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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.26545 of 2021

K.Saravanan

.... Petitioner

Vs

1. The Secretary to Government,
Ministry of Road Transport & Highways,
Government of India,
National Highways Authority of India,
G5 & 6, Sector - 10, Dwarka,
New Delhi - 110 075.
2. The District Collector,
Collectorate Office,
Dharmapuri District,
Dharmapuri.
3. Competent Authority /
Special District Revenue Officer - Land Acquisition,
National Highways - 844
(Hosur - Royakottai - Dharmapuri Section),
Dharmapuri.
4. The Project Director (NH 844)
National Highways Authority of India,
PIU - Krishnagiri
259/1, Salem Main Road,
Near KAKC Petrol Bunk, Krishnagiri.

.... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the 2nd respondent to pass appropriate orders on the reference/representation dated 28.06.2021 and 20.09.2021 made by the petitioner under Section 3G(5) of the National Highways Act, by reconsidering the Award dated 05.05.2021 in respect of his land measuring 146 sq.mts comprised in S.No.222/9C, new S.No.222/9C1, land measuring 928 sq.mts comprised in S.No.222/10, new S.No.222/10A, land measuring 2355



sq.mts, comprised in S.No.223/3 new S.No.223/3B, land measuring 87 sq.mts comprised in S.No.222/9A, new S.No.222/9A1, land measuring 1583 sq.mts, comprised in S.No.222/11 new S.No.222/11A and house land measuring 91 sq.mts comprised in S.No.222/9B new S.No.222/9B1, covered in patta No.2138 & 414, Velagahalli revenue Village, Dharmapuri District, electric motor room, water tank, hundreds of mango trees, coconut trees, neem trees, tamarind trees aged more than 50 years, 7 feet length fencing and 120 stone and barbed wire fencing, electricity service connection etc and issue me a fresh award excluding the well and enhance the compensation for the petitioner's land and other amenities and trees etc. available in the land, by following the procedure contemplated under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) as per the provisions of Schedule I & II and Section 26(1) a & b of the Central Act 30 of 2013, within the time frame to be fixed by this Court.

For Petitioner : Mr.R.Ramesh Raja

For R1 : Ms.D.Geetha
Senior Central Govt.Standing Counsel

For R2 & R3 : Mr.C.Kathiravan
Special Government Pleader

For R4 : Mr.Su.Srinivasan

ORDER

This writ petition has been filed for issuance of Writ of Mandamus, directing the 2nd respondent to pass appropriate orders on the reference/representation dated 28.07.2021 and 09.09.2021 made by the petitioner under Section 3G(5) of the National Highways Act, by reconsidering the Award dated 05.05.2021 in respect of his lands admeasuring 146 sq.mts comprised in S.No.222/9C, new S.No.222/9C1, admeasuring 928 sq.mts comprised in S.No.222/10, new S.No.222/10A, admeasuring 2355 sq.mts, comprised in S.No.223/3 new S.No.223/3B, admeasuring 87 sq.mts comprised in S.No.222/9A, new S.No.222/9B1 and admeasuring 1583 sq.mts, comprised in S.No.222/11 new S.No.222/11A covered in patta No.2138, Velagahalli Village, Dharmapuri District, electric motor room, water tank, hundreds of mango trees, coconut trees, neem trees, tamarind trees aged more than 50 years, 7 feet length fencing and 120 stone and barbed wire fencing, electricity service connection etc and enhance the



compensation for the petitioner's land and other amenities and trees etc. available in the land, by following the procedure contemplated under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) as per the provisions of Schedule I & II and Section 26(1) a & b of the Central Act 30 of 2013, within the time frame to be fixed by this Court.

2. Heard, Mr.R.Ramesh Raja, learned counsel appearing for the petitioner, Ms.D.Geetha, learned Senior Central Govt. Standing Counsel appearing for the first respondent, Mr.C.Kathiravan, learned Special Government Pleader appearing for the second and third respondents and Mr.Su.Srinivasan, learned counsel appearing for the fourth respondent.

3. The land, belonging to the petitioner, had been acquired under the National Highways Act, 1956, for the purpose of laying National Highways 844 (Hosur - Royakottai - Dharmapuri Section) admeasuring 146 sq.mts comprised in S.No.222/9C, new S.No.222/9C1, admeasuring 928 sq.mts comprised in S.No.222/10, new S.No.222/10A, admeasuring 2355 sq.mts, comprised in S.No.223/3 new S.No.223/3B, admeasuring 87 sq.mts comprised in S.No.222/9A, new S.No.222/9B1 and admeasuring 1583 sq.mts, comprised in S.No.222/11 new S.No.222/11A covered in patta No.2138, Velagahalli Village, Dharmapuri District. The third respondent passed an award on 05.05.2021 and fixed the rate at Rs.37.39 per sq.mts. and awarded a compensation of a sum of Rs.42,51,699/- Aggrieved by the same, the petitioner preferred an application before the second respondent as contemplated under Section 3G(5) of the National Highways Act, 1956 and it is pending.

4. According to the petitioner, the compensation must be paid only after determination of market value by the authority. However, the authority did not follow the mandatory procedure properly. As per Section 26 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 the market value shall be determined by adopting certain criteria while assessing and determining the value of the land. Further, while calculating the compensation classified the lands as Dry Manavari Land type-II as per guideline value of Rs.37.30 per sq.mts and fixed average basic market value. Such type of classification is not permissible under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, for the purpose of awarding the compensation for the lands acquired.

5. The learned counsel for the petitioner would submit



that in the subject property a superstructure viz., building and well are there. Without ascertaining the value of the superstructure and other amenities, the third respondent had fixed the compensation and had awarded very meagre amount.

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6. Considering the above, the second respondent is directed to engage a competent valuer to value the house, well and other amenities provided in the subject property comprised in S.No.222/9C, new S.No.222/9C1, S.No.222/10, new S.No.222/10A, S.No.223/3 new S.No.223/3B, S.No.222/9A, new S.No.222/9B1 and S.No.222/11 new S.No.222/11A covered in patta No.2138, Velagahalli Village, Dharmapuri District and after receipt of the valuation report from the competent valuer the copy of the same may be served to the petitioner, within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the second respondent is directed to consider the same, give an opportunity of hearing to the petitioner and pass orders on merits and in accordance with law within a period of sixteen weeks thereafter.

7. With the above direction, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS-III)

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Sub Assistant Registrar

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To

1. The Secretary to Government,
Ministry of Road Transport & Highways,
Government of India,
National Highways Authority of India,
G5 & 6, Sector - 10, Dwarka,
New Delhi - 110 075.
2. The District Collector,
Collectorate Office,
Dharmapuri District,
Dharmapuri.



3. Competent Authority /
Special District Revenue Officer - Land Acquisition,
National Highways - 844
(Hosur - Royakottai - Dharmapuri Section),
Dharmapuri.

4. The Project Director (NH 844)
National Highways Authority of India,
PIU - Krishnagiri
259/1, Salem Main Road,
Near KAKC Petrol Bunk, Krishnagiri.

+1cc to M/s.D.Geetha (SC GSC), Advocate, S.R.No.66982

+1cc to the Government Pleader, S.R.No.67520

W.P.No.26545 of 2021

SVI (CO)
SU (28/12/2021)