



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P. (MD) No. 7605 of 2021

WMP (MD) No. 5763 of 2021

(Through Video Conferencing)

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V. Alfred ... Petitioner

Vs.

1. The Arbitrator and the District Collector,
Kanyakumari District.

2. The Competent Authority of Land Acquisition (CALA) cum
The Special District Revenue Officer (Land Acquisition)
National Highways, Tirunelveli
Observatory Street,
Nagercoil.

3. The Project Director,
National Highways Authority of India
Tirunelveli.

... Respondents

(R3 has been suo motu impleaded as respondent
vide order of this Court dated 07.04.2021)

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari and Mandamus to call for the entire records connected with the impugned order passed by the 1st respondent in Na.Ka.No.3/30066/2018 dated 07.02.2020 and quash the same insofar as its omission of calculating 1.25 multiple factor is concerned and directing the respondents to correct the impugned order insofar as the interest of 15% instead of 9% on the award and as well as multiply the market value at 1.25 as per the Gazette notification dated 09.02.2016 issued by MORT & H and G.O.Ms.No.300 dated 21.09.2017 to the petitioner by following Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and with the clarification letter by the 1st respondent dated 08.08.2016 and in the light of the order passed in W.A. (MD) No.402 and 403 of 2016 dated 26.03.2018 and as per the petitioner's representation dated 16.07.2020.



For Petitioner

:Mr.K.K.Kannan

For Respondents

:Mr.K.P.Krishnadoss for R1 & R2
Special Government Pleader
Mr.C.Arulvadivel @ Sekar for R3

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ORDER

Mr.K.P.Krishnadoss, learned Special Government Pleader, takes notice on behalf of the respondents 1 and 2. Mr.C.Arul Vadivel @ Sekar, standing counsel, takes notice for the impleaded 3rd respondent.

2.The subject matter of challenge in the present writ petition is to the award passed by the first respondent under Section 3G of the National Highways Act, 1956.

3.According to the petitioner, the first respondent failed to calculate the compensation in accordance with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act'). The further grievance of the petitioner is that the first respondent ought to have calculated the compensation by applying the multiplying factor as 1.25.

4.The learned standing counsel appearing on behalf of the impleaded third respondent submitted that the writ petition is not maintainable, since the petitioner can challenge the award passed by the first respondent only by filing a petition under Section 34 of the Arbitration Act and a writ petition cannot be maintained. The learned counsel therefore submitted that this writ petition is liable to be dismissed on the ground of maintainability.

5. The learned counsel for the petitioner submitted that there was an omission on the part of the first respondent in not considering the multiplying factor and not calculating the compensation in accordance with the Act and therefore, this writ petition can be maintained before this Court.

6. In the considered view of this Court, Section 3G(6) of the National Highways Act makes it very clear that the provisions of the Arbitration and Conciliation Act will apply to every arbitration under this Act. Therefore, any award passed by the District Collector can be challenged only by way of filing a petition under Section 34 of the Arbitration Act and a writ petition cannot be maintained. The law on this issue is too well settled.



7. The present writ petition is liable to be dismissed on the ground of maintainability and accordingly the same is dismissed. If the petitioner is having any other alternative remedy, it is up to the petitioner to work out his remedy in the manner known to law. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

RR

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Arbitrator and the District Collector,
Kanyakumari District.

2. The Competent Authority of Land Acquisition (CALA) cum
The Special District Revenue Officer (Land Acquisition)
National Highways, Tirunelveli
Observatory Street,
Nagercoil.

3. The Project Director,
National Highways Authority of India
Tirunelveli.

+1 CC to M/s. K.K. KANNAN, Advocate (SR-15445[F] dated 08/04/2021)

+1 CC to M/s. C. ARUL VADIVEL @ SEKAR, Advocate (SR-15483[F] dated 08/04/2021)

+1 CC to M/s. SPL GP (SR-15461[F] dated 08/04/2021)