

(2014) 06 MAD CK 0035

In the Madras High Court

Case No : C.M.A. No. 1776 of 2014 and M.P. No. 1 of 2014

Special District Revenue Officer (Land Acquisition)

APPELLANT

Vs

S. Gnanadeepam

RESPONDENT

Date of Decision : 24-06-2014

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 34
National Highways Act, 1956 — Section 3A(1), 3D(1)

Citation : (2014) 8 MLJ 750

Hon'ble Judges : S. Manikumar, J

Bench : Single Bench

Advocate : M. Jayasree, Government Advocate, Advocates for the Appellant

Judgement

S. Manikumar, J.—On 21.03.2014, when CMA.SR. No. 67031 of 2008 was listed, along with M.P. No. 1 of 2014, filed for condoning the delay of 1470 days in representing the appeal, the said petition was ordered, on condition that the appellant pays a sum of Rs. 1,000/- to the Tamil Nadu Advocate's Clerks Association, High Court, Chennai, within a period of ten days, as costs. Costs have already been paid on 28.03.2014. To prove the same, Cost Memo has been filed by the petitioner. Material on record discloses that lands have been acquired for formation of National Highways and Notification under Section 3A(1) of the National Highways Act, 1956, has been submitted to the Government of India for approval and publication in the Gazette of India. The same has been approved by the Central Government in S.O. 820(E), dated 23.08.2001, for acquisition of lands to an extent of 1.28.5 Hectares for laying a bypass road of National Highways-5 in Thiruvallur District, in Survey No. 799/2 etc., of Madavaram Village, Ambattur Taluk. Acquisition proceedings have been completed.

2. Lands belonging to the respondent herein, namely S. Gnanadeepam, residing at 42, Paper Mills Road, Perambur, Chennai, in S. No. 797/1B (New S. No. 797/1B1B) has been acquired and that value has been fixed at Rs. 1,27,938/- per cent.

3. Not satisfied with the compensation fixed by the Competent Authority and Special District Revenue Officer (Land Acquisition), National Highways, Kancheepuram, the landowner has filed a petition on 05.02.2003, for arbitration, to be done by the District Collector of Thiruvallur/Arbitrator under the National Highways Act, in respect of her land, measuring 26 cents, comprised in Survey No. 800/1A (New S. No. 800/1A2) situated at 50, Madhavaram Village and Municipality Limit, Ambathur Taluk, Thiruvallur District, which was also acquired by the National Highways Authority, for the purpose of improvement of National Highway Road, by invoking Sections 3A(1) and 3D(1) of the National Highways Act, 1956, and based on the Sale Deed executed, within one year from the date of publication issued under Section 3A(1) of the Act, and by fixing the value of 26 cents as Rs. 78,60,651/- a Cheque bearing Registration No. 796618, dated 14.01.2003, for the abovesaid amount, was also issued.

4. The value of land acquired to the extent of one cent in S. No. 800/1A (New No. 800/1A2) has been fixed as Rs. 3,02,332/-. In the application for reference to the District Collector, Tiruvallur/Arbitrator, the respondent has contended that land in S. No. 797/1B (New No. 797/1B1B), out of 33 cents, is just adjacent to her own land in S. No. 800/1A (New No. 800/1A2) and also facing inner ring road leading to Ennore and therefore, the value of one cent of land in S. No. 797/1B (New No. 797/1B1B) ought to have been fixed as Rs. 3,02,332/- instead of Rs. 1,27,938/-. For the abovesaid reasons, the Special District Revenue Officer (Land Acquisition), National Highways, as a Competent Authority, ought to have fixed a reasonable value for the adjacent land in S. No. 797/1B (New No. 797/1B1B) and therefore, she has prayed for enhancement. On adjudication, vide proceedings R.C. No. 13101/2004/F3, dated 09.06.2005, the Arbitrator and the District Collector, Tiruvallur District found that there was no reason to interfere with the order of the Special District Revenue Officer (Land Acquisition), National Highways, Thiruvallur. While doing so, the Arbitrator (National Highways) & Collector, Thiruvallur District) has fixed the land value of Rs. 2328.15 per Sq.mtr, whereas, the land owner has requested for fixing the rate as 5285 per sq.mtr. Being aggrieved by the same, the respondents have filed Arb.O.P. No. 186 of 2005 before the learned Principal District Judge, Chengalpattu District, under Section 34 of the Arbitration and Conciliation Act, 1996, to set aside the award passed by the District Collector, Thiruvallur District/Arbitrator under the National Highways Act, in proceeding RC. No. 13101/2004/F3, dated 09.06.2005.

5. Before the Court below, the respondent has marked Ex. P. 1 - 13.11.2003 - Proceedings of the 1st respondent in R.C. No. 7/2001A/NH-5/TVR, Ex. P2-09.06.2005-Proceedings of the 2nd respondent in RC No. 13101/2004/F3, Ex. P. 3 - Sketch, Ex. P. 4 - 18.09.2002 - Copy of Sale Deed executed by one Shanmugadurai in favour of the respondent and Ex. P. 5 - 18.09.2002 - Copy of Sale Deed executed by one Shanmugadurai in favour of the respondent.

6. On evaluation of pleadings and evidence, the Court below has found that the date of Sale Deeds produced by the respondent/landlady, S. Gananadeepam,

supported the contentions. There was no representation on behalf of the Special District Revenue Officer (Land Acquisition), National Highways, Kanchipuram and the Competent Authority under the Act.

7. By observing that the respondent has adduced acceptable evidence to prove that lands in S. No. 797/1B (New No. 797/1B1B) is adjacent to other lands in S. No. 800/1A (New No. 800/1A2) and also facing the inner ring road leading to Ennore and the properties have been purchased on the same date i.e., 18.09.2002, for the value of Rs. 21,800/-, within one year from the date of publication under Section 3A(1) of the National Highways Act, 1956, the learned Principal District Judge, Thiruvallur, vide order dated 28.04.2008 in Arb.O.P. No. 42 of 2006, accepted the contentions of the respondent, by setting aside the proceeding of the Arbitrator and District Collector, Thiruvallur, in RC. No. 13101/2004/F3, dated 09.06.2005 and consequently, fixed the value of the land at Rs. 5,285/- per sq.mtr, and accordingly, arrived at the compensation of Rs. 2,64,250/- and as per the provisions of the National Highways Act, 10% has determined the compensation as Rs. 26,425/-. Thus, the learned Principal District Judge, Tiruvallur, has awarded compensation of Rs. 2,90,675/- to be paid by the Special District Revenue Officer (Land Acquisition), National Highways and the Competent Authority under the Act and further directed the said Authority, to deposit the amount within a period of two months from the date of receipt of a copy of this order. Though the Arbitral Appeal in Arn.O.P. No. 42 of 2006 has been ordered, as early as on 28.04.2008 with a direction to deposit the amount, as stated supra, for the past six years, the amount has not been deposited. There is a failure to adhere to the directions issued by the learned Principal District Judge, Tiruvallur. Subsequently, it has been transferred and renumbered as Arb.O.P. No. 186 of 2005 on the file of the learned Principal District Judge, Chengalpattu.

8. Though the Special District Revenue Officer (Land Acquisition) National Highways, Kancheepuram and the District Collector, Thiruvallur District/Arbitrator has challenged the award dated 28.04.2008 in Arb.O.P. No. 42 of 2006 as erroneous and further contended that the date of Sale Deeds relied on by the landowner for fixation of compensation are not very pertinent, and the dates are just prior to the period of acquisition of subject lands, and a further contention has been made that the Court below has substituted its own reasons and thereby committed jurisdictional error in passing the order, by fixing the compensation of Rs. 5285/- per sq.mtr and consequently, awarded compensation of Rs. 2,64,250/-, this Court is not inclined to accept the same.

9. The Court below has properly adverted to the evidence adduced by the respondent with reference to the factors to be taken into consideration in arriving at the compensation to be paid to the land owners and there is no jurisdictional error.

10. On the contra, learned Principal District Judge, Tiruvallur District has passed a well considered order, and this Court is inclined to sustain the order made in

Arb.O.P. No. 42 of 2006 under Section 34 of the Arbitration and Conciliation Act, 1996. On an earlier occasion, this Court has considered the issue as to whether the land owners or the persons interested are entitled to interest on the amount determined by the Competent Authority, when there is a delay on the part of the competent authority, in depositing the amount in the Court. After considering the provisions, it was held that the land owners are entitled to interest on the quantum of compensation, if it is not paid to the land owners or the persons interested. Following the view taken on an earlier occasion and the unnecessary delay caused in the present case in not depositing the amount or making any payment, this Court is inclined to award interest on Rs. 2,90,675/- fixed by the learned Principal District Judge, Tiruvallur, in Arb.O.P. No. 42 of 2006, dated 28.04.2008. While dismissing the appeal, the Special District Revenue Officer, National Highways, Kancheepuram, is directed to deposit a sum of Rs. 2,90,675/- with interest @9% per annum on the said amount from the date of taking possession of the land. It shall be disbursed by the Special Deputy Collector, Highways, Arbitrator, National Highways, within a period of one month from the date of receipt of a copy of this order. If the abovesaid amount is not disbursed within the stipulated time, it is open to the respondent to seek for appropriate remedy under the Contempt of Courts Act, 1971.

If there is any delay on the part of the officials, in protracting payment, the State Government is directed to take appropriate action for the loss caused. Accordingly, this Civil Miscellaneous Appeal is disposed of. Consequently, connected Miscellaneous Petition is closed.