



W.P. (MD).No.18900 of 2020

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

WEB COPY

**DATED: 09.11.2023**

**CORAM**

**THE HON'BLE MR.JUSTICE N.ANAND VENKATESH**

**W.P. (MD).No.18900 of 2020**  
**and WMP(MD)Nos.15833 & 15834 of 2020**

M. Raveendranath

... Petitioner

Vs

1. The District Collector,  
Kanyakumari District, Nagercoil.
2. The Competent Authority And  
District Revenue Officer,  
Land Acquisition National Highways,  
Tirunelveli @ Nagercoil, Kanyakumari District.
3. The Project Director Cum DGM (Tech),  
No.314E, K.P.Road, Near Ayappan Kovil,  
Parvathipuram, Nagercoil 629003,  
Kanyakumari District.
4. The Union of India,  
Rep.by its Secretary,  
Ministry of Road Transport and Highways,  
Transport Bhawan, No.1, Parliament Street,  
New Delhi.

... Respondents



W.P. (MD).No.18900 of 2020

WEB COPY

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the 1st and 2nd respondents to pay the difference in compensation for the land in S.No.141/14 and 141/15, Nattalam Village, Vilavancode Taluk, Kanyakumari District at the rate of Rs.5,925/- per Sq.Mtr. as per guideline value fixed by the Sub-Registrar, Palliyadis letter dated 15.06.2018 and further to conduct rehabilitation and resettlement enquiry for the building as per section 31 of Act 30/2013 by fixing the compensation as per Section 3G(7) a to d of National Highways Act, 1956 R/w. Section 26 to 30 of Central Act 30/2013 and the same has to be paid to the petitioner by passing orders on the representation on 27.10.2020.

For Petitioner : Mr. G.Justin

For Respondents : Mr.A.K.Manikkam(R1, R2)  
Special Government Pleader

Mr.Su.Srinivasan (R3)  
Central Government Senior Counsel

Mr.S.Sivakumar (R4)  
Central Government Standing Counsel



*W.P. (MD).No.18900 of 2020*

## **ORDER**

WEB COPY

This writ petition has been filed for the issue of a writ of mandamus, directing the first and second respondents to pay the difference of compensation for the subject property, that was acquired from the petitioner, as per the guidelines fixed by the Sub Registrar through letter, dated 15.06.2018 and for further direction to conduct independent enquiry under Section 31 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30/2013) (hereinafter referred to as 'the RFCTLARR Act, 2013') and to fix the compensation payable to the petitioner for rehabilitation and resettlement.

2.Heard, the learned counsel for the petitioner, the learned Special Government Pleader appearing for the first and second respondents and the learned Central Government Standing Counsel appearing for the third and fourth respondents.

3.The notification was issued under Section 3A(1) of the National Highways Act, 1956 (hereinafter referred to as 'the Act') on  
3/13



W.P. (MD).No.18900 of 2020

10.05.2016. It was published in the local newspapers on 18.05.2016.

Thereafter, the notification was issued under section 3D(1) of the Act on 19.10.2016 and subsequent Notification under section 3G(3) was published in the newspaper on 19.11.2016. Thereby, the lands belonging to the petitioner was acquired by the National Highways Authority of India. The competent authority conducted the enquiry under section 3G(3) on 28.12.2016 and an Award was passed on 23.08.2017. The petitioner was not satisfied with the Award passed by the competent authority. Hence, he filed an Arbitration Petition seeking for enhancement of compensation on 10.12.2018. The District Collector/Arbitrator passed the order on 31.01.2023 directing the competent Authority to adopt the land value @ Rs.5,925/- per square meter in accordance with the guideline value as on 01.04.2012 for the entire village. In view of that order, there was difference of amount that was payable to the petitioner towards compensation. Therefore, the first portion of the relief sought for in this writ petition pertains to the payment of difference of amount of compensation. Insofar as this relief is concerned, it will be relevant to take note of the counter affidavit filed by the third respondent and the relevant portions are extracted hereunder.



W.P. (MD).No.18900 of 2020

*“5.It is respectfully submitted that, the 2<sup>nd</sup> respondent arrived the land value at the rate of Rs.2174/- per Sqm under the provision of section 26 (1) (b) of RFCTLARR Act, 2013. On that time, the guideline value of the petitioner's land is Rs.5925/- per Sqm. as per the Sub-Registrar's Office, Palliyadi. But the 210 respondent erroneously taken the guideline value as Rs.592/- and hence the 2nd respondent adopted the land value fixed under the provision of section 26 (i) (b) of RFCTLARR Act, 2013 and determined the compensation.*

*6. Subsequently in the light of representation from land owners, the 2<sup>nd</sup> respondent has requested the Arbitrator to issue necessary orders directing the 2<sup>nd</sup> respondent to enhance the land value as per the guideline value of Rs. 5925/- per Sq.mt. Accordingly, the Arbitrator/1<sup>st</sup> respondent had issued orders directing the CALA to adopt the land value at the rate of Rs. 5925/- per Sq.mt accordance with the guideline value (which was fixed as on 01.04.2012 for the entire village) and determine the compensation vide proceeding No. E2/18252/2019, dated 31.01.2023.*

*7.Accordingly, the 2<sup>nd</sup> respondent had issued Award by revising the land value at Rs. 59251- per Sq.mt for the land acquired in Nattalam-B village of Vlavancode Taluk in Kanniyakumari District including the petitioner's land and requested the 3rd respondent to provide necessary funds for payment. The request of the 2nd respondent was recommended to the Competent Authority of NHAI for approval. The recommendation has been accepted and necessary sanction has been accorded for pavement vide Letter. No.NHAI/11018/08(47&47B/RO Madurai/2022/1749, dated*



W.P. (MD).No.18900 of 2020

25.09.2023. Hence, the enhanced compensation will be made to the petitioner vide ECS mode payment shortly“.

4. When the matter was taken up for hearing today, the learned Standing Counsel appearing on behalf of the third respondent submitted that the difference of amount has already been paid to the petitioner on 04.11.2023 by way of cheque. In view of this submission, the first portion of the relief that was sought for in the writ petition has been satisfied.

5. The further relief that has been sought for by the petitioner is that the District Collector did not fix any compensation under Section 31 of the RFCTLARR Act, 2013 for rehabilitation and resettlement of the petitioner, inspite of representation made by the petitioner in this regard on 29.10.2020. Therefore, the petitioner has sought for a direction to the first respondent to deal with his representation for passing Award under Section 31 of the RFCTLARR Act, 2013. Insofar as the above relief is concerned, the learned Standing Counsel appearing on behalf of the third



W.P. (MD).No.18900 of 2020

respondent relied upon paragraph No.8 of the counter affidavit and for proper appreciation, the same is extracted hereunder.

*“8. Further, the petitioner has also requested to conduct rehabilitation and resettlement enquiry for the building as per section 31 of Act 30/2013 by fixing the compensation as per Section 3G(7) a to d of National Highways Act, 1956 r/w Sections 26 to 30 of Central Act 30/2013 and the same has to be paid to the petitioner by passing orders on the representation 27.10.2020. The compensation under Section 31(1) of Act 30 of 2013, Rehabilitation and Resettlement is not eligible for such a linear project and there is no violation of Act and even the petitioner has not made any statement of displacement. Further, it is submitted that the eligibility of rehabilitation and resettlement has to be in accordance with the HQ directions contained in Para 5.6 (under Chapter 5) in Page No. 153 of "A Manual of Guidelines on Land Acquisition for National Highways under The National Highways Act, 1956". The MoRT&H has taken a stand that the provision of rehabilitation and resettlement are attracted only where it leads to dislocation and displacement of an affected family from the affected area. It is also mentioned that land acquisition for NH is linear in nature and the affected area is limited to the right of way acquired for expansion. Therefore, the petitioner is not entitled to the measures available under Schedule II of RFCTLARR ACT 1993. Hence, the instant writ petition filed by the petitioner is not maintainable and it is liable to be dismissed“.*



W.P. (MD).No.18900 of 2020

WEB COPY

6. In reply to the above stand taken by the learned Standing Counsel appearing for the third respondent, the learned counsel for the petitioner submitted that independent right has been given under Section 31 of the RFCTLARR Act, 2013 to pass a separate award for rehabilitation and resettlement and that right given under the RFCTLARR Act, 2013 cannot be taken away by some guidelines issued by the Highways Department. The learned counsel further submitted that the guidelines cannot run contrary to the provisions of the Act and to that extent, the guidelines cannot in any way take away the right of the petitioner in seeking for independent Award under Section 31 of the RFCTLARR Act, 2013.

7. On carefully considering the rival submissions made in this regard, it is seen that after coming into force of the RFCTLARR Act, 2013, there are two types of awards that are contemplated under the scheme of the Act. The first type of award is one, which is passed under Chapter IV by following the procedure under Sections 26 to 30 of the RFCTLARR Act, 2013. That apart, Chapter V of the RFCTLARR Act,



W.P. (MD).No.18900 of 2020

2013 has an independent provision, which contemplates the award for rehabilitation and resettlement. This Chapter provides for the manner in which the award should be determined by the Collector and Chapter VI deals with the procedure and the manner of rehabilitation and resettlement.

8.It is clear from the scheme of the RFCTLARR Act, 2013 that the issue with regard to rehabilitation and resettlement is an independent consideration, which has nothing to do with the compensation paid to the land owner towards the acquisition of land. From the scheme of the RFCTLARR Act, 2013, it is seen that insofar as rehabilitation and resettlement is concerned, that cannot become a subject matter of enquiry before the competent authority under Section 3G(3) of the Act. As a consequence, the arbitration petition that is filed before District Collector/Arbitrator for enhancement of compensation also confines itself to the determination of the compensation under Sections 26 to 30 of the RFCTLARR Act, 2013. In the instant case, that part of the determination is completed after the passing of Arbitration Order on 03.11.2023. As stated supra, the claim made by the petitioner for



W.P. (MD).No.18900 of 2020

rehabilitation and resettlement award was never under consideration either before the competent authority or before the District Collector/Arbitrator at the time of determination of compensation for the property.

9.The guidelines that was issued by the Highways Department states that the petitioner is not eligible for rehabilitation and resettlement Award in a linear project. However, such guidelines cannot outweigh the provisions of the Act and this position of law is now too well settled.

10.In the light of the above discussions, it is clear that the petitioner cannot be deprived of seeking for rehabilitation and resettlement award independently. It has to be made clear that the entitlement of the petitioner for getting rehabilitation and resettlement compensation is independent and it has to be considered on its own merits. Therefore, finding rendered in this writ petition does not anywhere indicate that the petitioner is entitled for the compensation under Section 31 of the RFCTLARR Act, 2013. The finding of this Court must be confined only to the fact that petitioner can independently raise a claim under this head



W.P. (MD).No.18900 of 2020

and the same cannot be scuttled through the manual of guidelines issued by the Highways Department. In other words, the petitioner is eligible to claim for rehabilitation and resettlement compensation and his entitlement to get such a compensation is something to be independently considered only by the District Collector.

11. In view of the above, the second relief that has been sought for in the writ petition can be considered by this Court and hence, there shall be a direction to the first respondent to deal with the representation made by the petitioner on 29.10.2020 and consider the same under Chapter V and VI of the RFCTLARR Act, 2013 and it is left open to the first respondent to consider the same on its own merits and in accordance with law. While undertaking this process, the National Highways Department shall also be put on notice and that also shall be heard. The first respondent is directed to pass final orders within a period of three months from the date of receipt of copy of this order.



W.P. (MD).No.18900 of 2020

12.This writ petition is disposed of in the above terms. No

costs. Consequently connected miscellaneous petitions are closed.

**09.11.2023**

NCC : Yes/No  
Internet : Yes/No  
Index : Yes/No  
PNM

To

1. The District Collector,  
Kanyakumari District, Nagercoil.
2. The Competent Authority And  
District Revenue Officer,  
Land Acquisition National Highways,  
Tirunelveli @ Nagercoil, Kanyakumari District.
3. The Project Director Cum DGM (Tech),  
No.314E, K.P.Road, Near Ayappan Kovil,  
Parvathipuram, Nagercoil 629003,  
Kanyakumari District.
4. The Union of India,  
Rep.by its Secretary,  
Ministry of Road Transport and Highways,  
Transport Bhawan, No.1, Parliament Street,  
New Delhi.



WEB COPY



W.P. (MD).No.18900 of 2020

**N.ANAND VENKATESH, J.**

**PNM**

**ORDER IN**  
**W.P. (MD).No.18900 of 2020**  
**and WMP(MD)Nos.15833 & 15834 of 2020**

**09.11.2023**