



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2021

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)Nos.17251, 17252 and 17253 of 2021

W.P(MD)No.17251 of 2021

G.Kanakasabapathy

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District Collectorate,
Nagercoil-629001.

2.The National Highways Authority of India (NHAI),
Represented by its Project Director,
Tirunelveli, At Nagercoil.

3.The Competent Authority and
Special District Revenue Officer (LA-NH),
Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to consider the appeal of petitioner dated on 06.11.2018 and the consequential reminder on 29.08.2020 by reconsidering the value of petitioner land in Re-Survey Nos.689/5C and 7C of Vadasery Village, in par with adjacent land value and to add multiplication of 1.25 and also to grant 100% solatium with 15% interest per annum.

W.P(MD)No.17252 of 2021

N.Rajam

... Petitioner

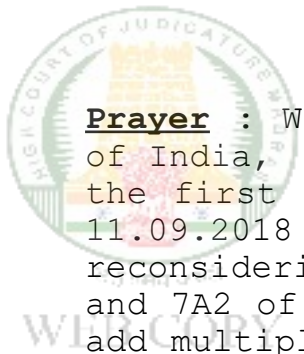
Vs.

1.The District Collector,
Kanyakumari District Collectorate,
Nagercoil-629001.

2.The National Highways Authority of India (NHAI),
Represented by its Project Director,
Tirunelveli, At Nagercoil.

3.The Competent Authority and
Special District Revenue Officer (LA-NH),
Tirunelveli District.

... Respondents



Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to consider the appeal of petitioner dated on 11.09.2018 and the consequential reminder on 29.08.2020 by reconsidering the value of petitioner land in Re-Survey No.689/5A3 and 7A2 of Vadasery Village, in par with adjacent land value and to add multiplication of 1.25 and also to grant 100% solatium with 15% interest per annum.

W.P (MD) No.17253 of 2021

B.Leela

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District Collectorate,
Nagercoil-629001.

2.The National Highways Authority of India (NHAI),
Represented by its Project Director,
Tirunelveli, At Nagercoil.

3.The Competent Authority and
Special District Revenue Officer (LA-NH),
Tirunelveli District.

... Respondents

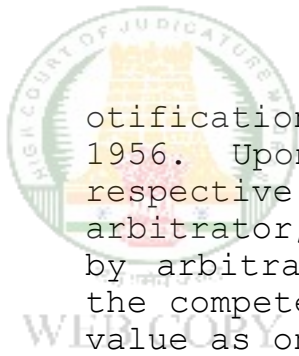
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to consider the appeal of petitioner dated on 30.06.2018 and the consequential reminder on 20.08.2020 by reconsidering the value of petitioner land in Re-Survey No.689/5A2B of Vadasery Village, in par with adjacent land value and to add multiplication of 1.25 and also to grant 100% solatium with 15% interest per annum.

For Petitioners	:	Mr.K.P.Narayanakumar (In all Writ Petitions)
For R-1 and R-3	:	Mr.P.Subbaraj, Counsel for State.
For R-2	:	Mr.Su.Srinivasan, Standing Counsel. (In all Writ Petitions)

COMMON ORDER

These three Writ Petitions are for a direction to the first respondent to consider the appeal filed by the respective petitioner as regards the compensation awarded to the respective petitioner.

2. The respective petitioner states that the relevant land owned by such petitioner was acquired pursuant to a Gazette N



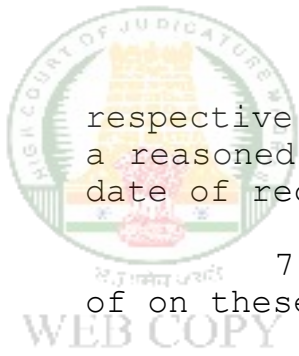
otification issued on 25.05.2010 under the National Highways Act, 1956. Upon being dissatisfied with the quantum of compensation, the respective petitioner initiated proceedings before the designated arbitrator, namely, the first respondent herein. Pursuant thereto, by arbitral award dated 31.07.2017, the first respondent directed the competent authority to compute compensation as per the guideline value as on 01.04.2012.

3. Thereafter, the respective petitioner states that the guideline value has been erroneously fixed at Rs.1185/- (Rupees One Thousand One Hundred and Eighty Five only) per square metre, whereas the guideline value should have been fixed at a higher value. In this connection, a sale deed executed on 03.05.2005 is relied upon.

4. Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of respondents 1 and 3 and Mr.Su.Srinivasan, learned standing counsel for the National Highways Authority of India, accepts notice on behalf of the second respondent. Mr.Su.Srinivasan submits that the respective petitioner should have assailed the arbitral award by instituting proceedings under Section 34 of the Arbitration and Conciliation Act, 1996. He further submits that the respective petitioner cannot indirectly assail the arbitral award through these Writ Petitions. As regards the arbitral award, he points out that the said award directs the competent authority to fix the guideline value as on 01.04.2012 although such guideline value is required to be fixed as on the date of notification in terms of Section 3G(7) of the National Highways Act, 1956. However, in view of the fact that such awards had attained finality, he states that the awards have not been challenged by the National Highways Department except in cases where such challenge is within the period of limitation prescribed in such regard.

5. The statutory recourse against an arbitral award under the National Highways Act is by way of a petition under Section 34 of the Arbitration and Conciliation Act, 1996. Without doubt, the statutory remedy cannot be availed of by the respective petitioner at this juncture, after having failed to challenge the arbitral award within the time prescribed in Section 34. At the same time, it should be noted that the respective petitioner contends that the determination of compensation is not as per the arbitral award in as much as such compensation does not represent the correct guideline value as on 01.04.2012. To that limited extent, the claim of the respective petitioner warrants consideration.

6. Accordingly, the competent authority is directed to reconsider the claim of the respective petitioner only insofar as to consider and decide whether compensation has been computed as per the arbitral award, i.e. in accordance with the correct guideline value as on 01.04.2012. The competent authority is directed to re-



respective petitioner and the National Highways Department and pass a reasoned order thereon within a period of two (2) months from the date of receipt of a copy of this order.

7. W.P.(MD).Nos.17251, 17252 and 17253 of 2021 are disposed of on these terms without any order as to costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg/LM

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 District Collector,
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- 2.The Project Director,
National Highways Authority of India (NHAI),
Tirunelveli, At Nagercoil.
- 3.The Competent Authority and
Special District Revenue Officer (LA-NH),
Tirunelveli District.

+1 CC to M/s.SPL.GP (SR-30473[F] dated 28/09/2021)

+3 CC to M/s.K.P.NARAYANA KUMAR, Advocate (SR-30423[F] dated 28/09/2021)

+1 CC to M/s.SU.SRINIVASAN, Advocate (SR-30386[F] dated 27/09/2021)

W.P (MD) Nos.17251, 17252 and 17253 of 2021
27.09.2021

PS (CO)

KB(07.10.2021) 4P 9C