



W.P.(MD)No.4857 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.11.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.4857 of 2020

and

W.M.P.(MD).Nos.4232 & 4233 of 2020

S.Pandi

... Petitioner

Vs

1.The District Collector,
Dindigul Collectorate Office,
Dindigul District.

2.The Competent Authority and
Special District Revenue Officer,
La-NH 785, 785E and 85 (New),
Madurai.

3.The Special Tahsildar,
Land Acquisition (NHAI),
No.785, Block II,
Natham,
Dindigul District.

4.The Project Director,
National Highways Authority of India (NHAI),
Madurai.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the



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records relating to the impugned orders issued by the 2nd respondent in Na.Ka.No.150/2019/A3 dated 16.12.2019 insofar as not calculating the assessment of land in Survey No.539/1 to an extent of 4 cents at Lingavadi Village, Natham Taluk, Dindigul District, for compensating to the petitioner and consequently direct the respondents to grant compensation for the above said land in Survey No.539/1 to an extent of 4 cents at Lingavadi Village, Natham Taluk, Dindigul District, acquired by the respondents or to allot alternative land for the petitioner.

For Petitioner : Mr.F.Deepak

For R-1 to R-3 : Mr.A.K.Manikkam,
Special Government Pleader

For R-4 : Mr.C.Arul Vadivel @ Sekar
M/sArul Vadivel Associates

ORDER

This Writ Petition has been filed challenging the impugned proceedings of the second respondent dated 16.12.2019 insofar as not calculating and paying the compensation to the petitioner for the land and merely confining the compensation to the superstructure and for a consequential direction to the respondents to pay the compensation for both the land and building in the subject property.



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2. The case of the petitioner is that the Government under the Housing Land Assignment Patta Scheme, assigned the subject land in the subject property in favour of the father of the petitioner through proceedings dated 07.06.1982. A superstructure was put up on the land and a separate patta was also issued. The proceedings were initiated under the National Highways Act for the acquisition of the property. The grievance of the petitioner is that the second respondent through impugned proceedings dated 16.12.2019 had ordered for the payment of compensation only towards the superstructure without ordering for the payment of compensation for the land. Aggrieved by the same, the present Writ Petition has been filed before this Court.

3. The second respondent has filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:

“5) I submit that Notification under section 3-A(1) was published in the Government of India Gazette No. 1871 dated 24.05.2018 in S.O.2066(E) dated 23.05.2018 stating that the Government of India has proposed to acquire the land for the project and the schedule of lands have also published in the Gazette. The



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Notification u/s 3-A(3) of National Highways Act 1956 was also published in "Daily Thanthi" in Tamil and "The Hindu" in English on 30.05.2018 inviting objections if any for the proposed acquisition mentioning the Petitioner's land.

The Notification under section 3(D) of National Highways Act 1956 was also published in the Gazette of Government of India in Gazette No.2876 dated 26.07.2018 in S.O.No.3660(E) dated 26.07.2018. The Notification under section 3-G(3) of National Highways Act 1956 was published in the News papers on 13.08.2018 inviting the land owners to produce the documentary evidences to prove their claim and award was also passed for the Petitioner's land as mentioned below.

- | | |
|--------------------------------|----------------------------|
| <i>1. Award No</i> | <i>: 03/2019</i> |
| <i>2. Survey No</i> | <i>: 539/1</i> |
| <i>3. Classification</i> | |
| <i>as per 3D Notification</i> | <i>: House-site</i> |
| <i>4. Total Extent</i> | <i>: 46 Sq.Metre</i> |
| <i>5. Area of Acquisition</i> | <i>: 46 Sq.Metre</i> |
| | <i>(1.13 Cent)</i> |
| <i>6.Owner of the Property</i> | <i>: Pandi Velar</i> |
| | <i>S/o.Subbaiya Velar.</i> |



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Fixation of Land Value:

1) Extent of Acquisition	: 46 Sq.Metre (1.13 Cent)
2) Land Value per Sq.metre:	: Rs. 811.20
3) Land Value (1 x 2)	: Rs. 37,315
4) Multiplication factor	: 1.25
5) Land Value including multiplication factor(3x4)	: Rs. 46,644
6) Structure value	: Rs. 3,82,100
7) Total (5+6)	: Rs. 4,28,744
8) Solatium 100%	: Rs. 4,28,744
9) Additional market Value at (12%)	: Rs. 3,091.54
10) Total Compensation (7+8+9)	: Rs. 8,60,579.54 -----
11) Net Compensation Payable	: Rs. 8,60,579.54 -----

14). However, it is submitted that, as per the Policy Circular No 7.1.51 issued by National Highways Authority of India, Letter No NHAI/11013/DGM(LA)/FTS-543/2017 Dated: 10.04.2017, in para 3(i) has been stated as follows:



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3. Payment of Compensation for private structures like houses & other buildings on Government land:

(i) If the people are granted patta/ownership rights on the land under any law of the State including abadi/assigned land, Compensation would be paid for the structures only.

Hence, it is submitted that as per the guidelines given by the National Highway Authority of India and since the Writ Petitioner's land is an assigned land and patta was issued by the Government, the structure value only was granted in favour of the Writ Petitioner.”

4. The fourth respondent has also filed a counter affidavit and has taken a stand that the land was given free of cost by the Government and hence, the compensation for the land is not payable to the petitioner and that apart, the compensation has already been ascertained for the building which is payable to the petitioner. Therefore, the fourth respondent has sought for the dismissal of this Writ Petition.

5. Heard the learned counsel on either side.



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6. The subject matter of challenge in the present Writ Petition pertains to the proceedings of the second respondent dated 16.12.2019 under Section 3-G(3) of the National Highways Act, 1956. Under normal circumstances, this Court would not have entertained the Writ Petition, since the petitioner has an alternative remedy to challenge the order of the second respondent before the District Collector / Arbitrator under Section 3-G(5) of the National Highways Act, 1956. However, the Writ Petition was entertained only on the ground that the compensation was ascertained for the land and building and whereas, the compensation was given only for the building and not for the land. Therefore, this Court wanted to know the reason as to why the compensation was not given for the land.

7. It is clear from the counter affidavit filed by the second respondent that as per the Policy Circular issued by the National Highway Authority of India through a letter dated 10.04.2017, insofar as the payment of compensation for structures in a Government land, the assignee is payable only compensation for the superstructure and not for the land. It is under this Policy, the compensation was ascertained only for the superstructure and not for the land. Therefore, there is a clear dispute in



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this case with regard to the entitlement of the petitioner in claiming compensation for the land.

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8. If the petitioner is aggrieved due to the non payment of the compensation for the land and this claim made by the petitioner is also disputed by the respondents, the petitioner can only file an application / appeal before the District Collector / Arbitrator under Section 3-G(5) of the National Highways Act, 1956 and seek for the compensation. In the light of such an alternative remedy available to the petitioner, this Court will not exercise its jurisdiction under Article 226 of the Constitution of India.

8. In view of the above, this Writ Petition stands dismissed.
No costs. Consequently, connected miscellaneous petitions are closed.

10.11.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
tsg



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