

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.3464 of 2022
And
W.M.P.No.3583 of 2022

S.P.Anthonisamy

... Petitioner

Vs.

1.Government of India

Ministry of Road Transport and Highways
Transport Bhawan,
No.01, Parliament Street,
New Delhi - 110 001.

2.The Competent Authority and

District Revenue Officer,
(Land Acquisition), National Highways,
No.64, Seetharaman Nagar,
3rd Cross Street,
Pudupalayam,
Cuddalore.

3.The General Manager

(Technical and Project Director)
National Highways Authority of India,
Villupuram Project Implementation Unit,
28, VGP Nagar West,
Vizhudha Reddy Post,
Villupuram - 605 401.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration to declare that the act of the second respondent in awarding a meagre compensation of Rs.6,19,663/- on 30.10.2021 without any prior or post notice of the award is ab-initio void, unconstitutional, illegal and not binding on the petitioner herein in respect of the petitioner's agricultural lands situated at Survey Nos.39/6 and 40/1 of Melchokkanathanpettai Village.

For Petitioner : M/s.Sudharsana Sundar
for M/s.B.Ravi Raja

For Respondents : Mr.R.Rajesh Vivekananthan for R1
Mr.M.Muthusamy for R2
Government Advocate
Mr.Su.Srinivasan for NHA

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Declaration to declare that the act of the second respondent in awarding a meagre compensation of Rs.6,19,663/- on 30.10.2021 without any prior or post notice of the award is ab-initio void, unconstitutional, illegal and not binding on the petitioner in respect of the petitioner's agricultural lands situated at Survey Nos.39/6 and 40/1 of Melchokkanathanpettai Village.

2.The case of the petitioner is that the petitioner is the owner of the lands in R.S.Nos.33/8B, 33/9A2 in Lalpuram Village and in R.S.Nos.39/6B and 40/1B in Melchokkanathanpettai Village. Earlier, portion of the said lands were acquired for the purpose of building National Highways No.45A on the stretch from Villupuram - Puducherry - Cuddalore - Nagapattinam Section.

3.The further case of the petitioner is that thereafter an additional extent of the petitioner's land in Survey Nos.39/6 and 40/1 of Melchokkanathanpettai Village/ subject property of this writ petition were acquired and without giving prior notice or intimation of the proposed award, the second respondent had deposited a meagre compensation in the petitioner's Bank account. Hence, the petitioner made a detailed representation to the second respondent seeking to determine the compensation in accordance with the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 and Government of Ministry of Transport Highways Circular No.NH-11011/30-2015. Since the said representation has not yet been considered, the petitioner has filed this writ petition.

4.The learned counsel appearing for the petitioner submitted that without conducting any award proceedings, the second respondent has deposited a very meagre amount in the petitioner's Bank account for the additional extent of lands acquired from him. The learned counsel further submitted that since no notice was issued to the petitioner prior to passing of award and since the proposed award was not intimated to him in writing, the petitioner is unable to proceed further for enhancement of compensation.

5. Heard the arguments advanced on either side and perused the materials available on record.

6. The facts in the present case is not disputed. The petitioner claim that without conducting any award proceedings, the second respondent has deposited a very meagre amount in the petitioner's Bank account for the additional extent of lands/ subject property acquired from him and since no notice was issued prior to passing of award and since the proposed award was not intimated to him in writing, the petitioner is unable to proceed further for enhancement of compensation.

7. As per Section 3 (g) (5) of the National Highways Act, if a land is acquired by the National Highways Authority the compensation amount shall be determined by the competent Authority and as per Sub Sections 2, 3, 4, the competent Authority shall give public notice and publish in newspapers and require interested person of such land to appear in person and pass award and if the person is aggrieved by the amount determined, the aggrieved person may file application before the Arbitrator appointed by the Central Government.

8. The grievance of the petitioner is that without any proceedings for the amount deposited as compensation for the land acquired from him, he could not proceed further for enhancement of compensation.

9. In view of the above, the second respondent is directed to furnish copy of the award to the petitioner, if not already furnished, within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the petitioner is at liberty to work out the remedy in the manner prescribed under Section 3 (g) (5) of the National Highways Act before the learned Arbitrator appointed by the Central Government. It is made clear that the period of pendency of this writ petition before this Court is excluded for the purpose of period of limitation.

10. With the above observations, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

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To

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Villupuram - 605 401.

+1cc to Mr.B.Ravi Raja, Advocate SR.No.12596

+1cc to Mr.R.Rajesh Vivekananthan, Advocate SR.No.13175

+1cc to Government Pleader SR.No.13056

W.P.No.3464 of 2022
And
W.M.P.No.3583 of 2022

PA(CO)
GMY(24/03/2022)