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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.18011 of 2019

and

W.M.P. No. 17409 of 2019

K.Raju

... Petitioner

Vs.

1. The Special District Revenue Officer (LA),  
National Highways Nos.7, 46, 47 & 66,  
Krishnagiri.

2. The Project Director,  
National Highways Authority of India,  
PIU, Salem,  
Door No.212-3/D3-1, Sri Nagar Colony,  
Narasothipatti, Salem-636 004.

... Respondents

R2-Impleaded as per Order dated 02.08.2019 by GJJ in wmp  
No.20651/19 in WP 18011/19

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the respondent with reference to the impugned order under Ref.Na.Ka.No.396/2018(P1), dated 02.05.2019 and quash the same.

For Petitioner : Mr.P.B.Sampath Kumar  
For Respondents : Mr.Yogesh Kannadasan,  
Government Advocate for R1

Mr.Su. Srinivasan for R2

O R D E R

(The case has been heard through video conference)

The Writ Petition has been filed challenging the notice issued by the 3<sup>rd</sup> respondent directing the petitioner to appear for award enquiry proceedings.

2. Brief facts leading to the filing of the Writ Petition is as follows:-

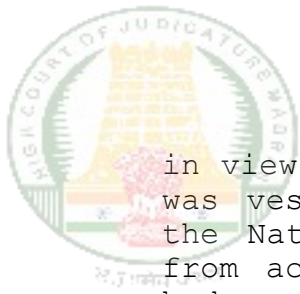
In the year 2006, the respondents have initiated land acquisition proceedings under the National Highways Act for



acquiring vast extent of land for the purpose of widening national highways No.7 and a notification under Sec.3D of the National Highways Act (hereinafter called as 'Act') has been issued on 17.11.2006. The petitioner is the owner of land in Survey No.55/3A in Dadagapatti Village and as per the notification issued under Sec.3D of the Act, an extent of 1933 sq.mts. of land has been acquired, thereafter, after enquiry, an award came to be passed on 30.07.2007. So far as the petitioner's land is concerned, the award was passed only to an extent of 1070 sq.mts. of land and the petitioner has also received award amount for the same. Not being satisfied with the award amount, the petitioner said to have made several representations for enhancement of compensation. However, the authorities had not passed the award for the remaining extent of 863 sq.mts. of land. Now, the impugned notice has been issued directing the petitioner to appear for enquiry on 02.05.2019 for passing award for the remaining 863 sq.ft. Challenging the same, the present Writ Petition has been filed by the petitioner.

3. The grievance of the petitioner is that, even though the notification under Sec.3D of the Act was issued for an extent of 1933 sq.mts. of land, the 1<sup>st</sup> respondent had passed the award only in respect of 1070 sq.mts. of land and paid the compensation and abandoned the acquisition proceedings for the remaining extent of land, and no award has been passed, and the respondents cannot now pass a fresh award for the remaining extent. If at all, the respondents required the remaining land, the respondents have to initiate fresh proceedings to acquire the land. That apart, the award enquiry is also barred by limitation.

4. The 1<sup>st</sup> respondent had filed a counter affidavit stating that, as per the notification issued under Sec.3D of the Act, the total extent sought to be acquired was 10853 sq.mt. and so far as the petitioner's land in Survey No.55/3A is concerned, an extent of 1933 sq.mts. of land has been acquired and the same was also sub-divided as 55/3A1. Subsequently, as per declaration issued under Sec.3D (1) of the Act, entire land has been vested with the Government free from all encumbrances. Thereafter, an award enquiry under Sec.3-G of the Act was also conducted. In the meantime, the 2<sup>nd</sup> respondent by communication dated 16.07.2007, based on the revised land plan schedule requested the acquisition officer to exclude the land for an extent of 863 sq.mts. As per the revised land plan schedule, an extent of 1070 sq.mts. of land alone was taken up for award proceedings out of 1933 sq.mts. Accordingly, the award was passed on 30.07.2007, and the compensation for the above extent of 1070 sq.mts. of land has been paid and the petitioner has also received the same on 12.08.2008 itself. So far as passing of award for the remaining extent of 863 sq.mts. of land, it was kept in abeyance



in view of the request made by the 2<sup>nd</sup> respondent though the land was vested with the Government. It is also stated that, under the National Highways Act, there is no provision for exclusion from acquisition. Thereafter, on 22.12.2018, the 2<sup>nd</sup> respondent had requested the 2<sup>nd</sup> respondent to pass award for the remaining extent of 863 sq.mts. of land. Hence, the impugned notice has been issued to the petitioner. It is further stated that, once the notification issued under Sec.3D of the Act, the land is absolutely vests with the Government free from all encumbrances and there is no question of exclusion of land at any point of time. Since a superstructure was standing in the property, the petitioner was directed to appear before the 1<sup>st</sup> respondent for valuing the property, but the petitioner did not appear. In the meantime, the present Writ Petition has been filed.

5. A reply affidavit was also filed by the petitioner denying all the averments made by the 1<sup>st</sup> respondent.

6. Mr.P.R.Sampath Kumar, learned counsel appearing for petitioner would vehemently content that, the original award was passed in the year 2006 for a lesser extent of land and the respondents have deliberately excluded the extent of 863 sq.mts. of land and they have passed the award only for an extent of 1070 sq.mts. Now, it is not open to initiate fresh award proceedings in the year 2019, after lapse of 12 years. The learned counsel would further submit that, the respondents did not take possession of the land and the possession is still with the petitioner and the entire acquisition proceedings is lapsed. If at all, the respondents want to acquire the land, they have to initiate fresh acquisition proceedings and they cannot pass fresh award after lapse of 12 years.

7. Mr. Su. Srinivasan, learned standing counsel appearing for 2<sup>nd</sup> respondent would submit, that, originally, the acquisition notification has been issued under Sec.3D of the Act for an extent of 1933 sq.mts. According to him, once the notification was issued under Sec.3D (1) of the Act, the land is absolutely vests with the Government free from all encumbrances, and the entire extent of 1933 sq.mts. of land has been vested with the Government free from all encumbrances. Admittedly, the petitioner did not challenge the land acquisition proceedings. Hence, the title in respect of entire extent is vested with the Government. The learned counsel further submitted that, at the time of passing award, as per the revised land plan schedule, only an extent of 1070 sq.mts. of land is required. Hence, the award was passed with respect of that extent and for the remaining extent, award proceeding has been kept in abeyance. According to learned counsel, there is no provision in the National Highways Act prescribing time limit for passing award. So, the petitioner cannot contend that, the acquisition proceedings has been lapsed.



8. Heard rival submissions made by learned counsel appearing for petitioner as well as learned Government Advocate appearing for 1<sup>st</sup> respondent and the learned standing counsel appearing for 2<sup>nd</sup> respondent and perused the records.

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9. The land was acquired under the National Highways Act for expansion of national highway No.7 and a notification under Sec.3D(1) of the Act has been issued in respect of petitioner's land in Survey No.55/3A, for an extent of 1933 sq.mts. As rightly contended by learned counsel Mr.Su.Srinivasan, once the notification was issued under Sec.3D (1) of the Act, entire land vested with the Government free from all encumbrances. However, earlier, the award was passed only for an extent of 1070 sq.mts. of land only. In the counter affidavit filed by the 1<sup>st</sup> respondent, it is stated that, the award has been restricted based on the request made by the National Highways Authority based on the land plan schedule. Now, based on the revised land plan schedule, the authorities required the remaining extent of 863 sq.mts. In the said circumstances, the impugned notice has been issued.

10. It is not disputed that the entire extent of 1933 sq.mts. has been acquired by the respondents, a declaration was also issued to that effect under Sec.3D(1) of the Act, AND entire extent of land absolutely vested with the Government free from all encumbrances, the petitioner did not challenge the land acquisition proceedings. Now, the question is whether the respondents can pass the award for the left out extent after a long delay. It is the contention of Mr.Su.Srinivasan, learned counsel appearing for 2<sup>nd</sup> respondent that, the National Highways Act does not prescribe time limit for passing award, and I find force in the submission made by learned counsel appearing for 2<sup>nd</sup> respondent. In absence of any such provisions in the Act, this Court cannot hold that, the acquisition proceedings lapsed on account of delay in passing award. However, the delay is not attributable to the petitioner, and hence, the petitioner is entitled to get reasonable compensation.

11. In the said circumstances, this Court is of the considered view that, the petitioner is entitled to get compensation for the remaining extent of land as per the guideline value / market value, of the property as on 02.05.2019, on the date on which, the impugned award enquiry notice has been issued, and the petitioner is also entitled for other consequential benefits as permissible under the Act.

12. The 1<sup>st</sup> respondent is directed to proceed with the award enquiry and pass award within a period of twelve weeks from the date of receipt of the copy of this order and the petitioner is also directed to cooperate with the enquiry and produce



materials for fixing the compensation. Accordingly, this Writ Petition stands disposed of. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

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Sd/-  
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Special District Revenue Officer (LA),  
National Highways Nos.7, 46, 47 & 66,  
Krishnagiri.
2. The Project Director,  
National Highways Authority of India,  
PIU, Salem, Door No.212-3/D3-1, Sri Nagar Colony,  
Narasothipatti, Salem-636 004.

+1cc to Mr.P.B.Sampath Kumar, Advocate SR.No. 33339

W.P.No.18011 of 2019

PCH(CO)  
B.VC(11.08.2021)