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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.26558 of 2021
and
W.M.P.No. 28009 of 2021

S. Rajeswari

.... 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 & 20.09.2021 made by the petitioner under Section 3G(5) of the National Highways Act, by reconsidering the Award dated 09.03.2021 in respect of the petitioner's land measuring 1722 sq.mts. comprised in S.No.223/4, new S.No.223/4B covered in patta No.459, Velagalhalli Village, Dharmapuri District and also hundreds of trees and stone fencing etc., well and other



amenities etc., existing in petitioner's land and issue fresh award by enhancing the compensation, 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) and re-fix the compensation as per the provision 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 28.06.2021 & 20.09.2021 made by the petitioner under Section 3G(5) of the National Highways Act, by reconsidering the Award dated 09.03.2021 in respect of the petitioner's land measuring 1722 sq.mts. comprised in S.No.223/4, new S.No.223/4B covered in patta No.459, Velagalhalli Village, Dharmapuri District and also hundreds of trees and stone fencing etc., well and other amenities etc., existing in petitioner's land and issue fresh award by enhancing the compensation, 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) and re-fix the compensation as per the provision 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 to an extent of 1722 sq.mts. comprised in S.No.223/4, new S.No.223/4B covered in patta No.459, Velagalahalli Village, Dharmapuri District. The third respondent passed an award on 09.03.2021 and fixed the rate at Rs.37.30 per sq.mts. and awarded a compensation of a sum of Rs.6,25,593/- 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 type land as per guideline value of Rs.37.39 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.

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.223/4, new S.No.223/4B covered in patta No.459, Velagalahalli 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.



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7. With the above direction, the writ petition stands disposed of. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

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.66983

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

W.P.No.26558 of 2021
and
W.M.P.No.28009 of 2021

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