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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NOS.6415, 6419 OF 2019

AND

W.M.P.NOS.1780, 1781 OF 2022

M/s.Exsurge,
Represented by its Proprietor,
Sujant Anbu,
S/o. Late Mr.P.A.D.Anbu,
No.18, Jaganatha Nagar,
Gandhinagar,
Vellore - 632 006.

... Petitioner in
W.P.No.6415 of 2019

M/s.Sri Rajalu Engineering Works,
Represented by its Proprietor,
G.Deenathayalan,
Plot No.E, SIDCO Industrial Estate,
Vannivedu, Walaja Taluk,
Vellore District - 632 513.

... Petitioner in
W.P.No.6419 of 2019

.Vs.

1. The District Collector of Vellore/
Chief Arbitrator (NHAI),
Vellore Collectorate,
Vellore - 632 009.
2. The Project Director/Regional Manager,
National Highways Authority of India,
No.D.P.34, Sri Towers South Phase,
3rd Floor, Guindy,
Chennai - 600 032.
3. The Chairman and Managing Director,
TANSIDCO, SIDCO Corporate Office Building,
Thiruvi-ka-Industrial Estate,
Guindy, Chennai - 600 032.



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4. The Competent Authority (LA)-cum-
The Special District Revenue Officer,
National Highways Authority of India,
Vellore Collectorate,
Vellore.

5. The Special Tahsildar
(National Highways),
Ranipet, Unit-7,
Vellore District.

... Respondents in
Both W.P's

R2 to R5 are impleaded vide Court
order dated 07.02.2022, made in
W.M.P.Nos.1780, 1781 of 2022 in
W.P.Nos.6415, 6419 of 2019

PRAYER IN W.P.NO.6415 OF 2019:-

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent pertaining to the impugned order bearing Na.Ka.No.G4/20354/2002 dated 14.01.2019, quash the same and also direct the respondent to pay the petitioner enhanced compensation with Multiplication Factor, 100% Solatium and interest at 12% for 0.997 acres of land at S.No.13/7, Vannivedu Village, Walaja Taluk, Vellore District as per sections 24, 26-30 and other provisions of the "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 within the time stipulated by this Hon'ble Court.

PRAYER IN W.P.NO.6419 OF 2019:-

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent pertaining to the impugned order bearing Na.Ka.No.G4/20354/2002 dated 14.01.2019, quash the same and also direct the respondent to pay the petitioner enhanced compensation with Multiplication Factor, 100% Solatium and interest at 12% for 0.753 acres of land at S.No.13/7, Vannivedu Village, Walaja Taluk, Vellore District as per sections 24, 26-30 and other provisions of the "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 within the time stipulated by this Hon'ble Court.



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IN BOTH W.P'S

For Petitioners : M/s.G.Devi

For Respondents : Mr.M.Muthusamy
Government Advocate

COMMON ORDER

The case of the petitioners is that initially they applied for allotment of developed plot in an Industrial Estate Promoted by SIDCO at S.No.13/7, Vannivedu Village, Vellore District by applications dated 30.06.1997, which was considered favourably and an extent of about 1.01 acres was offered by SIDCO for a sum of Rs.1,51,500/, which was paid by the petitioners. Thereafter, on 16.04.2001, the officials of National Highways Department had come to the Industrial Estate and laid stones marking boundaries for forming a by-pass road. On receiving the representation, SIDCO has sent communication to the National Highways Authority about the approved Industrial Estate which started Industrial activity and requested them to drop the proposal. But the National Highways Authority has proceeded with the land acquisition. The petitioners had no other option except seeking for payment of compensation with liberty to claim higher compensation.

2. However, SIDCO had received the compensation on 18.09.2015 and refused to pay the same to the petitioners. Hence, the petitioners have filed W.P.No.36035 of 2015 before this Court, and the above said Writ Petition was allowed on 07.04.2016 by directing 3rd respondent-SIDCO to pay the compensation received by them for acquisition of plot allotted to the petitioners and liberty was granted to the petitioners to move application before the respondent for enhanced compensation. Against that order, SIDCO filed W.A.No.1264 of 2016 before this Court, and the Division Bench, by the order dated 10.02.2017, confirmed that the petitioners are entitled for compensation to an extent of 0.997 acres only.

2.1 Thereafter, the petitioners sent a representation to 3rd respondent-SIDCO. After the receipt of the representation dated 27.07.2018, SIDCO agreed to sanction the compensation amount to the petitioners and thereafter the petitioners received the total compensation of Rs.49,125/- and Rs.37,102/- respectively on 15.06.2018 and 31.07.2018, whereas the petitioners have purchased the land of 1 acre and 1 cent in July 1997 for a sum of Rs.1,51,500/-.



2.2. Therefore, the petitioners sent several representations to the respondent stating that the petitioners are entitled to receive compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short "the Act"). However, the said representation was rejected by 1st respondent-The District Collector on 14.01.2019. Hence, the present Writ Petitions have been filed.

3. The learned counsel appearing for the petitioners submit that though the land acquisition proceedings were initiated against the petitioners in the year 2001, however, SIDCO paid the compensation amount in favour of the petitioners only in 2018. Thereafter, the petitioners have made several representations for claiming the enhanced compensation as per Section 24 of the Act, which was not considered by the respondent, which is wholly unsustainable.

4. Mr.M.Muthusamy, the learned Government Advocate for the respondent submitted that the petitioners' land was classified and acquired at the instance of Government of India by issuing Notification under Section 3A(1) of National Highway Act, 1956. The learned Government Advocate further submits that after inspection compensation was fixed at Rs.4,06,479/- and paid to SIDCO and thereafter SIDCO initiated arbitration proceedings for enhanced compensation. On the basis of Arbitration Petition of General Manager, SIDCO, compensation was fixed at Rs.46,27,600/- which was granted in favour of SIDCO on 18.08.2020. Originally, the disputed land was acquired for the formation of National Highways to an extent of 15000 sq.mtrs, which were classified as Government Poramboke lands. There are no revenue records in the favour of the petitioners as well as SIDCO authorities, though the land was allotted in favour of the petitioners. But, the petitioners have not taken any steps to mutate the revenue records. However, the entire compensation was paid in the favour of the SIDCO and the entire acquisition proceedings was completed in the year 2016 itself and after the lapse of 15 years, the present claim under the Act is not sustainable. At present, road is laid down and once possession has been taken, the land vested with the Government and it is not open to the petitioners to claim enhanced compensation at this distant point of time, more so under Act, 2013 which is not sustainable. Hence, the prayer sought for is liable to be dismissed.

5. Heard the learned counsel for the petitioners as well as the learned Government Advocate for the respondents and perused the materials available on record.

6. The fact in the present case is not in dispute. Admittedly, the National Highway Authority of India (in short



"NHAI") acquired the land for the formation of National Highways under Section 3(A) 1 of the National Highways Act, 1956 in the year 2003. Initially compensation was awarded in a sum of Rs.4,06,479/- in the year 2006 and admittedly revenue records stand in the name of the SIDCO and petitioners names are not reflected in the revenue records. Initially, the petitioners have made a claim for enhanced compensation before the SIDCO authority and received a compensation of Rs.49,125/- on 15.06.2018 and 31.07.2018. It is also worthwhile to mention that SIDCO authority filed an arbitration petition before the District Collector and the District Collector fixed the amount at Rs.46,27,600/- and the said amount was paid in the favour of the SIDCO on 18.08.2020. Though enhanced compensation was paid to SIDCO by the NHAI on completion of arbitration proceedings, which fact was not within the knowledge of the petitioners, the petitioners have filed application for enhanced compensation before 2nd respondent-NHAI, which is not sustainable. The petitioners ought to have filed necessary application before SIDCO for enhanced compensation. In such circumstances, this Court is of the view that these petitions are dismissed granting liberty to the petitioners to file appropriate representation before 3rd respondent-SIDCO for claiming enhanced compensation and, if such application is made, 3rd respondent-SIDCO authority is directed to consider the same and pass orders in accordance with law as expeditiously as possible. Hence, the prayer sought for in these Writ Petitions are liable to be negatived.

7. With the above direction, these Writ Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

jd/rap

To

1. The District Collector of Vellore/
Chief Arbitrator (NHAI),
Vellore Collectorate,
Vellore - 632 009.



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2. The Project Director/Regional Manager,
National Highways Authority of India,
No.D.P.34, Sri Towers Phase,
3rd Floor, Guindy,
Chennai - 600 032.
3. The Chairman and Managing Director TANSIDCO,
SIDCO Corporate Office Building,
Thiruvi-ka-Industrial Estate,
Guindy, Chennai - 600 032.
4. The Competent Authority (LA)-cum-
The Special District Revenue Officer,
National Highways Authority of India,
Vellore Collectorate,
Vellore.
5. The Special Tahsildar
(National Highways),
Ranipet, Unit-7,
Vellore District.

+2ccs to M/s.G.Devi, Advocate, S.R.Nos.7887 & 7888
+1cc to the Government Pleader, S.R.No.8364

W.P.NOS.6415, 6419 OF 2019 AND
W.M.P.NOS.1780, 1781 OF 2022

PMK (CO)
PBS/29/03/2022