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W.P.No.10398 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10398 of 2023

R.S.Natesan

...Petitioner

Vs.

- 1.The District Collector
Office of the District Collectorate,
Fort Main Road, Salem,
Tamil Nadu- 636 001.
- 2.The Authorized officer and Special District Revenue officer,
Land Acquisition, (National Highways 7 and 46),
Krishnagiri- 635001.
- 3.The Special Tahsildar, Land Acquisition,
National Highways No.7 and 46,
Udayapaty Bye- Pass,
Salem Taluk- 636 140.
- 4.The Project Director
National Highways Authority of India,
Door No.212-3/ D3 -, Sri Nagar Colony,
Narasohipatti Salem- 636 004.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the impugned Award dated 17th November 2022 passed by the 1st Respondent as the



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same is per se unconstitutional and to quash the same and consequently directing the Respondents to pay fair compensation of double the amount of the then guideline value which was duly recorded by the Expert committee in its Report and praying for further direction for payment of corresponding Solatium @ 30 % to the compensation award and default interest @ 12 % per annum from the date of original land acquisition awards dated 17.09.2007 till the date of payment in full.

For Petitioner : Mr.Jaishankar Ramakrishnan

For Respondents 1 to 3 : Mr.P.Kumaresan,
Additional Advocate General,
Assisted by,
Mr.E.Sundaram,
Government Advocate

For Respondent 4 : Mr.Su.Srinivasan

ORDER

The award dated 17.11.2022 passed by the Arbitrator cum District Collector, Salem is under challenge in the present writ petition.

2. It is not in dispute that the land belonged to the petitioner was acquired for National Highways Projects. An award was passed and the petitioner has challenged the award before the Arbitrator under section 34



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of the Arbitration Act. The District Collector cum Arbitrator adjudicated the issues and passed an order. Not satisfied with the order passed by the Arbitrator, the petitioner preferred an Arbitration Original Petition before the Principal District Judge, Salem. The Principal District Judge, after adjudication remitted the matter back to the Arbitrator for fresh adjudication.

3. The grievance of the writ petitioner is that even after fresh adjudication, the Arbitrator has not considered the expert's report and other documents filed by the petitioner. On the said ground, the petitioner has approached the High Court under Article 226 of the Constitution of India.

4. The power of Judicial Review of the High Court under Article 226 of the Constitution of India is to ensure the processes through which a decision has been taken by the competent authorities in consonance with the statutes and rules in force, but not the decision itself. The High Court cannot conduct a roving enquiry in respect of the original documents in the land acquisition proceedings.



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5. That being the factum, the grounds raised by the petitioner cannot be adjudicated, which requires scrutinisation of original documents and evidences available on record. The Arbitrator pursuant to the directions issued by the District Collector again conducted an adjudication by affording opportunity to the petitioner. However, confirmed the earlier decision.

6. This being the factum, the petitioner has to approach the District Court for further adjudication on merits and in accordance with law. This being the statutory position, the High Court cannot entertain the writ petition for the purpose of granting the relief as such sought for by the petitioner.

7. In view of the facts and circumstances, the petitioner is at liberty to approach the District Court concerned, in the manner contemplated under the statute. In the event of any such approach, the District Court concerned shall adjudicate the issues on merits and in accordance with law and dispose of the same as expeditiously as possible, taking note of the fact that the



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petitioner is a senior citizen and the land belonged to him was acquired long time back. The period during which the petitioner waited before the High Court has to be taken into consideration for the purpose of condoning the delay, if any for the purpose of filing any such application.

8. Accordingly, the writ petition stands disposed of. No costs.

01.08.2023

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Index : Yes

Speaking Order

Neutral Citation : Yes



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S.M.SUBRAMANIAM, J.

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