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W.P.No.31091 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2022

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P.No.31091 of 2022
and W.M.P.No.30508 of 2022

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... Petitioner

Vs.

1.The District Collector,
Thiruvallur, Thiruvallur District.

2.The Special District Revenue Officer,
Land Acquisition, NHAI,
Kanchipuram & Thiruvallur District,
Kanchipuram.

3.The Project Director,
NHAI, PIU,
Behind Olympic Building,
Guindy, Chennai – 600 032.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the 1st respondent in impugned proceeding bearing Na.Ka.21046/2022/A2 dated 24.08.2022 and quash the same and consequently, by directing the respondents to pay the amount of compensation of Rs.15,57,782/- fixed



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towards superstructure since the petitioner accept to receive the same without prejudice.

For Petitioner : Mr.S.Udayakumar

For Respondents : Mr.K.Karthik Jagannath
Government Advocate

ORDER

This Writ Petition have been filed by the petitioner to call for the records of the 1st respondent in impugned proceeding bearing Na.Ka.21046/2022/A2 dated 24.08.2022 and quash the same and consequently, by directing the respondents to pay the amount of compensation of Rs.15,57,782/- fixed towards superstructure since the petitioner accept to receive the same without prejudice.

2.The case of the petitioner is that the property in S.No.301/6, situated at No.79, Keelmuthalampedu Village, Madhura Kavarapettai Village, Gummidi Poondi Taluk, Thiruvallur District, originally belongs to the petitioner's mother namely Jameelabi, who executed a Settlement Deed in favour of the petitioner in respect of the above said property consisting of land and building, registered as Doc.No.207 of 2004 on the



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file of SRO Gummidipoondi. The above said property is situated on NH-5. While so, the respondents acquired the said property for road widening and paid a sum of Rs.2,24,409/- as compensation which was only a part payment and the same was received by the petitioner without any prejudice. Thereafter, no notice was served on the petitioner and that the petitioner was informed by the respondents to vacate the property. Therefore, the petitioner filed W.P.No.14858 of 2017 before this Court forbearing the respondents from evicting the petitioner illegally from the said property and this Court vide its order dated 07.01.2021 directed the respondents to give an opportunity to challenge the acquisition proceedings and to get adequate compensation for the land and building. However, till date no compensation has been fixed. As per RFCTLARR Act, 2013, the Project Director states that the competent Authority and NH Kanchipuram and Thiruvallur District fixed a sum of Rs.37,01,932/- as compensation for structures and forwarded the proposal to NHAI. The 2nd respondent passed an additional Award to an amount of Rs.15,57,782/- dated 25.01.2019. Thereafter, an appeal dated 20.03.2021 was filed before the District Collector, Thiruvallur under



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Section 3(G)(5) of the NH Act, 1956 seeking for fix a reasonable compensation and a communication dated 14.09.2021 to RDO, Thiruvallur, asking for the particulars of the appeal filed by the petitioner. Thereafter, the petitioner gave representation dated 22.11.2021 to the 2nd and 3rd respondents to take up the pending appeal and another representation dated 06.12.2021 to the 2nd and 3rd respondents for payment of the compensation along with interest @ 18%. While being so, the District Collector vide order dated 24.08.2022 has stated that the petitioner is entitled only to a sum of Rs.15,57,782/- as compensation towards the superstructure. Aggrieved over the said impugned order, the petitioner has filed the present Writ Petition.

3.The learned counsel appearing for the petitioner would submit that the petitioner filed a Writ Petition challenging the Award passed by the 1st respondent in terms of Section 3(g)(5) of the Act. However, the learned counsel fairly submitted that as against the order 1st respondent, there is an effective remedy available before the Competent Civil Court under Section 34 of the Arbitration and Conciliation Act and hence, this



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Court may issue a direction to the Registry to return the original impugned order to enable the petitioner to approach the appropriate competent Civil Court.

4.Mr.K.Karthik Jagannath, learned Government Advocate appearing for the respondents submits that if any direction is given by this Court, the same will be complied with.

6.In view of the aforesaid submissions, as against the order 1st respondent, there is an effective and alternative remedy available before the Competent Civil Court under Section 34 of the Arbitration and Conciliation Act and hence, the prayer in the Writ Petition cannot be granted. However, liberty is granted to the petitioner to workout his remedy before the appropriate Competent Civil Court.

7.Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.



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Index: Yes/No

Internet: Yes/No

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Note: Registry is directed to return the original impugned order to the petitioner to enable him to workout his remedy.

To

- 1.The District Collector,
Thiruvallur, Thiruvallur District.
- 2.The Special District Revenue Officer,
Land Acquisition, NHAI,
Kanchipuram & Thiruvallur District,
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M.DHANDAPANI, J.

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