



W.P.No.13 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13 of 2022

M.D.Venkatakumar

... Petitioner

Vs.

- 1.The Government of India,
Rep. by Ministry of Road,
(Transport and Highways),
New Delhi.
- 2.The District Collector,
Chengalpattu District,
Chengalpattu.
- 3.The Competent Authority and
Special District Revnue Office (L.A.),
National Highways,
Mamallapuram Puducherry Corridor,
Varadharajan Street,
Vedachalam Nagar,
Chengalpattu.
- 4.The Special Tahsildar (L.A),
Mamallapuram Puducherry Corridor,
Varadharajan Street,
Vedachalam Nagar,
Chengalpattu.



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5. The Regional Officer,
N.H.A.I,
P.I.U Chennai,
Sri Tower, 3rd Floor,
Developed Plot 34,
Industrial Estate, Guindy,
Chennai 600 032.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records leading to the issue of the communication in Na.Ka.No.422 /2021/ Ma.Pa.Unit I dated 26.10.2021 by the 3rd respondent in respect of the petitioner's land in survey No.224/24 (Dry) measuring an extent of 900 - Sq.Mtr in Perumal Eri Village, Thirukazhukundram Taluk, Chengalpattu District and quash the same.

[prayer amended vide order dated 01.08.2023]

For Petitioner	: Mr.M.S.Subramanian
For R1	: Mr.M.Karthikeyan, Central Government Standing Counsel
For R2 to R4	: Mr.D.Ravichander, Special Government Pleader
For R5	: Mrs.S.R.Sumathy



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ORDER

WEB COPY The communication dated 26.10.2021 issued by the 3rd respondent in respect of the acquisition of the land belonged to the petitioner at survey No.224/24 (Dry) measuring an extent of 900 - Sq.Mtr in Perumal Eri Village, Thirukazhukundram Taluk, Chengalpattu District is under challenge in the present writ petition.

2. It is not in dispute that the land belonged to the petitioner was acquired by the National Highways under the National Highways Act,1956.

3. The learned counsel for the petitioner mainly contended that the determination of market value of the land by the Collector with reference to Section 26 of the New Land Act of the year 2013 has not been followed. That apart, the award passed by the competent authority is erroneous, in view of the fact that they have considered the market value pertaining to the area falling under Cheyyur Sub-Registrar's Office, but the subject property belonged to the writ petitioner is falling under Thirukazhukundram Taluk. Thus, the consideration for determination deliberated was in violation of the provisions of the Land Acquisition Act.



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4. The learned counsel for the petitioner reiterated that the procedures adopted for determination is not in consonance with the provisions of the Act. There was an infirmity, which is vital and thus, the award is to be set aside.

5. It is not in dispute between the parties that the compensation is to be awarded based on the New Act of the year 2013. However, the fact remains that the acquisition proceedings was initiated under the provisions of the National Highways Act, 1956. Thus, for the purpose of determining the procedures, the provisions of the National Highways Act, 1956 is to be adopted. As far the quantum of compensation is concerned, it is to be considered based on the New Act of the year 2013.

6. In this backdrop, this Court has to consider whether the award is to be set aside. The petitioner raises certain grounds relating to the determination of compensation made by the competent authorities. However, such errors are rectifiable by the appellate authority on production of relevant documents by the petitioner in the appeal to be filed under Section 3-G(5) of the Act.



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7. The acquisition proceedings that has already been completed need not be invalidated on account of such determination of compensation, which is not to the satisfaction of the land owners. If at all any grievances exist with reference to the quantum of compensation and the procedures adopted for determination of compensation, the remedy lies in approaching the competent authority / the District Collector under Section 3-G(5) of the Act, which is an efficacious remedy. The District Collector is empowered to enhance the compensation by considering all the grounds raised by the petitioner with reference to the documents available on record / produced by the petitioner.

8. Thus, the petitioner is at liberty to file appropriate application under Section 3-G(5) of the Act along with the documents, if any, setting out the discrepancies in the award. On receipt of any such appeal, the District Collector shall adjudicate the issues on merits and in accordance with law and pass appropriate orders as expeditiously as possible.



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9. With these directions, the writ petition stands disposed. No costs.

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Index : Yes

Speaking order

Neutral Citation : Yes

To

- 1.The Ministry of Road,
The Government of India (Transport and Highways),
New Delhi.
- 2.The District Collector,
Chengalpattu District,
Chengalpattu.
- 3.The Competent Authority and
Special District Revenue Office (L.A.),
National Highways,
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