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W.P. No.23411 of 2014



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2023

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.23411 of 2014

C.Govindarajan

... Petitioner

Vs.

1. The Arbitrator cum District Collector
District Collector Office, Vellore – 09
2. The Competent Authority and
Special District Revenue Officer
(LA-NH, 4 & 46), Vellore District
Vellore – 9
3. The Special Tahsildar (Land Acquisition)
National Highways, Tirupattur,
Vellore District
4. The Project Director
National Highways, Krishnagiri
(R4-Suo Motu impleaded as per order
dated 02.03.2018 by NSSJ in
W.P.No.23411 of 2014)

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of writ of Certiorari/fidei Mandamus to call for the records in proceedings of the 1st respondent in Na.Ka.G4.11764/04, dated 18.06.2013 and quash the same as illegal, incompetent and unconstitutional and further direct the 1st respondent to pay the compensation to the petitioner as per proceedings of the 1st respondent in Na.Ka.G4.11764/04 dated 23.07.2010.



For Petitioner : M/s.K.Abbirami
for M/s.V.Srimathi

For Respondents : Mr.R.P.Murugan Raja
Government Advocate for R1 to R3
Mr.Su.Srinivasan,
Standing Counsel for R4

ORDER

This Writ Petition is filed seeking to issue a Writ of Certiorari/fidei Mandamus to call for the records in the proceedings of the 1st respondent in Na.Ka.G4.11764/04, dated 18.06.2013 and quash the same as illegal, incompetent and unconstitutional and further direct the 1st respondent to pay the compensation, to the petitioner as per the proceedings of the 1st respondent in Na.Ka.G4.11764/04, dated 23.07.2010.

2. The learned counsel for the petitioner submitted that, after acquisition, the Arbitrator-cum-District Collector considered the entire objections made by the land owners which are under acquisition and passed an order on 23.07.2010 and enhanced the compensation. The petitioner's land is also covered by the said order and all other beneficiaries were getting the



compensation. In the same way, the petitioner is also entitled for enhancement of compensation as passed by the 1st respondent dated 23.07.2010. After passing of this order, when the petitioner filed a claim petition for enhancement of compensation before the 1st respondent on 18.11.2011, the said petition was rejected by the impugned order dated 18.06.2013 without even giving ordeal or hearing or personal hearing on the ground that his claim petition is barred under Section 43 and Article 137 of the Limitation Act. The learned counsel further submitted that Article 137 is not applicable to the cases of this nature and he placed reliance on the decision of this Court in **(2018) (4) MLJ 711 (Project Director Vs. K.Periyasamy and Ors.)** and submitted that once an Award for compensation is passed by the 1st respondent with all the land holders, the petitioner is also on the same footing and he is also entitled to the necessary relief and the rejection on the ground of limitation, is arbitrary. More-over, the limitation would not be applicable to the present case on hand. Therefore, the impugned order is liable to be set aside and if the petitioner is given an opportunity of personal hearing, he would be in a position to explain the reason before the authority for not approaching the Arbitrator within a reasonable time. The learned counsel further submitted that even as per the subject mentioned in



the impugned order, all the landholders who are covered under the Limitation Act, raised objections and the petitioner is also entitled to raise objection.

Even though not in writing, the petitioner had also raised objection even from the date of receipt of the compensation till the filing of the application for enhancement of compensation. Therefore, the impugned order is liable to be set aside and the writ petition may be allowed.

3. The learned Government Advocate appearing for the respondents 1 to 3 submitted that the Award was passed on 29.04.2004 itself and whoever raised objections, they were heard and the 1st respondent passed the order on 23.07.2010 enhancing the compensation. Till the payment of compensation, the petitioner had not approached the 1st respondent for enhancement of compensation and he also not filed any written objections. He gave the application for enhancement only on 28.10.2011 which is after 7 years from the date of Award. If at all the petitioner is aggrieved, he should have made a claim for enhancement of compensation within 3 years from the date of passing of the Award. But the petitioner did not approach the concerned authority within the stipulated time. Therefore, the claim of the petitioner is time barred. Hence, the petitioner is not entitled to the relief sought for in this petition.



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4. Heard the learned counsel for the petitioner, the learned Government Advocate appearing for the respondents 1 to 3 and the learned Standing Counsel appearing for the 4th respondent and perused the records.

5. Admittedly, a larger extent of land including the petitioner's land was acquired under the State Highways Act and Award was also passed on 29.04.2004 itself. Subsequently, some of the land holders filed objections/claim petitions before the 1st respondent and the 1st respondent has also considered their representation and passed an order for enhancement of compensation on 23.07.2010. Subsequently, the petitioner has filed a petition on 28.10.2011 i.e. after one year from the date of passing of the Award for enhancement of compensation and that the petitioner had not given any reason as to why he had not approached the 1st respondent within time. Even though the other land owners filed claim petitions in the year 2004 itself, the same was pending till 2010. The petitioner did not approach the 1st respondent till the order for enhancement of compensation was passed on 23.07.2010. Approximately, one year later to the date of order for enhancement of compensation, i.e. on 28.10.2011, the petitioner has made an



application. Though it is contended by the learned counsel for the petitioner that the limitation specified under Sections 43 and Article 137 of the Limitation Act would not be applicable as per the decision of this Court stated above, the fact remains that the petitioner had not approached the 1st respondent within a reasonable time. Even though limitation would not be applicable to the cases of this nature, the petitioner is expected to approach the authority within a reasonable time. Further, the petitioner has not given any explanation for the latches.

6. Under the above circumstances, the petitioner is not entitled to the relief sought for in this writ petition. The citation referred to by the learned counsel for the petitioner, is not applicable to the present case on hand.

7. Accordingly, the Writ Petition is dismissed on the ground of delay and latches. There shall be no order as to costs.

19.10.2023

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No



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Special District Revenue Officer
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P.VELMURUGAN. J.

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