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W.P.No.31813 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.31813 of 2022

P.Balu

... Petitioner

vs.

1. The Arbitrator cum District Collector,
Collectorate Office, Dharmapuri District.
Dharmapuri.

2. Competent Authority /
Special District Revenue Officer – Land Acquisition
National Highways – 844
(Hosur-Royakottai-Dharmapuri Section)
Dharmapuri.

3. The Project Director (NH 844)
National Highways Authority of India,
PIU – Krishnagiri
259/1, Salem Main Road,
Near KAKC Petrol Bunk,
Krishnagiri.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to
issue a Writ of Mandamus directing the respondent authority to act upon the
representation dated 13.10.2022 submitted by the petitioner and follow the



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procedure contemplated under the Section 26 to 30 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (Central Act 30 of 2013) and grant adequate opportunity to the petitioner by furnishing copies of last three years sale statistics in respect of the locality and revenue village in which the petitioner's land is situated obtained from the Registration Department and allowing the petitioner to peruse all records and filing written submissions and also to take in to consideration the petitioner's lease agreement dated 27.12.2018 in Doc.No.3585/2018 and loss of income of the petitioner as per Section 28 of RFCTLARR Act 2013 and thereafter pass award in respect of petitioner's land measuring 2.85 acres in S.No.508/2B Virupatchipuram Village, Dharmapuri Taluk & District, under Section 3G(1) of the National Highways Act, 1956 of RFCTLARR Act 2013 within the time to be stipulated by this Court.

For Petitioner : Mr.R.Ramesh Raja

For R1 and R2 : Mr.K.M.D.Muhilan
Government Advocate

For R3 : Mr.Su.Srinivasan
Standing counsel

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Mandamus to direct the the respondent authority to act upon on the



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representation dated 13.10.2022 submitted by the petitioner and follow the procedure contemplated under the Section 26 to 30 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (Central Act 30 of 2013) and to pass award in respect of petitioner's land measuring 2.85 acres in S.No.508/2B Virupatchipuram Village, Dharmapuri Taluk & District, under Section 3G(1) of the National Highways Act, 1956 of RFCTLARR Act 2013 within the time to be stipulated by this Court.

2. It is the case of the petitioner that he is the absolute owner of the above said property situated in said Village. However, the respondent authorities served a notice dated 13.09.2022, to the petitioner u/s 3(A)3 of the National Highways Act, 1956 (in short 'the Act') stating that his land is sought to be acquired under the said Act. Subsequently, notice dated 08.08.2020 u/s 3(G)(3) of the Act was served and the petitioner submitted a detailed objection regarding the proposed acquisition and the said objections were overruled. Further, enquiry was conducted on 27.08.2020 and the petitioner has submitted all the relevant documents before the respondents.



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However, till date, no compensation has been determined by the respondent authorities. While so, the petitioner made a representation dated 13.10.2022 before the second respondent, to conduct enquiry for fixation of market value as per Section 26 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) (in short 'Act 2013'). However, till date neither the compensation nor the Award was passed by the requisition body. Hence the present writ petition.

3. Though very many grounds have been raised in this Writ Petition, learned counsel appearing on behalf of the petitioner submits that it would suffice if this Court issues direction to the first respondent to pass the Award in terms of Act, 2013 within the time frame that may be fixed by this Court.

4. It is pointed out by the learned standing counsel appearing for the third respondent that the Award was passed on 28.10.2022 and if at all the petitioner has any grievance, he has to file an application before the competent authority seeking enhancement of Award of compensation as per



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3(G)5 of the Act, without availing such remedy, filing the present writ petition is not sustainable. Accordingly, he prayed for dismissal of the present writ petition.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. Admittedly, the petitioner's land is acquired under the Act. It is the contention of the petitioner that though the petitioner's property was acquired by the acquisition authority, till date the Award in respect of the same has not been passed, while so, the petitioner made a representation before the second respondent regarding the proposed acquisition whereas, learned standing counsel appearing for the third respondent submitted that the Award has been passed on 28.10.2022 and if at all the petitioner is aggrieved over the said Award, he has to file an application before the competent authority seeking enhancement of Award of compensation, without availing such remedy, filing the present writ petition is not sustainable.



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7. In view of the above submission made by the learned standing counsel appearing for the third respondent this Court, directs the acquisition authority to serve a copy of the Award to the petitioner enabling him to file an application / appeal before the competent authority seeking enhancement of Award of compensation and if at all the petitioner has any grievance with regard to the Award of compensation liberty is granted to the petitioner to prefer an appeal before the competent authority as per Section 3(G)5 of the Act within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same the second respondent is directed to pass appropriate orders within a period of six weeks thereafter.

8. With the above observation and directions, this Writ Petition is disposed of. No costs.

28.11.2022

RAP

Index : Yes/No

Speaking order : Yes/No

To:

1. The Arbitrator cum District Collector,

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M.DHANDAPANI, J.

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