

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2025

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P(MD)NO.23 OF 2023

P.Felcy Helen Mary

: Petitioner

.VS.

1.The District Collector,
Nagercoil,
Kanyakumari District.

2.The Special District Revenue Officer,
National Highways Authority of India,
Nagercoil.

3.The Project Director,
NHAI,PIU – Nagercoil,
395/3-1, M.S.Road,
Majestic Colony,
Near Iyyappan Kovil,
Parvathipuram,
Nagercoil - 629 003.

:Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Ceritorarified Mandamus calling for the records of the third respondent pertaining to the proceeding bearing No.NHAI/PIU/NGL/LA/ROADSAFETYADVOCACY/2022/1601, DATED 13.7.2022 and to quash the same and consequently to direct the respondents to disburse the solatium and compensation by fixing the market value of the properties along with interest as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation Act, 2013, for the acquisition of land to an extent of 1.70 acres equivalent to 170 sq



meters in S.No.551/3B2B of Kovalam Village, Kanyakumari District by considering the representation of the Petitioner, dated 4.7.2022 within the time frame fixed by this Court.

For Petitioner	:Mr.S.C.Herold Singh
For Respondents 1 and 2	:Mr.Mr.R.Ragavendran Government Advocate
For Respondent-3	:Mr.Su.Srinivasan Standing Counsel

ORDER

The Writ Petition is filed for a Writ of Certiorari Mandamus calling for the records of the third respondent pertaining to the proceeding bearing No.NHAI/PIU/NGL/LA/ROADSAFETYADVOCACY/2022/1601, dated 13.7.2022 and to quash the same and consequently to direct the respondents to disburse the solatium and compensation by fixing the market value of the properties along with interest as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation Act, 2013, for the acquisition of land to an extent of 1.70 acres equivalent to 170 sq meters in S.No.551/3B2B of Kovalam Village, Kanyakumari District by considering the representation of the Petitioner, dated 4.7.2022 within the time frame fixed by this Court.

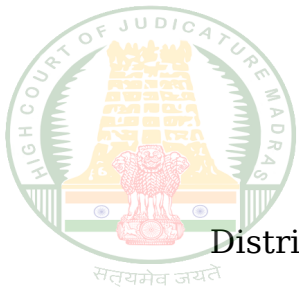


2.The petitioner is the owner of the subject land in S.No. 551/3 and 551/4 to an extent of 12.5 and 1.0 ares of now Kovalam Village, previously Agasteeswaram Village, Kanyakumari District. The central Government acquired lands for the purpose of laying four way National Highways from Kanyakumari to Tirunelveli and for the said purpose, the Petitioner's lands measuring an extent of 12.3 acres were acquired leaving behind the remaining lands to an extent of 1.70 ares equivalent to 170 sq.mtr in S.No.551/3B2B of Kovalam village, Kanyakumari District. In the said acquisition, award was passed by the competent authority for land acquisition (CALA).The Petitioner did not appear for the enquiry under Section 3G(3) and hence the compensation was directed to be kept in joint account. Further when the Petitioner came to know about the award passed by the second respondent, she submitted a request on 4.7.2022, for disbursement of the compensation amount to her bank account. The second respondent did not reply to the petitioner's representation. The third respondent replied on 13.7.2022, stating that as the order of the Arbitrator, dated 4.3.2020, was challenged before the Principal District Court, Nagercoil necessary action would be taken on the Petitioner's representation, dated 4.7.2022 after the disposal of the same. The Petitioner aggrieved by the impugned letter, dated 13.7.2022, has filed the above Writ Petition for the aforesaid relief.



WEB COPY

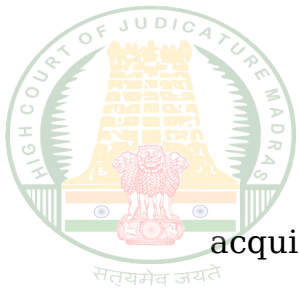
3.The respondents filed a detailed counter narrating the entire facts relating to the acquisition and according to the respondents, an extent of 1.70 ares equivalent to 170 square meters in S.No.551/3B2B of lands situate at Kovalam Village, Kanyakumari District registered in the name of the Petitioner, were acquired in entirety. The Petitioner did not appear for the 3-G(3) enquiry and failed to prove her title to the property. Therefore the compensation was directed to be kept in joint account of the second and third respondents vide proceedings, dated 3.9.2018. According to the official respondents, the second respondent acquired lands situate in both Kovalam and Kanyakumari village and because of the proximity of the lands and potentiality for development, the value adopted for Kanyakumari village was adopted for Kovalam village also. The second respondent did not adopt the market value arrived at Rs.1.20 crores per acre for Kovalam village but adopted the market value of Rs.5,13,94,194/- per acre of Kanyakumari Village, for the lands acquired in Kovalam village. The compensation was paid to 16 land owners who appeared for 3-G(3) enquiry and compensation with respect to the land owners who did not appear for enquiry, was kept in joint account of the respondents 2 and 3. Against the order of the second respondent, the third respondent went for arbitration before the first respondent, the District Collector, Kanyakumari



District. The first respondent (arbitrator) vide proceedings, dated 4.3.2020, confirmed the award of the second respondent. Aggrieved by the award of the Arbitrator, the first respondent, arbitration applications were filed under Section 34(3) of the Arbitration and conciliation Act to the Principal District Judge, Nagercoil, Kanyakumari District and the same were pending. As the petitioner did not appear in the 3G(3) enquiry, she was not impleaded in the Arbitral proceedings. The respondents submitted that the Petitioner instead of approaching the second respondent for getting the compensation amount for the acquired lands, approached this Court invoking writ jurisdiction. The respondents therefore submitted that there were no merits in the Writ Petition and the same deserved to be dismissed.

4.I have heard the learned counsel appearing on either side and perused the materials placed on record.

5.It is undisputed that the Petitioners lands measuring an extent of 1.70 ares equivalent to 170 square meter in S.No. 551/3B2B of Kovalam Village, Kanyakumari District were acquired by the National Highways for formation of four way road from Kanyakumari to Tirunelveli and there is also no dispute that the second respondent as the competent authority for land



acquisition(CALA) passed an award for the acquired lands on 13.9.2018 vide Award No.3 of 2018. Admittedly, the Petitioner did not appear for the enquiry conducted by the second respondent on 28.2.2018. As the Petitioner did not appear for the 3-G(3) enquiry, the compensation awarded with regard to the Petitioner's lands were directed to be kept in joint deposit of the 2nd and 3rd respondents. With respect to the land owner's who appeared for enquiry under Section 3-G(3), the third respondent sought for arbitration before the first respondent /The District Collector, Kanyakumari District. The first respondent in the arbitration petition passed an arbitration award on 4.3.2020, confirming the value adopted by the second respondent for both the villages. Aggrieved by the arbitral award of the first respondent, the third respondent under Section 34(2) of the Arbitration and Conciliation Act filed petitions before the Principal District Judge, Kanyakumari District, at Nagercoil and the same are pending. At this stage, the Petitioner made a representation on 4.7.2022, to the third respondent to disburse the compensation amount as per the award, dated 3.9.2018. The third respondent rejected the Petitioner's representation stating that arbitral proceedings were pending and that necessary action would be taken after the judgment in the arbitral proceedings before the District Court. The Petitioner aggrieved by the rejection of her representation has filed the



above Writ Petition.

WEB COPY

6. It is seen that against the order dated 04.03.2020 of the 1st respondent, the 3rd respondent filed arbitration applications before the Principal District Judge, Kanyakumari, under Section 34(2) of the Arbitration and Conciliation Act, 1996. According to the 3rd respondent arguments were concluded and orders were pending in the Arbitration OP's. Whiles, the petitioner submitted the representations dated 04.07.2022 to the 3rd respondent to disburse the amount kept in deposit of the 2nd, 3rd respondents to her bank account. The 3rd respondent vide the impugned letter rejected the petitioner's request citing the pendency of the Arbitration OP. I find no infirmity or illegality in the impugned letter of the 3rd respondent. It is seen that the petitioner had not participated in any of the proceedings including Section 3G(3) enquiry, which was published in the local newspapers. 16 land owners appeared in the enquiry and the compensation with respect to the said land owners is under challenge before the District Court in Arbitration OP's. The 3rd respondent has not rejected the petitioner's claim but only stated that necessary action would be taken after disposal of the pending Arbitration OP's. Moreover, as the petitioner did not participate in the 3G(3) enquiry unless the petitioner establishes her right, title and interest to the acquired lands before the 2nd



respondent compensation cannot be paid by the 3rd respondent. As in the Arbitration proceedings arguments are concluded and the same is pending for orders, I am of the view that the impugned letter cannot be interferred with at this stage.

7. I therefore find no merits in the Writ Petition, accordingly, the Writ Petition is dismissed. In any event, it is open to the Petitioner to approach the second respondent, establish her title to the acquired lands and seek for disbursement of compensation, after the disposal of the Arbitration OP's. No costs.

27.01.2025

NSC :Yes/No
Index:Yes/No
Internet:Yes/No
vsn

To

- 1.The District Collector,
Nagercoil,
Kanyakumari District.
- 2.The Special District Revenue Officer,
National Highways Authority of India,
Nagercoil.
- 3.The Project Director,
NHAI,PIU – Nagercoil,
395/3-1, M.S.Road,
Majestic Colony,
Near Iyyappan Kovil,
Parvathipuram,
Nagercoil- 629 003.



WEB COPY

9



N.MALA, J.

vsn

ORDER MADE IN
W.P(MD)NO.23 of 2023

27.01.2025