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BEFORE THE MADURAI BENGH OF MADRAS HIGH COURT

DATED: 14.08.2025

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P.(MD)No.14489 of 2023

Dr.A.Rajappavu ... Petitioner

Vs

1. The District Collector / Arbitrator,
   Kanyakumari District, Nagercoil.

2. The Competent Authority and
   District Revenue Officer,
   Land Acquisition National Highways,
   Tirunelveli @ Nagercoil,
   Kanyakumari District.

3. The Project Director Cum DGM (Tech),
   No.314E, K.P.Road,
   Near Ayappan Kovil,
   Parvathipuram, Nagercoil - 629 003,
   Kanyakumari District.

4. The Director,
   Horticultural Department,
   Nagercoil, Kanyakumari District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to pass orders on the appeal dated 09.05.2022 by fixing the compensation for the 91 coconut trees by getting correct valuation report from the 4th respondent and consequently the compensation awarded for the 91

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coconut trees may be recalculated in accordance with law and the difference has to be paid to the petitioner with all benefits including interest.

For Petitioner : Mr.G.Justin

For Respondents : Mr.A.Baskaran
Addl. Govt. Pleader for R1, R2 & R4
Mr.Su.Srinivasan,
Standing Counsel for R3

O R D E R

This Writ Petition is filed seeking a direction to the first respondent to pass orders on the appeal filed by him dated 09.05.2022, by fixing compensation for 91 coconut trees standing in the subject property which was acquired for extension of National Highways.

2. Heard the arguments of Mr.G.Justin, learned counsel for the petitioner, Mrs.K.Malathi, learned Additional Government Pleader appearing for the respondents 1, 2 and 4 and Mr.Su.Srinivasan, learned Standing Counsel appearing for the third respondent.

3. According to the petitioner, 8,625 sq. mts of property situated in S.Nos.764/4B, 765/6B and 767/1B in Thovalai Village, Thovalai Taluk,

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Kanyakumari District was acquired for laying NH47B bypass road. The competent authority passed an award on 03.09.2014 in Award No.5 of 2014. Subsequently, a modified award was passed on 16.05.2015 by the second respondent fixing the compensation amount payable to the petitioner in respect of the acquired extent of land. According to the petitioner, the competent authority fixed a very low compensation for the land as well as the trees. It is also stated that the competent authority did not fix the compensation for the trees by getting valuation report from Horticulture Department, 4th respondent herein and therefore, the amount of Rs.4,500/- per tree fixed by the competent authority is very low. Not satisfied with the compensation amount fixed by the competent authority as far as trees are concerned, the petitioner submitted an appeal dated 09.05.2022 under Section 3G(5) of "the National Highways Act, 1956" (hereinafter referred to as "the said Act") before the first respondent. The same was returned with a direction to resubmit the appeal with the copies of the award. Therefore, the appeal was resubmitted by the petitioner with the copies of the award on 15.07.2022. Thereafter, the first respondent has not considered the same and passed any orders. Aggrieved by the same, the petitioner has come before this Court.

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4. The learned counsel appearing for the petitioner would submit that the amount of Rs.4,500/- fixed by the second respondent in respect of the coconut trees are very much on lower side and therefore, it requires enhancement. He has also submitted that in respect of the lands acquired for construction of railway project in the same village, as per the inputs given by the Horticulture department, the compensation amount was fixed at Rs.24,500/-. Therefore, there cannot be discrimination against the petitioner. He placed reliance on an order passed by the District Collector dated 12.08.2021 in this regard.

5. The order dated 12.08.2021, relied on by the petitioner will not help him as the same was in respect of acquisition that had taken place in the year 2020. Hence, the valuation adopted in the said order cannot be a basis for fixing the value in respect of the present case where order was passed in the year 2014 itself. Further, the order of the District Collector dated 12.08.2021 was passed based on private negotiation. At this stage, this Court is not inclined to go into the merits of the matter. The main grievance of the petitioner appears to be non-consideration of representation/appeal submitted by him dated 09.05.2022 under Section

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3G (5) of the said Act. In case, the land owners are not satisfied with the compensation amount fixed by the competent authority, it is open to them to seek arbitration under Section 3G (5) of the said Act. In the case on hand, the petitioner submitted a representation/appeal before the first respondent as early as on 15.07.2022 along with the copy of the award and the first respondent has not considered the same in the light of Section 3G (5) of the said Act. The modified award was passed by the second respondent on 16.05.2015. The petitioner filed application before the first respondent under Section 3G (5) of the said Act on 09.05.2022. Therefore, there is a delay of more than 7 years on the part of the petitioner in filing the application under Section 3G (5) of said Act. From the documents available in the typed set of papers, it is not clear when the copy of the modified award was served on the petitioner.

6. In such circumstances, without expressing any opinion on the merits of the matter, the first respondent is directed to consider the application submitted by the petitioner dated 09.05.2022 and dispose of the same in accordance with law as expeditiously as possible. In case, the first respondent choose to initiate arbitrary proceedings, the third respondent is entitled to raise all the defence in the arbitral proceedings

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including the delay and laches on the part of the petitioner in seeking enhancement.

7. With these directions, this Writ Petition stands disposed of. There shall be no order as to costs.

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Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No

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