



Order dated 11.03.2024
in W.P.No.2973 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.03.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.2973 of 2024

Mr.N.Suyambu

.. Petitioner

Vs.

1. The District Collector-cum-Arbitrator,
Collector Office,
GST Road,
Chengalpattu District-603 001.

2. The Project Director,
National Highways Authority of India,
T.P.34, South Phase, Sri Tower, 3rd Floor,
Industrial Estate, Guindy,
Chennai-600 032.

3. The Competent Authority and
Special District Revenue Officer-cum-
Land Acquisition Officer (National Highways),
Chengalpet.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in proceedings Rc.No.10332/2023/B1, dated 11.12.2023 and quash the same and direct the first respondent to conduct enquiry on the petitioner's application filed under Section 3-G(5) of the National Highways Act, 1956, dated



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24.01.2023 for the enhancement of compensation of his acquired developed housing plot No.73, measuring an extent of 186 Sq.Meters from and out of 1 Ground and 388 Sq.Ft. comprised in S.No.291/1 and 291/3, covered under manual Patta No.571, "Srinivasapuram Extension" of Anakaputhr Village, Pallavaram Taluk, Kancheepuram District, under Award No.RC.51/2010/NH/A3, dated 17.03.2014, as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 on merits and within time frame.

For petitioner : Mr.V.Srinivasa Babu

For respondents: Mr.T.Arun Kumar, Addl.G.P. for RR-1 and 3

Mrs.S.R.Sumathy, Standing Counsel for NHAI for R-2

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in proceedings Rc.No.10332/2023/B1, dated 11.12.2023 and quash the same and direct the first respondent to conduct enquiry on the petitioner's application filed under Section 3-G(5) of the National Highways Act, 1956, dated 24.01.2023 for enhancement of compensation of his acquired developed housing plot No.73, measuring an extent of 186 Sq.Meters from and out of 1 Ground and 388 Sq.Ft. comprised in S.No.291/1 and 291/3, covered under manual Patta No.571, "Srinivasapuram Extension" of Anakaputhur Village, Pallavaram Taluk,



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Kancheepuram District, under Award No.RC.51/2010/NH/A3, dated 17.03.2014, as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 on merits and within time frame.

2. Challenging the order dated 11.12.2023 passed by the first respondent/District Collector-cum-Arbitrator, a reference/appeal was filed by the petitioner under Section 3-G(5) of the National Highways Act, 1956.

3. Learned counsel for the petitioner submitted that the petitioner's land was acquired and Award was also passed. Since the amount was not paid to the petitioner, he earlier filed a writ petition in W.P.No.14769 of 2017 and this Court, by order dated 02.11.2021, directed as follows:

"4. Therefore, the petitioner is directed to produce necessary documents before the third respondent and on verification, the third respondent is directed to disburse the compensation amount passed in Award Rc.No.51/2010/NH/A3 dated 17.03.2014 to the petitioner within a period of two weeks from the date of production of records. If the petitioner is aggrieved by the determination of compensation for the subject land, the petitioner is at liberty to make an application to re-determine the value of the property before the Arbitrator as contemplated under Section 3G(5) of the National Highways Act, 1956 within a period of two weeks thereafter. On receipt of the application, the Arbitrator is directed to consider the same and pass orders in accordance with law."



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4. After production of the necessary documents and after obtaining the amount, based on the direction issued by this Court on 02.11.2021 in the said Writ Petition, the petitioner has received the amount of Rs.9,91,082/- by way of cheque dated 15.09.2022 on his production of necessary documents. Thereafter, within two weeks, the petitioner has also filed application before the first respondent based on the direction of this Court in the said Writ Petition.

5. The respondents have not challenged the said order passed by this Court in W.P.No.14769 of 2017, dated 02.11.2021. They have also now paid the amount of compensation and thereafter, when the petitioner made an application dated 24.01.2023 under Section 3-G(5) of the National Highways Act, the same was rejected on 11.12.2023, only on the ground of limitation and the first respondent has not passed the order on merits. Hence, the petitioner has filed the present Writ Petition challenging the order dated 11.12.2023 passed by the first respondent.

6. Learned Standing Counsel appearing for the second respondent has filed counter affidavit, and argued the matter on the above points, disputing the claim of the petitioner for enhancement of compensation. Learned Standing

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Counsel further submitted that already, the Award was passed in the year 2014 itself, and on receipt of the Award, the petitioner, if at all was aggrieved by the same, should have made reference/appeal within 60 days to the District Collector, but he has not made any such reference/application/appeal. The learned Standing Counsel further submitted that there is no limitation for specific subject, and Article 137 of the Limitation Act would apply, as per which, only three years from the date of receipt of a copy of the Award, the enhancement of compensation application should have been filed, whereas, in this case, the petitioner has filed the appeal seeking enhancement of compensation beyond the period of three years. Further, the Award copy itself was received by him only in the year 2014, whereas, he has filed appeal only in 2023 and not only beyond the period, but also beyond the period of limitation and also he has filed after ten years. Therefore, the District Collector/Arbitrator rightly rejected the application seeking enhancement of compensation, as there was no merit in the reference. Further, a Division Bench of this Court in W.A.No.730 of 2023, by judgment dated 30.03.2023, dismissed the Writ Appeal filed by the other land owners, and thus, it is clear that Article 137 of the Limitation Act would not be applicable to the case, against the respondents, and in similar case, the matter went up to the Supreme Court in Civil Appeal No.2669 of 2013, which was allowed on 11.12.2023 holding that in the absence of any particular period of time being prescribed to file appeal, the same would be governed by the principle of



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'reasonable time', for which, by virtue of its very nature, no straight-jacket formula can be laid down and it is to be determined as per the facts and circumstances of each case. The learned Standing Counsel submitted that in this case, the Division Bench also as stated above, had upheld the provisions of the Limitation Act, thereby Article 137 of the Limitation Act would apply to this case, and beyond the period of three years from the date of receipt of a copy of the Award, the appeal cannot be entertained and therefore, the learned Standing Counsel appearing for the second respondent prayed for dismissal of the Writ Petition.

7. Heard both sides and perused the materials available on record.

8. Admittedly, the petitioner's land was acquired and Award was also passed and the amount of compensation was duly received by him after litigation and for want of production of documents, the petitioner approached this Court in W.P.No.14769 of 2017 and by order dated 02.11.2021, this Court directed the second respondent therein to disburse the amount of compensation on production of the documents and the petitioner was also directed to produce necessary document at the time of receiving compensation. This Court has given further direction to produce the documents and based on that, the respondents were directed to pay the amount of compensation. Accordingly, the respondents have also paid the amount of compensation and the petitioner has also received



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the amount of compensation on 04.11.2022. Further, this Court has given direction with liberty that the petitioner, on receipt of the amount, can file reference/appeal under Section 3-G(5) of the National Highways Act, within two weeks, and on receipt of the same, the first respondent was directed to consider the same and pass orders, for which, the learned Standing Counsel appearing for the second respondent submitted that on merits and in view of the limitation, this Court has taken note that the Award was passed as early as on 17.03.2014 itself and since the amount of compensation was not paid, this Court directed the respondents to pay the amount of compensation on production of documents. Further, liberty was also given to the petitioner to file appeal under Section 3-G(5) of the said Act and to decide the same by the respondents. If at all, the Court would find that the Award has already been passed on 17.03.2014 itself, but the period of limitation has already been over and they could not have given any direction. However, the respondents have not challenged the direction given by the Division Bench of this Court and simply the petitioner was paid the amount on production of the documents and on receiving the application, without considering the same on merits, simply the first respondent had rejected the application on the limitation point alone.

9. Hence, for the reasons stated above, the impugned order is quashed. As directed by this Court on 02.11.2021 in W.P.No14769 of 2017, the first



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respondent is directed to consider the appeal/reference filed by the petitioner and after giving opportunity of hearing to the petitioner, and after hearing of the appeal, dispose of the same on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

10. With the above observations, the Writ Petition is allowed. There shall be no order as to costs.

11.03.2024

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To

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GST Road,
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