



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2021

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THE HON'BLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P. (MD)No.13419 of 2021

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Manilal Patel

... Petitioner

Vs.

1. Union of India,
Rep by its Secretary,
Ministry of Road Transport
and Highway,
New Delhi.

2. The Project Director,
National Highways Authority of India,
Project Implementation Unit,
Plot No.3, Surya Towers,
2nd Floor, First East Street,
K.K.Nagar, Madurai-20.

3. The Competent Authority/District Revenue Officer,
National Highways Land Acquisition Officer,
Madurai.

4. The District Collector,
Madurai District, Madurai.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 2 and 3 to refer the award in Na.Ka.No.26714/2018/B3 to the Land Acquisition Tribunal (Principal Sub-Court, Madurai) under Section 64 (1) of the Act, 2013.

For Petitioner : Mr.G.Jeremiah.

For Respondents : Mr.Arul Vadivel @ Sekar

for R2 and R3

Mr.P.Subbaraj,

Counsel for State for R4

Mr.J.Parekh Kumar

for Mr.T.Mahendran for CGSC for R1

O R D E R

The petitioner seeks the reference of the land acquisition award to the Land Acquisition Tribunal (Principal Sub-Court, Madurai) under Section 64(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement



Act 2013 (here-in-after referred as "Act 30 of 2013").

2. The petitioner states that the lands owned by the petitioner and his brother jointly were acquired upon issuance of a notification under Section 3A(1) of the National Highways Act, 1956. Upon such acquisitions according to the petitioner, the market value of the property was fixed at an extremely low value of Rs.1320/- per Sq.Ft., whereas the actual market value is about Rs.5000/- per Sq.Ft. The third respondent is said to have passed an award on 01.02.2019 and the award amount was deposited on 06.02.2019.

3. The petitioner states that he made representations on 13.02.2019 and 04.03.2019 to the District Collector for payment of enhanced compensation. However, the District Collector refused to make a reference under Section 64(1) of Act 30 of 2013. The present writ petition is filed in the said facts and circumstances.

4. Mr.L.Arul Vadivel alias Sekar, learned Standing Counsel, accepts notice on behalf of respondents 2 and 3. He points out that the present petition is completely misconceived inasmuch as Act 30 of 2013 is made inapplicable to acquisitions by the National Highways except that compensation would be paid in terms of Act 30 of 2013. He also points out that the District Collector is the designated arbitrator in terms of Section 3-G(5) of the National Highways Act, 1956. Consequently, he states that the matter cannot be referred to the Land Acquisition Tribunal in terms of Section 64 (1) of Act 30 of 2013.

5. Learned counsel for the petitioner states that Act 30 of 2013 is applicable to all acquisitions made after the cut-off date specified therein. In view of the fact that the present acquisitions admittedly took place only in the year 2018, learned counsel contends that Act 30 of 2013 including Section 64(1) thereof, would clearly apply to the present case. He also refers to a judgment of the Hon'ble Karnataka High Court in such regard.

6. Upon considering the rival contentions, the main question that arises for consideration is whether the petitioner is entitled to a reference under section 64(1) of Act 30 of 2013. Upon perusal of Act 30 of 2013, it is clear that acquisitions under certain specified enactments are excluded from the applicability of Act 30 of 2013. In particular, Section 105(1) of Act 30 of 2013 states expressly as under:

"(i) Subject to sub-section (3) the provisions of this Act shall not apply to the enactments relating to land acquisition specified in the Fourth Schedule."

Sl.No.7 of the Fourth Schedule specifies the National Highways Act, 1956. Therefore, there is no doubt that the provisions of Act 30 of 2013 do not apply to acquisitions under the National Highways Act, and the limited exception is in sub-section (3) of Section 105.



Sub-section (3) provides that the Central Government shall by notification direct that the provisions of Act 30 of 2013 relating to the determination of compensation (in accordance with the First Schedule thereto) shall apply to cases of land acquisition under the enactments specified in the Fourth Schedule.

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7. Thus, it is clear that Act 13 of 2013 would apply only for the limited purpose of determination of compensation. As correctly pointed out by learned counsel for the NHAI, Section 3-G(5) provides for the determination of enhanced compensation, upon application in such regard, by an arbitrator. The designated arbitrator for such purpose is the District Collector.

8. In the present case, an application for payment of enhanced compensation has already been filed and has been taken on record as A.P.No.35/MNT/Periyapatti/2019. Therefore, it would suffice to direct that the application for enhanced compensation be considered and disposed of by the designated arbitrator within a reasonable time frame.

9. Accordingly, W.P(MD).No.13419 of 2021 is disposed of by directing the fourth respondent herein to consider and dispose of the petitioner's application (A.P.No.35/MNT/Periyapatti/2019) for enhanced compensation within a period of three months from the date of receipt of a copy of this order after providing a reasonable opportunity to the petitioner and any others affected thereby. There will be no order as to costs.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1. The Secretary,
Union of India,
Ministry of Road Transport
and Highway,
New Delhi.

2. The Project Director,
National Highways Authority of India,
Project Implementation Unit,
Plot No.3, Surya Towers,
2nd Floor, First East Street, K.K.Nagar, Madurai-20.



3. The Competent Authority/District Revenue Officer,
National Highways Land Acquisition Officer,
Madurai.

4. The District Collector,
Madurai District, Madurai.

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+1 CC to M/s.GP (SR-25359[F] dated 05/08/2021)

+2 CC to M/s.T.MAHESHKUMAR, Advocate (SR-25550[F] dated
06/08/2021)

W.P. (MD) No.13419 of 2021

04.08.2021

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