

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.02.2016

Coram :

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P.No.37353 of 2015

R. Murugesan

[PETITIONER]

Vs.

1. The District Collector,
Tiruvallur District, Tiruvallur.

2. The Special Deputy Collector (Land Acquisition)
TNUDB, III Work Scheme
15 Main Road, First Floor
M.G.Nagar, Poonamalle
Thiruvallur District

3. R. Kumaran

[RESPONDENTS]

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus to direct the 2nd respondent to consider the petitioner's representation dated 02.06.2015 and consequently direct the 2nd respondent to disburse the award/compensation amount with interest to the petitioner for the property having acquired comprised in Survey No.236/9 (part) measuring an extent of 182 sq. meters situate at Thirunindravur Village Poonamallee Taluk Tiruvallur District.

For Petitioner : Mr.R.Munuswamy

For Respondent : Mr.R.Rajeswaran - R1 & R2
Spl.Govt.Pleader

Mr.R.Udhayakumar - R3

O R D E R

Heard Mr.R.Munuswamy, learned counsel for the petitioner, Mr.R.Rajeswaran, learned Special Government Pleader, appearing for the respondents 1 & 2 and Mr.R.Udhayakumar, learned Counsel appearing for the third respondent and with their consent, the Writ Petition is taken up for final disposal.

2.The petitioner and the third respondent are brothers/sons of late Ramalinga Chettiar. The petitioner seeks for a direction upon the second respondent, who is the Special Deputy Collector (Land Acquisition), to consider his representation dated 02.06.2015 and to disburse the Award/compensation amount with interest to the petitioner for the property which was acquired, comprised in Survey No.236/9 (part), measuring an extent of 182 sq.meters/

3.It is not in dispute that the said land was acquired for a public purpose, viz. for widening of the Chennai - Thiruvallur Road. The dispute has arisen on account of the fact that the third respondent has filed a Suit in C.S.No.550 of 2010, along with six others. It is submitted by the learned counsel for the petitioner that except by the Plaintiffs 1, 4 & 5, namely R.Kumaran (3rd respondent herein), Shenbagavalli @ Valliammal and D.Padmini, the other plaintiffs namely R.Nagarajan, R.Shanmugam, G.Rahini & S.Vimala, have entered into a settlement with the petitioner and executed Release Deed. Further, it is submitted that the property which is the subject matter of land acquisition proceedings was not a Plaint Schedule property. However, it is seen that the plaintiff/third respondent has filed an Application for amending the Plaint and such Application is pending before the authority.

4.In the background of these facts, it has to be seen as to whether the amount of compensation already arrived at by the second respondent should lie with the second respondent. The only answer to this question would emphatically be 'No', since the land owners are entitled to receive the entire compensation, but on account of on going Civil dispute, this Court propose to pass the following order in the interest of the justice by protecting the interest of all parties.

5.It is stated that the other brothers and sisters of the petitioner namely R.Nagarajan, R.Shanmugam, G.Rahini and S.Vimala, have executed Release Deed in favour of the petitioners. If that be so, those documents shall also be placed before the second respondent, so that the petitioner will be able to realise the entire share which has been allotted to him. So this leave us with three persons viz. the third respondent and his two sisters Shenbagavalli @ Valliammal & D.Padmini and they are also entitled to take each one share in the compensation awarded. At this juncture, it is submitted by the learned counsel for the third respondent that though some of their brothers and sisters have executed the Release Deed in favour of the petitioner, it is stated that those said documents were executed when the order of ad interim injunction was in force. However, it has to be pointed out that the persons who executed Release Deed in favour of the petitioner were the plaintiffs in the Civil Suit, and inspite of the order of

injunction obtained by them they chose to execute the Release deed. Hence, they cannot now take a stand contrary to their own conduct in executing Release Deed.

6. Accordingly, there will be a direction to the legal heirs of late Ramalinga Chettiyar, to appear before the second respondent for executing necessary undertaking and withdraw the compensation awarded. It is made clear that the withdrawal of the compensation by the parties will be without prejudice to their respective rights in the pending Civil Suit or in the Application filed for amendment of the Plaint. Parallely, the legal heirs of the original land owner namely the petitioner, third respondent and their other brothers and sisters would be entitled to pursue their Applications for claiming enhanced compensation. The above direction shall be complied with by the second respondent within a period of two weeks from the date on which all the legal heirs of late Ramalinga Chettiyar appearing before the second respondent. It is also made clear that the withdrawal of compensation permitted by this Court would also be without prejudice to the contentions raised by the third respondent in this regard.

The Writ Petition is disposed of accordingly. No costs.
rpa

s/d-
Assistant Registrar (CO)

True Copy

Sub-Assistant Registrar

To

- 1 The District Collector
Tiruvallur District, Tiruvallur.
- 2 The Special Deputy Collector (Land Acquisition)
TNUDB, III Work Scheme
15 Main Road, First Floor
M.G.Nagar, Poonamalle
Thiruvallur District

+ 1 cc to Govt. Pleader SR 11069
+ 1 cc to Mr. R. Udhayakumar, Advocate Sr 11545 (18/3/16)
+ 1 cc to Mr. R. Munuswamy, Advocate Sr 11104 (12/4/16)

skv (co)
prk1/3

W.P.No.37353 of 2015