IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.3278 of 2024

M.Poomani ... Petitioner

versus

1.The District Collector/Sole Arbitrator,
(Under Section 3G(5) of the Arbitration
and Conciliation Act 1996),
Dharmapuri District,
Collectorate Complex, Dharmapuri – 636 705.

2.Special District Revenue Officer – Land Acquistion,
National Highways – 844,
(Hosur – Royakottai – Dharmapuri Section),
Dharmapuri.

3.National Highways Authority of India,
Rep.by its Project Director (NH 844),
PIU – Krishnagiri,
259/1, Salem Main Road,
Near KAKC Petrol Bunk,Krishnagiri. .....Respondents

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus, directing the respondent authorities 2 and 3 to pay the amount of Rs.70,51,506/- (Rupees Seventy Lakhs Fifty One Thousand Five Hundred and Six only) deducted by them from the enhanced compensation fixed by the first respondent towards compensation for the petitioner's land and building bearing Door Nos.1/802-D and 1/802-D1, Near New National Highways, Vennampatti, comprised in S.No.498/2F2 (213 sq.mts) and 498/2G (896.04 sq.mts) in Virupatchipuram Village, Dharmapuri Taluk and District as per the Award dated 08.11.2023 Ref.No.S.R.742/2020/U2 fixing the balance/enhanced compensation payable to the petitioner as Rs.3,43,57,249/- (Rupees three crores forty three lakhs fifty seven thousand two hundred and forty nine only) within such time as fixed by this Court.

For Petitioner	:	Mr.S.Thankasivan
For Respondents	:	Mr.T.Arun Kumar Additional Government Pleader for R1 and R2 Mr.Su.Srinivasan Standing counsel for NHAI for R3

O R D E R

This writ petition has been filed seeking for issuance of a writ of mandamus, directing respondents 2 and 3 to pay the amount of Rs.70,51,506/- (Rupees seventy lakhs fifty one thousand five hundred and six only) deducted by them from the enhanced compensation fixed by the first respondent towards compensation for the petitioner's land and building bearing Door Nos.1/802-D and 1/802-D1, Near New National Highways, Vennampatti, comprised in S.No.498/2F2 (213 sq.mts) and 498/2G (896.04 sq.mts) in Virupatchipuram Village, Dharmapuri Taluk and District as per the Award dated 08.11.2023 Ref.No.S.R.742/2020/U2 fixing the balance/enhanced compensation payable to the petitioner as Rs.3,43,57,249/- (Rupees three crores forty three lakhs fifty seven thousand two hundred and forty nine only) within a time frame as fixed by this Court.

2. The case of the petitioner is that his land was acquired by the respondents for expansion of National Highways 844. Thus, the second respondent passed an Award on 06.07.2022. Challenging the same, the petitioner filed a claim petition before the first respondent under Section 3G(5) of the National Highways Act. While that being so, the respondent authorities, have levied 18% of compensation as GST and they have recommended to deduct the same on the enhanced compensation. The further case of the petitioner is that the Land Acquisition compensation will neither come under sale or goods nor come under goods and services and therefore, no GST can be levied. Hence, he has given representations to the respondents on 15.12.2023 and 08.01.2024, seeking to pay the compensation without deducting GST. Since there was no response from the respondents till date, the present writ petition has been filed.

3. Today, when the matter was taken up for hearing, the learned Standing counsel appearing for the third respondent/National Highways

Authority of India, by referring to the counter affidavit filed by the third respondent, reiterated paragraph Nos.11 and 12 and the same read as follows :

> *"11. It is submitted that the third respondent also agrees with the view of the Petitioner that land compensation including the structure valuation acquired under the provisions of NH Act, 1956 will neither come under sale of goods nor come under goods and services therefore no GST can be levied. The Respondent has not levied any GST on the Petitioner and no GST has been paid by the Petitioner to the any GST Authorities of the Central Government & the State Government to entitle him to get it reimbursed from the third Respondent.*
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> *12. The GST has been awarded by the 1st Respondent over and above the valuation report of the building property of the Petitioner based on the valuation report given by the Executive Engineer, PWD, Buildings (C&M) Division, Dharmapuri wherein the GST component has been wrongly*

included. As rightly contended by the Petitioner in para 8 that land acquisition compensation will neither come under sale of goods nor come under goods and services and therefore no GST over and above the valuation of property cannot be levied and also the petitioner need not to deposit any GST amount with any Government Authorities on land acquisition compensation as such no amount towards GST is payable to the petitioner."

By relying upon the counter affidavit, learned Standing Counsel for respondents submits that the petitioner need not deposit any GST amount with any Government Authorities on land acquisition compensation.

4. In view of the admission of the third respondent in their counter affidavit, that no levy of GST is applicable and charged on the compensation amount paid to the petitioner, and no GST has also been paid by the petitioner to any GST authorities of the Central Government or the State

Government, no direction as sought for by the petitioner is necessary in this writ petition.

5. With the above observation, the writ petition is disposed of. However, there shall be no order as to costs.

23.02.2024

Index: Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
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P.VELMURUGAN, J.

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