



W.P. (MD).No.18979 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.11.2023

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD).No.18979 of 2020
and WMP(MD)Nos.15899, 15901 of 2020

Maria Nesam

... 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



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the 1st respondent to conduct rehabilitation and resettlement enquiry as per sec. 31 of Act 30/2013 and pass rehabilitation and resettlement award by passing orders on the representation dated 4.12.2020 for refixation of compensation awarded in the modified award No.6/2015-34, dated 20.8.2018 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 30/2013) and by applying Sec 38(1) and (2) of Act 30/2013, not to demolish the house, till full compensation is paid, together with interest and other benefits to the petitioner.

For Petitioner : Mr. G.Justin

For Respondents : Mr.B.Saravanan(R1, R2)
Government Advocate
Mr.Su.Srinivasan (R3)
Central Government Senior Counsel
Mr.S.Sivakumar (R4)
Central Government Standing Counsel

ORDER

This Writ Petition has been filed for the issue of a writ of mandamus, directing the first respondent to deal with the representation made by the petitioner on 04.12.2020, wherein, the petitioner is seeking for refixation of compensation that was fixed through Award, dated 20.08.2018 in line with Sections 26 to 30 of the Right to Fair



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Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30/2013) (hereinafter referred to as 'RFCTLARR Act, 2013') and also to consider the claim made by the petitioner for rehabilitation and resettlement Award under Section 31 of the RFCTLARR Act, 2013.

2.Heard, the learned counsel for the petitioner, the learned Government Advocate, appearing for the second respondent and the learned Central Government Senior Counsels 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 16.02.2010. It was published in the local newspapers on 20.03.2010. Thereafter, the notification was issued under section 3D(1) of the Act on 08.04.2011 and subsequent Notification under section 3G(3) of the Act was published in the newspaper on 18.06.2011. Thereby, the lands belonging to the petitioner was acquired by the National Highways Authority of India. The competent authority conducted the enquiry under



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section 3G(3) of the Act on 28.06.2011 and the Award was passed on 20.09.2015. The petitioner was not satisfied with the Award passed by the competent authority. Hence, filed an Arbitration Petition seeking for enhancement of compensation on 28.09.2018. The Arbitration enquiry was conducted on 25.02.2019 and order was passed on 19.07.2019.

4.The relief sought for by the petitioner has two components. The first component is for refixation of compensation, on the ground that the Arbitral award has not been fixed within the time limit under section 29(A) of the RFCTLARR Act, 2013. According to the petitioner, the appeal was filed before the first respondent on 28.09.2018 under Section 3G(5) of the Act and a writ petition was filed before this Court in W.P(MD) No.5126 of 2020 seeking for a direction to the first respondent/Arbitrator to pass the award on or before 31.08.2020 and this order was not complied with and no arbitral award was passed by the District Collector/Arbitrator. The second component of the relief sought for by the petitioner is with regard to the claim made for rehabilitation and resettlement under Section 31 of the RFCTLARR Act, 2013.



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5.Insofar as the first component of the relief sought for, the learned Standing Counsel appearing on behalf of the third respondent brought to the notice of this Court the the Arbitration order was passed on 19.07.2017 itself and entire compensation to the tune of Rs.5,62,046/- was also paid by way of cheque No.949357, dated 17.02.2020 to the petitioner. In view of the same, there is no scope for this Court for re-determining the compensation as sought for by the petitioner.

6.This brings this Court to the second limb of the relief sought for by the petitioner pertaining to compensation for rehabilitation and resettlement. This Court had already dealt with the scope of the claim made under this head while passing order in W.P.(MD)No.18900 of 2020, wherein, this Court has dealt with this issue in detail. This Court has held that the claim for rehabilitation and resettlement compensation is an independent compensation that is fixed for the property, which has to be dealt with by the District Collector as per Chapter V and VI of the RFCTLARR Act, 2013.



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7.In view of the above, the second limb of the relief sought for by the petitioner 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 04.12.2020, on its merits and in accordance with law and in line with Chapter V and VI of the RFCTLARR Act, 2013 and pass final orders, within a period of three months from the date of receipt of copy of this order. The first respondent shall issue notice to the National Highways Department and they shall also be afforded with opportunity before final orders are passed.

8.This writ petition 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



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N.ANAND VENKATESH, J.

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