents to implement National Highways 4 and 46 at Vellore for expansion of National Highways by the second respondent. Her property consisted of a well for irrigation purpose. After acquisition proceedings, on 23.02.2006 award has been passed by the authority concerned and accordingly the value of the land was fixed at Rs.448.27/- per cent. The petitioner was awarded a sum of Rs.94,707/- as total compensation, in which 80% of the compensation at Rs.75,763/- was paid as early as on 25.07.2003 itself i.e. before passing the award. Though the remaining award amount was ready with the respondents, the petitioner failed to collect the same. Thereafter, supplementary award was passed on 27.11.2012, in which the petitioner was awarded further sum of Rs.30,303/-. Accordingly, she was paid the supplementary award amount on 27.02.2014. On receipt of the same, the petitioner made appeal before the third respondent who is being the arbitrator under the Act for enhancement of compensation. It was not considered and hence the writ petition has been filed.



3. The learned counsel for the petitioner submitted that even according to the respondents, only 80% of the award amount was paid at Rs.75,763/- and the remaining amount has not been paid even till today. Therefore, she is entitled for interest for the balance award amount. Insofar as the appeal for enhancement of compensation is concerned, the same was not considered by the third respondent and it is pending with the third respondent. Therefore, the petitioner applied for information under the Right to Information Act and she was served with wrong order and therefore she is entitled to get compensation under the new Act i.e. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

4. The learned Government Advocate submitted that after acquisition, award has been passed on 23.02.2006 and fixed compensation at Rs.448.27/- per cent Accordingly, even before passing the award, the petitioner was paid 80% of the compensation i.e. Rs.75,763/-. Subsequently, supplementary award was passed on 27.11.2012 and as per the supplementary award along with the balance compensation which was awarded as early as on 25.07.2003 has been paid to the petitioner on 27.02.2014 at Rs.30,303/- Therefore, she has been paid the entire award amount and she is not entitled for any compensation under the new Act i.e. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and also she is not entitled for any interest for the award amount. Insofar as the appeal is concerned, if any appeal is pending with the third respondent, it will be considered and necessary orders will be passed.

5. Heard, Mr.David Tyagaraj, the learned counsel for the petitioner, Mr.J.Madana Gopal Rao, Senior Central Government Standing Counsel appearing for the first respondent, Mr.Maiyappan, the learned counsel for the second respondent, and Mr.Richardson Wilson, Government Advocate appearing for the respondents 3 & 4.

6. Considering the submissions of the learned Government Advocate, the third respondent is directed to consider the appeal filed by the petitioner dated 17.04.2014 on merits and in accordance with law after giving her opportunity of hearing, within a period of twelve weeks from the date of receipt of copy of this order. It is made clear that if the copy of the appeal is not available with the records of the third respondent, the third respondent is directed to issue notice to the petitioner to file fresh appeal and the same may be considered as per the above direction. The petitioner is at liberty to submit all the similar awards to consider her request.



7. With the above directions, this writ petition is disposed of. Consequently, connected miscellaneous petitions are closed. No order as to costs.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Union of India,
National Highways Department,
New Delhi
2. The Project Director,
National Highways Authority of India,
In charge of NH 4 & NH - 46,
Vellore District,
Vellore 632 009
3. The District Collector,
Sathuvachari,
Vellore 632 012
4. The Competent Authority (L.A) cum
Special District Revenue Officer,
Land Acquisition (NH4 & NH 46)
Vellore District,
Vellore 632 009.

+1cc to the Government Pleader Sr.46907
+2cc to Mr.David Tyagaraj, Advocate Sr.47044

W.P.No.41667 of 2016

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srgh 20/10/2021