



W.P.(MD) Nos.17097 of 2020 etc. batch

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.10.2023

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

**W.P.(MD) Nos.17097, 17153, 17467, 18899,
18911 & 18978 of 2020 and 1447 of 2021**

and

**W.M.P.(MD) Nos.14605, 15832 & 15841 of 2020
and 1238 & 1239 of 2021**

W.P.(MD) No.17097 of 2020

V.Francis
S/o.Varuvel

... Petitioner

Vs.

- 1.The District Collector,
Kanyakumari District,
Nagercoil.
- 2.The Competent Authority &
District Revenue Officer,
Land Acquisition National Highways,
Tirunelveli @ Nagercoil,
Kanyakumari District.
- 3.The Project Director cum DGM (Tech),
No. 314E, K.P.Road,
Near Ayyappan Kovil,
Parvathipuram, Nagercoil - 629 003,
Kanyakumari District.



W.P.(MD) Nos.17097 of 2020 etc. batch

4.The Union of India,
Rep. by its Secretary,
Ministry of Road Transport and Highways,
Transport Bhawan,
No.1, Parliament Street, New Delhi.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the first respondent to pass orders on the representation dated 25.05.2020 for fixation of compensation awarded in the Modified Award No.7/14 dated 24.01.2018 as per the provision of Sections 26 to 30 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) and by applying multiplier two and pay the revised compensation together with interest and other benefits to the petitioner.

For Petitioner : Mr.G.Justin

For R1 & R2 : M/s.D.Farjana Ghoushia
Special Government Pleader

For R3 : Mr.Su.Srinivasan
Standing Counsel

For R4 : Mr.A.P.Rajasimman,
Central Government Standing Counsel

COMMON ORDER

The issue involved in these Writ Petitions is common and therefore, these Writ Petitions are taken up together for hearing and disposed of by this common order.



W.P.(MD) Nos.17097 of 2020 etc. batch

2. In these Writ Petitions, the petitioners have sought for issue of a Writ of Mandamus directing the first respondent/District Collector to pass orders on the representations made by them seeking for re-fixation of compensation awarded as per the provisions under Sections 26 to 30 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [for the sake of brevity, hereinafter referred to as “*RFCTLARR Act*”] and to pay the revised compensation together with interest, within a time fixed by this Court.

3. The case of the petitioners is that they are owners of their respective properties which were acquired by the National Highways Authorities of India. The compensation was determined by the Competent Authority by Awards passed on 27.10.2014, 20.09.2015 and 07.10.2015 in Award No.7/2014, Award No.6/2015 and Award No.7/2015 respectively. These were common Awards. The land owners were directed to produce relevant documents in order to enable the second respondent to pass individual Awards. Accordingly, the petitioners also produced relevant documents before the Competent Authority and the Competent Authority has passed the Modification Awards. Particulars are given hereunder:-



W.P.(MD) Nos.17097 of 2020 etc. batch

WEB COPY

Sl. No.	W.P.(MD) No.	Details of the Award		Compensation that was determined
		Common Award	Modification Award	
1	17097/2020	No.07/2014, dt.27.10.2014	No.07/2014-14, dt.24.01.2018	Rs.13,19,151/-
2	17153/2020	No.07/2014, dt.27.10.2014	No.07/2014-10, dt.22.09.2017	Rs.6,07,806/-
3	17467/2020	No.6/2015, dt.20.09.2015	1. No.6/2015-30, dt. 02.05.2018 2. No.6/2015-37, dt. 06.12.2018 3. No.6-2015 – Addl. Award – 2, dt. 04.02.2019	Rs.17,94,475/-
4	18899/2020	No.6/2015, dt.20.09.2015	No.6/2015-26, dt.29.01.2018	Rs.44,87,637/-
5	18911/2020	No.6/2015, dt.20.09.2015	No.6/2015-26, dt.29.01.2018	Rs.24,27,284/-
6	18978/2020	No.6/2015, dt.20.09.2015	No.6/2015-26, dt.29.01.2018	Rs.11,18,246/-
7	1447/2021	No.7/2015, dt.07.10.2015	No.7/2015-8, dt.21.06.2016	Rs.26,79,931/-

4. The petitioners were aggrieved by the Modification Awards passed by the Competent Authority and they filed Arbitration



W.P.(MD) Nos.17097 of 2020 etc. batch

Applications before the first respondent/Arbitrator under Section 3G(5) of the National Highways Act, 1956 and sought for enhancement of compensation. The first respondent/Arbitrator had passed Awards. Details are given hereunder:-

Sl. No.	W.P.(MD) No.	Details of Arbitration Award	Arbitration Amount
1	17097/2020	E2/22410/2018, dt.08.01.2019	Rs.4,36,952/-
2	17153/2020	E2/22410/2018, dt.08.01.2019	Rs.1,15,595/-
3	17467/2020	E2/26829/2018, dt.19.07.2019	Rs.14,72,178/-
4	18899/2020	E2/26859/2018, dt.11.03.2019	Rs.86,05,551/-
5	18911/2020	E2/26829/2018, dt.11.03.2019	Rs.46,05,923/-
6	18978/2020	Arbitration Petition was not filed within the limitation period	No fresh award
7	1447/2021	E2/44860/2016, dt.12.07.2017	Rs.22,13,994/-

5. There is no dispute with regard to the fact that the petitioners had received the enhanced compensation amount wherever it was fixed. It is also pertinent to note that the compensation was fixed based on the value of the land and building.

6. The further case of the petitioners is that they are entitled for fixation of compensation in line with Section 31 of the RFCTLARR Act and entitled for rehabilitation and resettlement Award. The petitioners



W.P.(MD) Nos.17097 of 2020 etc. batch

made representation in this regard to the first respondent. Since the same was not considered, these Writ Petitions have been filed.

7. Heard the learned counsel appearing for the petitioners and the learned counsels appearing for the respondents/officials.

8.The learned counsel appearing on behalf the petitioners submitted that the claim that has been made by the petitioners has nothing to do with the compensation that was determined under the National Highways Act, 1956 and the petitioners have an independent right to seek for compensation under Section 31 of the RFCTLARR Act and it has to be considered by the first respondent/District Collector and rehabilitation and resettlement Award must be passed within the time fixed by this Court.

9. Per contra, the learned Special Government Pleader appearing on behalf of the first and second respondents and the learned Standing Counsel appearing on behalf the National Highways Authorities of India submitted that once an Award was passed by the District Collector/Arbitrator, there is no question of determining compensation once again by the District Collector/Arbitrator as sought for by the



W.P.(MD) Nos.17097 of 2020 etc. batch

petitioners. The learned counsel further submitted that the compensation was fixed for both the land and building and this compensation amount has also been received by the petitioners. Hence, the petitioners cannot be allowed to resort to Section 31 of the RFCTLARR Act and seek for rehabilitation and resettlement Award. In view of the same, it was contended that there are no merits in the present Writ Petitions and these Writ Petitions are liable to be dismissed by this Court.

10. The short issue that arises for consideration in these Writ Petitions is “whether the petitioners are entitled for a separate compensation under Section 31 of the RFCTLARR Act apart from the compensation that was already determined and received by them under the National Highways Act, 1956?”.

11. There is no dispute with regard to the fact that the lands that belonged to the petitioners were acquired under the National Highways Act, 1956. This Act provides for a particular procedure for determination of compensation and for the payment of the same. This Act also prescribes the manner in which the land owners must redress their grievances if they are aggrieved by the compensation that is fixed.



W.P.(MD) Nos.17097 of 2020 etc. batch

12. On the scheme of the Act, it is clear that the compensation is initially determined by the Competent Authority. If any land owner is aggrieved by the compensation fixed by the Competent Authority, he is entitled to seek for enhancement of compensation and an application has to be filed under Section 3G(5) of the National Highways Act, 1956 before the District Collector/Arbitrator. The manner in which the Arbitrator will determine the compensation is provided under Section 3G(7) of the National Highways Act, 1956. After the Arbitrator fixes/re-determines/enhances the compensation, the same has to be followed up and in case there is any enhancement of compensation, the enhanced compensation has to be paid to the land owners.

13. If any person is not satisfied with the Award passed by the District Collector/Arbitrator, the further course of action for such land owner is to file an application under Section 34 of the Arbitration and Conciliation Act, 1996 before the Competent Court and seek for interference with the Award passed by the Arbitrator. Therefore, as per the scheme of the Act, once an Award is passed by the Arbitrator, there is no scope for the District Collector/Arbitrator to once again re-determine the compensation on any grounds.



W.P.(MD) Nos.17097 of 2020 etc. batch

14. In the instant case, the District Collector/Arbitrator has already passed Awards and the petitioners have also received the enhanced compensation. Even when the Awards were passed by the District Collector/Arbitrator, if according to the petitioners they are entitled for separate Awards under Section 31 of the RFCTLARR Act, they should have claimed the same before the District Collector/ Arbitrator.

15. If the District Collector/Arbitrator had not granted any award under Section 31 of the RFCTLARR Act, if the same is applicable to the petitioners, the petitioners had a further remedy of filing an application under Section 34 of the Arbitration and Conciliation Act, 1996 before the Competent Court against the Award passed by the District Collector/Arbitrator. While filing such application, it was also open to the petitioners to raise the ground of non-payment of compensation under Section 31 of the RFCTLARR Act, if the same is applicable to the petitioners. If the petitioners have not chosen to adopt this procedure, there is no scope for permitting them to once again make a fresh representation before the first respondent/District Collector seeking for re-determination of the compensation under Section 31 of the RFCTLARR Act.



W.P.(MD) Nos.17097 of 2020 etc. batch

16. Therefore, there is no question of directing the first respondent/District Collect to consider the representations made by the petitioners in this regard. If any such direction is given by this Court, it will virtually amount to re-opening of the entire process of determination of compensation. This Court can issue a Writ of Mandamus only where the petitioners are able to show an existing legal right and corresponding legal duty on the part of the respondents. In the absence of the same, a Writ of Mandamus can never be issued and law on this issue is well settled. In the considered view of this Court, the petitioners do not have any legal right to seek for re-determination of compensation under Section 31 of the RFCTLARR Act. Therefore, this Court cannot issue a Writ of Mandamus as sought for by the petitioners.

17. In the light of the above, all these Writ Petitions stand dismissed. No cost. Consequently, connected Miscellaneous Petitions are closed.

19.10.2023

Index: Yes
Neutral Citation: Yes
Speaking order
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W.P.(MD) Nos.17097 of 2020 etc. batch

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N.ANAND VENKATESH, J.

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