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W.P.No.28693 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2024

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THE HONOURABLE MR. JUSTICE S. SOUNTHAR

W.P No.28693 of 2024

Madhaiyan

...Petitioner

Vs.

The Competent Authority and
Special District Revenue Officer (Land Acquisition)
National Highways - 844
Hosur - Rayakottai - Dharmapuri Section,
Dharmapuri.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent to assess the compensation under Section 3G (7) of the National Highways Act, 1956 for 37 square meter of unassessed residential portion of the building out of 143 square meter residential house without prejudice to the right guaranteed under Section 3G (5) of the National highways Act, 1956 by considering the petitioner's representation dated 10.06.2024 within a time frame.

For Petitioner : Mr.C.Munusamy

For Respondent : Mr.P.Sathish



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Additional Government Pleader

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ORDER

The petitioner herein seeks a direction to the respondent to assess the compensation under Section 3G (7) of the National Highways Act, 1956 for 37 square meter of un-assessed residential portion of the building out of 143 square meter residential house, without prejudice to the right guaranteed under Section 3G (5) of the National Highways Act, 1956 by considering the petitioner's representation dated 10.06.2024, within a time frame to be stipulated by this court.

2. It is the case of the petitioner that he is having immovable property with an extent of 29 3/4 cents situated in survey nos.585/2E and 585/2F of Amani Pappinaikanahalli Village, Dharmapuri Taluk. He constructed a house with an extent of 1540sq.ft. The respondent issue a notification under the National Highways Act, 1956, and acquired the petitioner's property and thereafter, fixed compensation by passing an award under the provisions of the National Highways Act, 1956. While fixing the compensation, the respondent assessed only a the portion of the building belonging to the petitioner viz.,



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106 sq.meter, out of total construction area of 143 sq.meter. The remaining portion of the building with an extent of 37 sq.meters was left out on the ground that the same was not covered by notification for land acquisition. According to the petitioner, he could not use the remaining portion of the building to the extent of 37 sq.meter, which was not assessed by the respondent, for any purpose and the same has become useless due to acquisition of other portion of the building and therefore, the said portion also has to be assessed and compensation has to be paid to him. In this regard, he made a representation on 10.06.2024 to the respondent and the same has not been considered till date. Therefore, the petitioner is before this court.

3. Heard Mr.C.Munusamy, learned counsel for the petitioner and Mr.P.Sathish, learned Additional Government Pleader taking notice for the respondent and also perused the documents.

4. Admittedly, the respondent passed an award dated 22.02.2021 quantifying the compensation payable to the petitioner. If it is the grievance of the petitioner that the remaining extent of 37 sq.meter of his building has not been taken into consideration for the purpose of fixing the compensation, it is for him to file a claim petition under Section 3G (5) of the National Highways



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Act, challenging the award passed by the respondent. On filing of such petition by the petitioner, the Arbitrator can decide the question whether un-assessed portion of building, not covered by notification, has become useless due to acquisition proceedings or not and decide about the compensation payable to the petitioner.

5.In view of the above, this Court is not inclined to entertain this writ petition seeking a direction of the respondent to assess the compensation in respect of 37 sq.meter of the petitioner's remaining building which was not affected by the land acquisition proceedings. However, liberty is given to the petitioner to challenge the award before the Arbitrator under Section 3G(5) of the National Highways Act. It is open to the petitioner to raise all the points raised in this writ petition before the Arbitrator.

6.Accordingly, this Writ Petition is disposed of. No costs.

30.09.2024

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

The Competent Authority and
Special District Revenue Officer (Land Acquisition)
National Highways - 844
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Dharmapuri.



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S. SOUNTHAR, J.

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