



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2021

CORAM

THE HONOURABLE Mr. JUSTICE G.K.ILANTHIRAIYAN

WP.Nos.17464, 17469 & 17475 of 2020 and
WMP.Nos.21653, 21654 & 21662 of 2020

WP.No.17464 of 2020

N.N.Savithri

... Petitioner

Vs

1.The District Collector cum
Arbitrator,
Thiruvallur District,
Thiruvallur 602 001

2.The Competent Authority and
Special District Revenue Officer,
(Land Acquisition),
Periyakuppam,
Thiruvallur 602 001

3.The Special Tahsildar,
Land Acquisition,
Unit-III, National Highways - 205,
Thiruvallur 603 001

4.The Project Director, PIU,
National Highways Authority of India,
Chennai
(R4 suo motu impleaded vide court order
dated 11.02.2021 in WP.No.17464 of 2020)

...Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents or any authority through them from evicting or dispossessing the petitioner from the land in survey No.761/1B3A2 & 761/1B3B2 measuring 550 sq.mtrs situated at Narayanapuram, Pattaraiperumbudhur 'B' Village, Thiruvallur Taluk & District without appropriate settlement of compensation.

WP.No.17469 of 2020

K.V.L.Saroja

... Petitioner



Vs

1.The District Collector cum
Arbitrator,
Thiruvallur District,
Thiruvallur 602 001

2.The Competent Authority and
Special District Revenue Officer,
(Land Acquisition),
Periyakuppam,
Thiruvallur 602 001

3.The Special Tahsildar,
Land Acquisition,
Unit-III, National Highways - 205,
Thiruvallur 603 001

4.The Project Director, PIU,
National Highways Authority of India,
Chennai
(R4 suo motu impleaded vide court order
dated 11.02.2021 in WP.No.17469 of 2020)

...Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents or any authority through them from evicting or dispossessing the petitioner and her family members from the property or demolish any structure thereof, comprised in survey No.842/2C2A and 842/3B3A measuring 3112 sq.mtrs, and survey no.844/1B2A1B measuring 232 sq.mtrs situated at Narayanapuram, Pattaraiperumbudhur 'B' Village, Thiruvallur Taluk & District without appropriate settlement of compensation.

WP.No.17475 of 2020

K.V.L.Saroja

...Petitioner

Vs

1.The District Collector cum
Arbitrator,
Thiruvallur District,
Thiruvallur 602 001

2.The Competent Authority and
Special District Revenue Officer,
(Land Acquisition),
Periyakuppam,
Thiruvallur 602 001



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3.The Special Tahsildar,
Land Acquisition,
Unit-III, National Highways - 205,
Thiruvallur 603 001

4.The Project Director, PIU,
National Highways Authority of India,
Chennai
(R4 suo motu impleaded vide court order
dated 11.02.2021 in WP.No.17475 of 2020) ... Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents or any authority through them from evicting or dispossessing the petitioner and her family members from the property or demolish any structure thereof, comprised in survey No.761/1A3B measuring 1231 sq.mtrs situated at Narayanapuram, Pattaraiperumbudhur 'B' Village, Thiruvallur Taluk & District without appropriate settlement of compensation.

For Petitioner
in all W.P.'s : Mr.R.Prabhakaran

For Respondents
in all W.P.'s
For R1 to 3 : Mr.Yogesh Kannadasan,
Special Government Pleader

For R4 : Mr.Su.Srinivasan

COMMON ORDER

The writ petition in WP.No.17464 of 2020 is filed to issue a Writ of Mandamus directing the respondents or any authority through them not to evict or dispossess the petitioner from the land in survey No.761/1B3A2 & 761/1B3B2 measuring 550 sq.mtrs situated at Narayanapuram, Pattaraiperumbudhur 'B' Village, Thiruvallur Taluk & District without appropriate settlement of compensation. The writ petition in WP.No.17469 of 2020 is filed to issue a Writ of Mandamus directing the respondents or any authority through them not to evict or dispossess the petitioner and her family members from the property or demolish any structure thereof, comprised in survey No.842/2C2A and 842/3B3A measuring 3112 sq.mtrs, and survey no.844/1B2A1B measuring 232 sq.mtrs situated at Narayanapuram, Pattaraiperumbudhur 'B' Village, Thiruvallur Taluk & District without appropriate settlement of compensation. The writ petition in WP.No.17475 of 2020 is filed to issue a Writ of Mandamus directing the respondents or any authority through them



not to evict or dispossess the petitioner and her family members from the property or demolish any structure thereof, comprised in survey No.761/1A3B measuring 1231 sq.mtrs situated at Narayanapuram, Pattaraiperumbudhur 'B' Village, Thiruvallur Taluk & District without appropriate settlement of compensation.

2. The case of the petitioners is that the land comprised in survey No.842/2C2A and 842/3B3A admeasuring 3112 sq.mtrs, in survey no.844/1B2A/1B admeasuring 232 sq.mtrs, in survey No.761/1A3B admeasuring 1231 sq.mtrs, in survey Nos.761/1B3A2 and 761/1B3B2 admeasuring 550 sq.mtrs. situated at Narayanapuram, Pattaraiperumbudhur 'B' Village, Thiruvallur Taluk & District were acquired by the second respondent for widening the National Highways-205, Thiruvallur to Thiruthani Phase-I. After acquisition proceedings, the second respondent passed award Nos.18 of 2010 dated 18.11.2012, 49 of 2011 dated 08.11.2012 and 76 of 2014 dated 26.05.2014. The second respondent determined compensation at Rs.846.94/- per sq.mtr. Aggrieved by the same, the petitioners filed appeal before the first respondent. The first respondent passed arbitral award dated 23.06.2016, thereby enhanced the compensation from Rs.806/- per sq.mtr. to Rs.1,238/- per sq.mtr. However, the petitioners are not satisfied with the arbitral award passed by the first respondent and filed these writ petitions.

3. The learned counsel for the petitioners submitted that the subject lands consist of residential houses, rice-mill and other structures which were not considered by the competent authority as well as the first respondent while determining the value of the property for compensation. Section 3 of the National Highways Act, 1956 did not contain any provision for payment of solatium and the interest. Therefore, it was challenged before various High Courts and the High Courts declared Section 3G and 3J of the National Highways Act as unconstitutional. Further held that Section 23(2) providing for solatium amounting to 30% of the market value and Section 28 of the Land Acquisition Act, 1894 would be applicable to all acquisitions under the National Highways Act, 1956. Finally it is settled that the First, Second and Third Schedules of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 are applicable to the National Highways Act, 1956 with effect from 01.01.2015 and as such the following directions were clarified:

"(a) All cases of land acquisition where the Awards had not been announced under Section 3G of the NH Act till 31.12.2014 or where such awards had been announced but compensation had not been paid in respect of majority of the land holdings under acquisition as on 31.12.2014, the compensation would be payable in accordance with



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the First Schedule of the RFCTLARR Act, 2013.

(b) In cases, where the process of acquisition of land stood completed (i.e. Award under Section 3G announced by CALA, amount deposited by the acquiring agency with the CALA, and compensation paid to the landowners in respect of majority of the land under acquisition) as on or before 31.12.2014, the process would be deemed to have been completed and settled. Such cases would not be re-opened.

Payment of additional amount calculated @ 12% on the market value in terms of sub-section (3) of Section 30 of the RFCTLARR Act, 2013."

Therefore, the compensation as fixed and enhanced does not in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and the petitioners are entitled to receive compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

4. Heard, Mr.R.Prabhakaran, the learned counsel for the petitioners, Mr.Yogesh Kannadasan, Special Government Pleader appearing for the respondents 1 to 3, and Mr.Su.Srinivasan, the learned counsel for the fourth respondent.

5. On perusal of the counter filed by the second respondent revealed that after award passed in respect of the subject properties, all the petitioners had duly received compensation as early as on 04.01.2013. However, aggrieved by the award passed by the competent authority, they approached the first respondent for enhancement of compensation. The first respondent by the arbitral award dated 14.01.2016 enhanced the compensation from Rs.806/- to Rs.1,238/- per sq.mtr. Accordingly, the petitioners received enhanced compensation amount on 23.06.2016 and 25.07.2017. They also received entire compensation including structure value and also received enhanced compensation amount.

6. Even according to the petitioner, the cut off date for entitlement of compensation is only as on 01.01.2015 to claim compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Whereas, as stated supra, even before 01.01.2015, award has been passed and all the petitioners received their respective compensation including enhanced compensation amount as stated supra. The applicability of the compensation under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition,



Rehabilitation and Resettlement Act, 2013 came into force with effect from 01.01.2015. Therefore, the claim of the petitioners is not legally sustained since the award was passed by the second respondent on 08.11.2012, 18.11.2012 and 26.05.2014 applying the provisions under the National Highways Act, 1956. Accordingly, all the petitioners had received their respective compensation along with value of the structure. Therefore, the petitioners are not entitled for compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and all the writ petitions are devoid of merits and liable to be dismissed.

7. Accordingly, all the writ petitions are dismissed. Consequently, connected miscellaneous petitions are closed. No order as to costs.

Sd/-
Assistant Registrar (CS-IV)

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Sub Assistant Registrar

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To

1.The District Collector cum
Arbitrator,
Thiruvallur District,
Thiruvallur 602 001

2.The Competent Authority and
Special District Revenue Officer,
(Land Acquisition),
Periyakuppam,
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3.The Special Tahsildar,
Land Acquisition,
Unit-III, National Highways - 205,
Thiruvallur 603 001

4.The Project Director, PIU,
National Highways Authority of India,
Chennai

+1cc to the Government Pleader, S.R.No.61943,61921

WP.Nos.17464, 17469 & 17475 of 2020

KG (CO)
SB(14/12/2021)