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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.31212 of 2019

R.Abitha Begum ... Petitioner

Vs.

1. National Highways Authority of India,
   Rep. by its Chairman,
   G.5 & 6, Sector - 10, Dwaraka,
   New Delhi – 110 075.

2. Regional Officer,
   Chennai National Highways Authority of India,
   SRI Tower, Guindy, Chennai – 600 032.

3. The District Collector,
   Cuddalore, Cuddalore District.

4. The Special Tahsildar, (LA)
   Land Acquisition National Highways Unit-I,
   Panruti Taluk, Cuddalore District. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus against the respondents to call for the records/proceedings of the 3rd respondent culminating in his Na.Ka.L3(Arbit)/35097/2018 dated 30.09.2019 quash the same and direct the 3rd respondent to fix the land value as per Provisions of earlier Land Acquisition Act 1894 and also direct the respondents to pay the additional market value under Section 23(1)(a), solatium under Section 23 (2) and interest under Section 28 of the Land Acquisition Act, 1894 to the petitioner herein together with accrued interest, etc. within a reasonable period that may be stipulated by this Court.

For Petitioner : Mr.V.Raghupathi

For Respondents : Mr.K.M.D.Muhilan for R3 & R4
Government Advocate

Mr.Su.Srinivasan, for R1 & R2
Special Government Pleader

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ORDER

The petitioner filed a Certiorarified Mandamus to quash the order of the third respondent No.Na.Ka.L3(Arbit)/35097/2018 dated 30.09.2019 and to direct the third respondent to fix the land value as per the provisions of earlier Land Acquisition Act 1894 and also to direct the respondents to pay the additional market value under Section 23(1)(a), solatium under Section 23 (2) and interest under Section 28 of the Land Acquisition Act, 1894 with interest.

2.The case of the petitioner is that his land was compulsorily acquired under Section 3D(1) and 3G(3) of National Highways Act, 1956. According to the petitioner, the authorities have not paid additional market value at 12%, solatium at 30% and interest at 15% to him because of 3J of National Highways Act, 1956. According to the petitioner, he is entitled to the compensation of additional market value under Section 23(1)(a), solatium under Section 23(2) and interest as provided under the Central Act of Land Acquisition Act, 1894.

3.The petitioner submits that the Central Government filed an appeal in S.L.A.No.129-159 of 2014 before the Hon'ble Supreme Court, against the said decision dated 04.03.2011. The Hon'ble Supreme Court in its judgment dated 21.07.2016 disposed of the above S.L.Ps and directed the authorities to pay solatium as due in terms of the impugned orders passed by the Land Acquisition Authorities along with interest.

4.It is also the case of the petitioner that his two floor land and building with an extent of 852 sq.ft in S.No.302/9, Kandarakottai Village abutting National Highway Road, connecting Cuddalore to Thanjavur Road, the above building and other adjacent properties were acquired for expansion of National Highway Road for which the authorities made negotiations with him. After the negotiation, the authorities has only paid a sum of Rs.30,84,519/- vide proceedings No.Na.Ka./Thea.Nea. 45C/675/2012.

5.The petitioner further submits that no award copy has been furnished to him by the authorities. According to the petitioner, adjacent land owners was paid more compensation whereas the petitioner was received lesser compensation which is arbitrary. According to the petitioner, there is a discrimination in payment of reasonable compensation as per the National Highways Act, 1956 as well as the Land Acquisition Act, 1894. Hence, the petitioner sent a representation to the respondents on 06.11.2017, but the said representation was not considered. On 16.12.2017, the petitioner has received a compensation for a sum of Rs.29,53,707/-, the same was deposited

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in his bank account after deducting income tax at 10%.

6.According to the petitioner, it is unfair and unreasonable for the authorities to refuse to pay the fair and reasonable compensation as per compensation paid to his neighbours whose lands were also acquired by National Highways Authorities. Hence, the petitioner sent a representation to the District Collector, Cuddalore on 23.04.2018 which was also sent as enclosure to the Special Tahsildar (LA) National Highways Section, Panrutti on 29.05.2018. But till date, the same was not considered. The petitioner submits that he and other similarly placed persons came to know that the National Highways Authority of India vide its letter No.NHAI/HQ/11013/L.A./2017/FDS-76/99177 dated 02.05.2017 addressed to the Chief General Manager, Regional Office, Chennai, National Highways Authority of India was directed to pay the compensation of additional market value under Section 23 (1) a of the Land Acquisition Act, Solatium under Section 23 of the Act and interest as provided under the Land Acquisition Act, the same has also been forwarded to the Competent Authorities and the Special District Revenue Officer (LA), NH 68, Salem reminding to pay the aforesaid amounts to the petitioner and other writ petitioners in its letter No.Lr.NHAI/PIU-SLM/NH.68/LA/2017.

7.The petitioner submits that in spite of the advices from the authorities concerned, according to the petitioner, the third respondent District Collector is the competent authority seeking for additional market value. The petitioner sent a reminder letter and filed necessary court orders also regarding the same. But till date, the authorities already paid a sum of Rs.50,00,000/- to the petitioner's tin sheet roofed house situated on the right side of the his house whereas the petitioner acquired house was a pucca built up and two floor building total extent of 827 sq.ft. But the respondent has rejected the appeal petition filed by the petitioner stating that already compensation and solatium were paid under the provisions of the New Act.

8.As per 3G(5) NHAI Act, the petitioner is aggrieved and it is relevant to extract Section 3G(5) of the National Highways Authority Act:

> ...''(5) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government.''

9.Per contra, the learned counsel appearing for the

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respondents would submit that the petitioner shall file an appeal before the concerned authorities and he cannot file a writ petition seeking for enhancement of compensation.

10.Heard the learned counsel for the petitioner, the learned Special Government Pleader for the respondents 1 and 2 and the learned Government Advocate for the respondents 3 and 4 and perused the materials available on record.

11.On perusal of records, it is seen that the petitioner's two floor land and building with an extent of 852 sq.ft in S.No.302/9, Kandarakottai Village abutting National Highway Road, connecting Cuddalore to Thanjavur Road, the above building and other adjacent properties were acquired for expansion of National Highway Road. The petitioner sent representations to the District Collector seeking for additional market value, the said representations were not considered. Hence, the petitioner has approached this Court.

12.On going through the materials on record, this Court finds that though the petitioner received a compensation for a sum of Rs.29,53,707/- after deducting income tax at 10%, he seeks enhancement of compensation has to be fixed based on the land value as per the provisions of earlier Land Acquisition Act 1894 as well as the additional market value under Section 23(1)(a), solatium under Section 23(2) and interest under Section 28 of the Land Acquisition Act, 1894 with interest.

13.In view of the above, this Court is of the view that the petitioner may be granted with liberty and he may be directed to approach the concerned Authorities. Accordingly, the writ petition is disposed of. No costs. However, liberty is granted to the petitioner to approach the concerned Authorities within a period of two weeks from the date of receipt of copy of this order and Time taken by the petitioner from the date of filing this writ petition till the disposal shall be considered by the authorities for condoning if there is any delay.

Sd/-
Assistant Registrar(CS VII)

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Sub Assistant Registrar

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To

1. National Highways Authority of India,
   Rep. by its Chairman,
   G.5 & 6, Sector - 10, Dwaraka,
   New Delhi - 110 075.

2. Regional Officer,
   Chennai National Highways Authority of India,
   SRI Tower, Guindy, Chennai - 600 032.

3. The District Collector,
   Cuddalore, Cuddalore District.

4. The Special Tahsildar, (LA)
   Land Acquisition National Highways Unit-I,
   Panruti Taluk, Cuddalore District.

+1cc to Mr.V.Raghupathi, Advocate, S.R.No.43526
+1cc to Mr.Su.Srinivasan,, Advocate, S.R.No.44091
+1cc to the Government Pleader, S.R.No.43916

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