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WP.No.33702 of 2024

In the High Court of Judicature at Madras

Dated : 20.11.2024

Coram :

The Honourable Ms.Justice P.T.ASHA

Writ Petition No.33702 of 2024

E.Amul Prakash

...Petitioner

Vs

1.The District Collector-cum-Arbitrator (under the National Highways Act, 1956), Vellore District at Sathuvachary, Vellore-9.

2.The District Collector-cum-Arbitrator (under the National Highways Act, 1956), Office of the District Collectorate, Ranipet District.

3.The Special Tahsildar (LA), National Highways Unit, District Collectorate Building, Ranipet District.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the second respondent to conclude the enquiry initiated vide summons dated 29.8.2023 in Na.Ka.LA(A)/704/2023 in regard to acquisition of the land and building thereupon belonging to the petitioner and others comprised in survey Nos.4/1B & 4/2A of Arcot Village, previously Vellore Taluk & District and presently Arcot Taluk and Ranipet District.



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For Petitioner : Mr.R.Ganesh Kumar
For Respondents : Mr.A.Selvendran, SGP

ORDER

Aggrieved by the fact that his representation seeking enhanced compensation has not been considered finally by the respondents, the petitioner has filed this writ petition.

2. The brief facts are set out herein below :

(i) The properties comprised in S.Nos.4/1B, 4/1 and 5/1, Arcot, Vellore Taluk and District, which were purchased by the petitioner's father under three sale deeds in the year 1993, were the subject matter of acquisition. The said properties were forcibly taken possession by the officials of the third respondent in the month of September 2002 without any notification/show cause notice.

(ii) Pursuant to that, the petitioner's father gave a representation dated 04.9.2022 to the second respondent seeking an explanation. However, there was no response to the said request, which constrained his father to file W.P.No.47136 of 2002 before this Court. Further, by order dated 03.1.2003, this Court disposed of the said writ petition, directing the third respondent to consider the representation of the petitioner's father and pass orders. Even after receipt of a copy of the said order dated 03.1.2003, the third



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respondent did not respond.

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(iii) After several representations, on 25.2.2003, the first respondent issued a Gazette Notification under Section 3(a)(1) of the National Highways Act, 1956 (for short, the Act) informing about the acquisition of a portion of the subject properties. The same was published later in the newspaper on 29.4.2003. On the very same date i.e 29.4.2003, the third respondent sent a letter calling upon the petitioner's father to submit his objections to the proposed notified land acquisition. On behalf of his father, the petitioner attended the inquiry and submitted a valuation report and based on the prevailing market value of the property under acquisition, the petitioner claimed a sum of Rs.250/- per sq.ft.

(iv) On 18.11.2003, the petitioner's father expired leaving behind him his son - the petitioner, his wife namely Mrs.E. Vijayalakshmi, his other son - Mr.E.Sathish Kumar and his daughter - Ms.E.Sangeetha as the surviving legal heirs, on whom, the subject properties devolve. Thereafter, the petitioner was making several representations to the respondents seeking payment of compensation.

(v) In the year 2007, the third respondent informed the petitioner that out of 3.11 acres, an extent of 1.25 acres alone was being acquired and the proceedings dated 27.6.2007 was also handed over the petitioner whereby the compensation was fixed at



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Rs.21,85,149/-. However, the said sum was received by the petitioner and the other legal heirs without prejudice to their rights to claim the enhanced compensation.

(vi) Immediately thereafter, the petitioner and the other legal heirs sent a representation dated 18.7.2007 to the first respondent for enhancement of the compensation. But, it was kept in cold storage without any progress. In the meanwhile, as per the provisions of the Act, a detailed representation dated 05.5.2008 was sent by them to the first respondent, who is the Statutory Arbitrator. Pursuant to that, the first respondent called the petitioner for an inquiry on 20.6.2018 vide letter dated 07.6.2018. The petitioner also gave a written representation on 20.6.2018 justifying the request for enhanced compensation. However, no proper inquiry was conducted nor orders were passed.

(vii) The petitioner repeatedly addressed several letters to the respondents. As they did not evoke any response, the petitioner was compelled to approach this Court by filing W.P.No.27812 of 2021 seeking a direction to the first respondent to conclude the inquiry and pass an award. The said writ petition was disposed of on 23.12.2021 directing the first respondent to complete the arbitration proceedings within a period of eight weeks from the date of receipt of a copy of the said order. Even the said order 23.12.2021 was not acted upon.



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(viii) Thereafter, the district was bifurcated into Vellore and Ranipet Districts and the property, which was the subject matter of acquisition, fell within Ranipet District. Therefore, the petitioner had once again renewed his claim before the second respondent for enhanced compensation and accordingly, a representation dated 29.5.2023 was given to the second respondent for enhancement of compensation. Pursuant to that, the petitioner received summons from the third respondent for the inquiry fixed on 12.9.2023. Though the petitioner attended the inquiry, to date, there has been no further progress in the inquiry. Thus aggrieved, the petitioner is before this Court.

3. Heard the learned counsel for the petitioner and the learned Special Government Pleader accepting notice for the respondents.

4. This is a case of the State flexing its muscles. The subject properties had been forcibly taken possession for the purpose of laying the road. Thereafter, the proceedings under Section 3(a)(1) of the Act was set in motion and an award was passed in the year 2007. However, it was intimated to the petitioner and the other legal heirs only in the month of July 2007 by proceedings dated 27.6.2007, in and by which, the compensation was fixed for a sum of Rs.21,85,149/- for



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an extent of 1.25 acres, which alone was acquired though possession of the entire subject properties was originally taken.

5. Even prior to the bifurcation of the district, in July 2007 itself, the petitioner and the other legal heirs filed the claim petition before the first respondent under Section 3G(5) of the Act. Though they have been called for an inquiry on 20.6.2018, there was no progress. Thereafter, the district got bifurcated and the place where a portion of the subject properties was acquired fell within the Ranipet District and therefore, once again, the petitioner made a request to the second respondent on 29.5.2023 seeking enhanced compensation. The second respondent also called upon the petitioner for an inquiry only once i.e on 12.9.2023 and to date, there is no progress in the matter. The officials concerned have shown abject indifference and failed in their statutory duty of considering and passing orders on the claim petition.

6. Right to property is a Fundamental Right guaranteed under Article 300A of The Constitution of India. The State, using its power, has forcibly taken possession of the subject properties and is now refusing to consider and passing orders on the request of the petitioner and the other legal heirs for enhanced compensation.



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7. In the light of the above, the writ petition is allowed and the second respondent is directed to consider and pass orders on the petitioner's representation dated 29.5.2023 after giving a personal hearing to the petitioner. The said exercise shall be concluded within a period of one month from the date of receipt of a copy of this order. No costs.

20.11.2024

To

- 1.The District Collector-cum-Arbitrator (under the National Highways Act, 1956), Vellore District at Sathuvachary, Vellore-9.
- 2.The District Collector-cum-Arbitrator (under the National Highways Act, 1956), Office of the District Collectorate, Ranipet District.
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