

M.Packrisamy Vs. Arbitrator for the Land Acquisition for N.H.67

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Court : Chennai

Decided On : Dec-12-2013

Judge : The Honourable Mr. Justice M.Venugopal

Appellant : M.Packrisamy

Respondent : Arbitrator for the Land Acquisition for N.H.67

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED : 12.12.2013
CORAM THE HONOURABLE Mr.JUSTICE M.

VENUGOPAL W.P.No.28584 of 2012 M.Packrisamy ..Petitioner Vs 1) The Arbitrator/The District Collector, Land Acquisition for N.H.67, Tiruvarur District, Tiruvarur.

2) The Competent Authority, Special District Revenue Officer (L.A.) National Highways-67, No.12, Thamizhnagar, Vilamal, Tiruvarur, Tiruvarur District.

3) The Deputy Tahsildar, (Head QuarteRs.Nidamangalam Taluk, Tiruvarur District..Respondents PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a writ of Mandamus, directing the FiRs.Respondent to determine the compensation as per the market value of the lands acquired and to determine the Additional Compensation sought as per the Application dated 23.08.2012 in accordance with the provisions of the National Highways Act, 1956.

For Petitioner : M/s.M.Jayapalrajan For Respondents : Mr.S.Navaneethan,
Additional Govt.

Pleader

ORDER

The Petitioner has filed the present Writ of Mandamus praying for issuance of an order by this Court in directing the fiRs.Respondent to determine the compensation as per the market value of the lands acquired and to determine the Additional Compensation sought as per the Application dated 23.08.2012 in accordance with the provisions of the National Highways Act,1956.

The Writ Facts: 2.

The Petitioner is an employee of Southern Railways and now serving at Tambaram.

He owned five acres of Nanja lands in his native village, Sithamalli Melpathi in Nidamangalam Taluk, Tiruvarur District.

The said lands are lying in the river bed of the Vennar and gets irrigation from the said river.

Further, he purchased the said agricultural lands from one Meenakshi on 09.02.1977 through registered document No.110 of 1997 at S.R.O.Nidamangalam.

He also obtained a patta in respect of S.No.4/2, viz.

No.338 and S.No.8/1 viz.

No.220 and he was in continuous possession and enjoyment of the lands till the date of filing of the Writ Petition.

3.It is the stand of the Petitioner is that National Highways Authority of India proposed to lay a Bye-pass Road alternative to an already existed National Highways Road No.67, between Nagapatinam and Thanjavur through their agricultural lands at revenue village of Sithamalli Melpatti and acquired 47,812

sq.meter in their village.

The said acquisition was meant for extension and laying of four lane road which delink the Nidamangalam Taluk.

4.

A notification was issued in respect of the said acquisition under Section 3 (A).of the National Highways Act,1956 on 14.05.2010 and the same was published in the Indian Express and Dinathanthi on 13.07.2010.

An Enquiry was conducted under Section 3C(1).The declaration of acquisition of lands in terms of Section 3D(1) was published on 08.11.2010.

The amount of compensation of these acquired lands under Section 3 G(3) were published on 09.12.2010 in the dailies, viz.

Indian Express and Dinathanthi.

5.As per the order of the Second Respondent, the petitioner's Nanja lands were classified as Manavari lands and these lands were acquired under Section 3D(1) of National Highways Act, 1956 and in fact, the Government acquired 4130 sq.

Metre of his Nanja lands; 28 coconut trees; 300 feet bore well fitted with submersible motor; concrete building with an extent of 400 sq.ft., small shed for the use of E.B.Connection small building for storage purpose; water tub built with cement, a Well in depth of 40 feet built with concrete substance and a bore Well in depth of 110 feet erected inside the Well.

6.It comes to be known that the petitioner was awarded a compensation at the rate of Rs.21.04 per sq.

mtr.

(Rs.841.60 per cent) for his acquired lands and totalling the amount of Rs.86,895.20, in respect of coconut trees Rs.42,400.00 was awarded and in respect of otherRs.a sum of Rs.75,850.00 was awarded.

In all, a total sum of compensation of Rs.2,25,660.00 was awarded to the petitioner.

7.

As a matter of fact, the petitioner received the compensation amount of Rs.2,25,660/- on 03.02.2012 with protest.

He has subsequently received a notice dated 23.02.2012 from the Second Respondent on 17.03.2012 under Section 3 E(1) of the National Highways Act, 1956 in and by which, he was directed to hand over the possession of the acquired lands and buildings and trees, etc., to the concerned Authorities within 60 days from the date of receipt of the notice, failing which, he was further informed that eviction proceedings would be taken under Section 3E(2) of the National Highways Act, 1956.

8.

It transpires that the petitioner not being satisfied with the amount of compensation at Rs.2,25,660/- awarded by the Competent Authority, he preferred an 'Appeal', dated 23.08.2012 before the FiRs.Respondent/Arbitrator/the District Collector, claiming a total compensation of Rs.14,20,000/-.

The Petitioner's Contentions: ` 9.The Learned Counsel for the Petitioner submits that his appeal No.17313/2012/ C /1 filed by the petitioner, the enquiry was conducted and completed on 04.02.2013 by the Second Respondent/Competent Authority (Special District Revenue Officer (L.A.).Tiruvarur District and now final orders are to be passed by the fiRs.respondent/Arbitrator/the District Collector, Tiruvarur District.

10.In response, the Learned Additional Government Pleader submits that as per ingredients of Section 3 G(7) of National Highways Act, 1956, the FiRs.Respondent/Arbitrator/the District Collector, Tiruvarur, after hearing the parties and taking note of the counter and other materials on record, is to pass necessary orders and in the instant case, the Second Respondent had conducted and completed the enquiry on 04.02.2013 and the orders are only to be passed

and at this stage, the matter is pending as on date.

Conclusion: 11. On a careful consideration of respective contentions and this Court taking note of very vital fact that the second respondent had conducted and completed the enquiry on 04.02.2013 (based on the appeal dated 23.08.2012 filed by the petitioner) and in view of the fact that only orders are to be passed, this Court on the basis of Equity, Fair play, Good conscience and even as a matter of prudence, directs the FiRs. Respondent/Arbitrator/the District Collector, Tiruvarur District, to pass a reasoned speaking order in a Just, Fair and Dispassionate manner within a period of six weeks from the date of receipt of a copy of this order.

12. With the aforesaid observations, this Writ Petition stands disposed of.

No costs.

12.12.2013 kal Index : Yes/No Internet : Yes/No To 1) The Arbitrator/The District Collector, Land Acquisition for N.H.67, Tiruvarur District, Tiruvarur.

2) The Competent Authority, Special District Revenue Officer (L.A.) National Highways-67, No.12, Thamizhnagar, Vilamal, Tiruvarur, Tiruvarur District.

3) The Deputy Tahsildar, (Head QuarteRs. Nidamangalam Taluk, Tiruvarur District.

M.VENUGOPAL, J. kal W.P.NO.28584 OF2012 12.12.2013

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