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W.P.No.27263 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2024

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.27263 of 2024

K.Suresh

...Petitioner

Vs.

1.The District Collector/Land Acquisition Officer
(Project of Formation of New Broad Gauge Railway Line
Between Chinna Salem and Kallakurichi)
Kallakurichi, Kallakurichi District.

2.The District Revenue Officer
Kallakurichi
Kallakurichi District.

3.The Special Tahsildar (Land Acquisition)
Southern Railways
Kallakurichi
Kallakurichi District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent herein to resurvey the land and pass additional compensation award for the remaining



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residential house/building and other immovable assets attached with the land in Natham Re-Survey Nos.517/120B, 518/3B2 and 518/2B2 measuring a total extent of 0.01.67 hectares properties situated at Chinnasalem Village, Chinnasalem Taluk, Kallakurichi District by strictly following the procedure contemplated under Section 26 to 30 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013 (Central Act No.30/2013) based on the petitioner's representation dated 06.09.2023 within a reasonable time to be fixed by this Court.

For Petitioner : Mr.P.Rajavel

For Respondents : Mr.P.Sathish for R1 to R3
Additional Government Pleader

ORDER

The petitioner herein seeks a direction to the first respondent to resurvey his land and pass additional compensation for the remaining building in his property situated in Natham Re-survey Nos.517/120B, 518/3B2 and 518/2B2 at Chinnasalem Village, Chinnasalem Taluk, Kallakurichi District, by considering his representation dated 06.09.2023.



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2. It is the case of the petitioner that the subject property was acquired for the project of formation of New Broad Gauge Railway Line between Chinna Salem and Kallakurichi. At the time of fixing compensation, the first respondent failed to take into consideration the portion of the petitioner's building stands in the land not covered by the acquisition notification, which has been rendered useless by demolishing the portion of the building covered by the notification. Therefore, the petitioner submitted a representation dated 06.09.2023 seeking valuation of the portion of the building stand in the non acquired portion and payment of compensation in respect of that portion of the building also.

3. Mr.P.Sathish, learned Additional Government Pleader, who takes notice for the respondents 1 to 3 would submit that if the portion of the building is not covered by the official notification, the same cannot be acquired by the respondents.



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4. The learned counsel for the petitioner vehemently contended that due to acquisition of a portion of the building and demolishing of the same, the remaining portion would become useless. Therefore, the said portion should also be taken into consideration at the time of fixing the compensation.

5. If the petitioner is not satisfied with the quantum of award fixed by the Competent Authority, he can seek enhancement by filing appropriate application under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Instead of availing effective alternative remedy under the Act, the petitioner is not entitled to approach this Court under Article 226 of the Constitution of India seeking direction to value the building situated in the unacquired area. Therefore, this Writ Petition stands dismissed. However it is open to the petitioner to file appropriate application before the Competent Authority under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and question the award in accordance with law, if so advised.



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6. According, the Writ Petition stands dismissed. No costs.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
dna

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S.SOUNTHAR, J.
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