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W.P.No.34995 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.34995 of 2024

and

W.M.P.No.37946 of 2024

1.A.Senthilvel

2.S.Kumaraveni

... Petitioners

Vs.

1.The Government Of Tamil Nadu

Rep By Its Secretary To Government,

Department Of Highways And Minor Port, Fort St. George,
Chennai-09.

2.The Commissioner Of Land Administration

Chepauk, Chennai -05.

3.The Special District Revenue Officer (LA)

Chennai- Kanyakumari Industrial Corridor Project,
Kumbakonam, Thanjavour District.

4.The Special Tahildhar (La)

Chennai- Kanyakumari Industrial Corridor Project,
Sirkali, Mayiladuthurai District.

5.The Joint -I Sub Registrar

Nagapattinam.

6.The Sub Registrar

Neravy, Karaikal District, Pondicherry.

...Respondents



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Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, Calling for the records of the 3rd Respondent herein in her proceedings dated 22-02- 2024 in Na.Ka. No. 1160 / 2018/ A2 and consequential modified award with respect to the reimbursement clause re- issued on 27-09- 2024 and quash the same as arbitrary, illegal, against law and without jurisdiction and thereby consequently direct the Respondents 1- 4 herein to reimburse the stamp duty and registration fee amount of Rs.28,77,498/ - paid by the petitioners for purchase of the properties vide Doc. no.628 and 629 of 2023 before the Joint - I, SRO Nagapattinam and Doc.No. 6091 of 2023 before the SRO, Neravy / T.R.P. in name of the 2nd petitioner pursuant to the land acquisition award dated 30.11.2022 passed by the 3rd respondent along with interest and pass.

For Petitioner : M/s.P.Dinesh Kumar

For Respondents : Mr.A.Selvendran, Spl.G.P.
for R.1 to R.5
: Mr.Nirmal Kumar, GA(P) for R.6.

ORDER

The Writ Petition is filed for the following reliefs:-

"Calling for the records of the 3rd Respondent herein in her proceedings dated 22-02- 2024 in Na.Ka. No. 1160 / 2018/ A2 and consequential modified award with respect to the reimbursement clause re- issued on 27-09-2024 and



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quash the same as arbitrary, illegal, against law and without jurisdiction and thereby consequently direct the Respondents 1- 4 herein to reimburse the stamp duty and registration fee amount of Rs.28,77,498/- paid by the petitioners for purchase of the properties vide Doc. no.628 and 629 of 2023 before the Joint - I, SRO Nagapattinam and Doc.No. 6091 of 2023 before the SRO, Neravy / T.R.P. in name of the 2nd petitioner pursuant to the land acquisition award dated 30.11.2022 passed by the 3rd respondent along with interest"

2. It is the case of the petitioners that the 1st petitioner is the absolute owner of the vacant plot comprised in S.No.1990/2 measuring an extent of 551 sq.mt. The petitioner's lands were acquired for the purpose of constructing a fly over bridge near the Nagapattinam - Velankanni Railway Crossing No.48, at Akkaraipettai Village. The award was passed on 31.11.2022 and a sum of Rs.5,65,54,594/- was transferred to the petitioner's account as compensation. In the award it has been specifically mentioned that if the compensation amount is utilized for purchasing a property in the name of the female member of the family then they were



entitled to claim reimbursement of the stamp duty and registration fee paid at the time of the execution of the sale deed. Accordingly, by utilizing the above compensation amount, the petitioner had purchased some properties in the name of his wife, the 2nd petitioner. For the above said purchase, they had paid a sum of Rs.28,77,498/- as stamp duty and registration fee.

3. Thereafter, the 1st petitioner had given a representation dated 18.06.2023 to the 3rd respondent seeking for reimbursement of stamp duty and registration fee as promised in the award dated 31.11.2022. Thereupon, the 3rd respondent by communication dated 18.08.2023 directed the 4th respondent to submit a proposal for reimbursement of the stamp duty and registration fee. However, by an order dated 22.02.2024, the 3rd respondent, without even conducting an enquiry, rejected the claim for reimbursement, stating that the condition for reimbursement was not applicable to the petitioner as the land was acquired for the railway-related project, and the same was only applicable for lands acquired for the Chennai-Kanyakumari Industrial Corridor project. Further, on 27.09.2024 without any notice or enquiry, the 3rd respondent had re-issued the modified award deleting the reimbursement clause. Therefore, the petitioner is before this Court.



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4. Heard the counsels on either side.

5. A counter has been filed where in paragraph no.4 the following statement have been made:-

"It is submitted that on the basis of acquisition made by the State Highways Department. Divisional Engineer, Projects wing, land acquisition proceedings were initiated by the LAO (Le) District Revenue Officer, Nagapattinam towards formation of over bridge across the Railway track avoiding LC-48 in T S.No. 1990 situated in Ward 1, Block 20 of Akkaraipettai, Nagapattinam, for an extent of 551 Sq.meters out of 763.5 Sq.meters, belonging to the petitioner, In this case, Award enquiry was conducted by the previous LAO (ie.) District Revenue Officer, Nagapattinam on 23.02.2022, 24.02.2022 & 25.02.2022. After that, all the LA files relating to Highways Department in various schemes, were transferred to Special District Revenue Officer(LA), Chennai Kanyakumari Industrial Corridor Project, Kumbakonam, from June 2022 to September 2022. The said LA file was received during



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August 2022 from DRO, Nagapattinam during valuation approval stage and passing of award. I further submit that considering the speeding up of work in formation of over bridge, Award for LC-48 has been passed on 20.10.2022, which was the first award passed after reorganization of projects under State Highways Departments vide G.O.(D).No 82 Highways and Minor Ports(HR1) Dept Dt:- 23.05.2022.

I further submit that due to oversight, the clause of reimbursement of stamp duty and registration fee of any other lands purchased by the Awardee in the name of female person, from the outcome of acquisition of lands by way of compensation has been embodied in the proceedings as per in Rc. 1160/2018/A2 dt 30.11.2022, inadvertently due to typographical error.

The award amount of Rs. 5,65,54,594/- has been paid to the individual, in the same proceedings. Subsequently, Thiru.A. Senthilvel S/o Arumugam, the awardee, has applied for reimbursement of stamp duty & registration fees towards purchase of other lands on



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18.06.2023. *In view of the claim submitted by Thiru. A. Senthilvel, this aspect is pursued vide Tamil Nadu Highways Act, 2001 and also clarification made in all sources that any clause or provision, if any made for reimbursement of stamp duty & registration fees, which has been purchased by the Awardee.*

It is learnt that this provision is made only for the acquisition of lands in Kanyakumari Industrial Corridor Project Scheme and this office has Chennai originally formed for the sole purpose of acquisition for Chennai Kanyakumari Industrial Corridor Project Scheme only. The petitioner's award was the first award proceedings issued by CKICP scheme LAO after reorganization of projects and files from State Highways department vide G.O. G.O.(D).No 82 Highways and Minor Ports(HR1) Dept Dt:- 23.05.2022. I further submit that this clause has been placed in the proceedings in Rc. 1160/2018/A2 dt:- 30.11.2022 inadvertently on typographical error and on oversight.



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6. Such statement (highlighted supra) cannot be entertained since it is the respondents who are entrusted with the work. The original award would clearly state that if the amount given as compensation were to be used for the purchase of the property in the name of the female member of the family then they were entitled to reimbursement of the stamp duty and registration fees. After passing the award, the 3rd respondent had unilaterally modified it on 27.09.2024 without notice to the petitioner. This unilateral modification of the award is totally erroneous. Having passed the award, the same can only be modified in the manner known to law. The 3rd respondent cannot unilaterally review his own order. Therefore, modification effected on 27.09.2024 has to necessarily be set aside and is accordingly set aside.

7. It is also seen from the counter that the provisions of reimbursement of stamp duty and registration fee has been made applicable for Chennai-Kanyakumari Industrial Corridor Scheme and if it is available for one scheme then the same should be given to the petitioners as well.

8. In fine, the Writ Petition is allowed. The modified award passed by the 3rd respondent on 27.09.2024 is set aside. Respondents 1 to 4 are directed to reimburse the stamp duty and registration fee amount of



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Rs.28,77,498/- paid by the petitioners for purchase of the properties vide

Doc. no.628 and 629 of 2023 before the Joint - I, SRO Nagapattinam and

Doc.No. 6091 of 2023 before the SRO, Neravy / T.R.P. in name of the 2nd

petitioner pursuant to the land acquisition award dated 30.11.2022 passed

by the 3rd respondent, within a period of 6 weeks from the date of receipt

of a copy of this order. No costs. Consequently, the connected

Miscellaneous Petition is closed.

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(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No



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