



W.P.No.27220 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.27220 of 2019

and

W.M.P.No.26619 of 2019

Mrs.Janaki

... Petitioner

Vs.

1. Competent Authority and
Special District Revenue Officer,
High Ways No.68 (Land Acquisition),
No.3B/8, Ram Nagar Road,
Swarnapuri 2nd Gate,
Salem 636 004
and Presently at
Special DRO (LA), Salem - Chennai
Green Filed Corridor Project,
NH 179 A and 68, Salem,
Room No.414, IV Floor,
Collector Office Building, Salem 636 001.

2. Project Director (NHAI),
Door No.213-3/D3 -1, Sri Nagar Colony,
Narasothipatti, Salem 636004.

3. The Chief General Manger,
Regional Office (NHAI),
Chennai Region, 2nd Floor,
1/54-28, Butt Road, St Thomas Mount,
Chennai 600 016.

... Respondents



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Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, of the 1st respondent dated 12/06/2017 and praying for a direction to the respondents to pay the deficit compensation of Rs.3,20,362/- as per the award passed by the 1st respondent as also Solatium, Addl. Compensation and interest without insisting upon the petitioner to approach the Arbitrator / District Collector for the same.

For Petitioner	: Mr.P.B.Sampath Kumar
For Respondents	:
(for R1)	: Mr.P.Kumaresan, Additional Advocate General, assisted by Mr.G.Krishna Raja, Additional Government Pleader
(for R2 to R3)	: Mr.SU.Srinivasan

ORDER

The writ petition has been instituted to direct the respondents to pay the deficit compensation of Rs.3,20,362/- as per the awards passed by the first respondent along with Solatium, Additional Compensation and interest without insisting upon the petitioner to approach the Arbitrator / District Collector.



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2. The petitioner states that she was the owner of the property comprised in S.No.57/1, 58/1, 58/3, 76/8, 76/10, 76/11, measuring an extent of 3,455 Sq. Mts. Erumapalayam Village, Salem Town City Corporation and District. The Publication under Section 3A of the National Highways Act was made on 13.06.2008. The 3D notification was issued on 05.06.2009 and the land belonging to the petitioner was acquired for public projects.

3. The learned counsel for the petitioner states that the possession was taken eight (8) months in advance. However, the fact remains that the land was acquired and utilised for public projects.

4. The learned counsel for the petitioner mainly contended that the Land Acquisition Officer determined the compensation as Rs.17,65,763/- including the value of the superstructure. However, the authorities have settled a sum of Rs.14,45,401/- erroneously. Lesser compensation amount was paid excluding the value assessed for superstructure. In this regard, the petitioner submitted various representations, and the said factum was considered by the competent authority and Special District Revenue Officer



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(LA). The petitioner sent a letter to the Project Director, National Highways Authority of India, in R.O.C. 238/2009 dated 20.02.2013 . With reference to the said letter, the said District Revenue Officer, Salem, communicated a memo dated 22.07.2013 to the petitioner. The said communication sent to the petitioner states that the amount of compensation was determined as Rs.17,65,763/- but the amount of compensation of Rs.14,45,401/- alone was paid to the petitioner erroneously.

5. The learned Additional Advocate General reiterated the said error committed by the authorities at the time of settling the compensation based on the counter affidavit filed by the first respondent. The portion of the admission is as under:

The Executive Engineer PWD Salem in his letter vide No.120/வட்டிவா2/2012 Dated: 15.10.2012 has clarified that the correct estimate value of the structure is Rs.17,65,763/-. On receipt of actual value from the Executive Engineer PWD Salem after verification of records the then CALA passed order of proceedings for the payment of difference amount of 3,31,253/- payable to the writ petitioner vide Roc.No.238/2009 NH-68 Dated: 30.10.2012 and sent it to the Project Director, NHAI, Salem with a request for provision necessary funds. The



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Project Director NHAI Salem here in 2nd respondent for approval and allotment of funds. But the 3rd respondent has returned the proposal, stating that the award can be revised only through the process of arbitration by the arbitrator i.e. the Collector of Salem District and also informed that the petitioner may be advised to approach the arbitrator and petitioner was informed accordingly.”

6. The learned Standing Counsel appearing on behalf of the National Highways Authority raised an objection by stating that a portion of the land acquired, belonged to some other persons and therefore, the National Highways Authority of India has not settled the balance amount of Rs.3,20,362/-. However, the fact remains that the District Revenue Officer is the competent authority under the Act to determine the compensation, who in turn, on verifying the revenue records and the documents produced by the petitioner, determined the compensation as Rs.17,65,763/- and further he has sent a communication to the petitioner that the amount of compensation was erroneously paid in favour of the petitioner. That being the factum, the petitioner is entitled for the balance compensation of Rs.3,20,362/-.

7. In view of the facts and circumstances, the respondents are



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directed to pay a sum of Rs.3,20,362/- along with the prescribed interest under the provisions of the National Highways Act, 1956. The said amount, along with the interest, is to be settled in favour of the writ petitioner within a period of twelve (12) weeks from the date of receipt of a copy of this order.

8. With these directions, the writ petition stands **allowed**. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(sha)
Index : Yes
Speaking Order
Neutral Citation : Yes

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To

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S.M.SUBRAMANIAM. J.,

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