



Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to consider the representation dated 22.08.2016 accordingly to release the land survey NO. 226/4A- 19 cents Karuppanasamy Samy Temple from the lapsed acquisition proceedings vide the Land Acquisition Act 1894.

WEB COPY

For Petitioner : Mr.V.Vinayagamoorthy
For Respondents : Mr.T.S.Mohammed Mohideen for R2
Addl. Government Pleader
Mr.M.Govindan for R1,R3 to R6
Spl. Government Pleader
Mr.S.M.S.Johnny Basha for R7
Mr.R.Ramasamy for R8

ORDER

(Order of the Court was made by S.NAGAMUTHU, J.)

This writ petition relates to a dispute with regard to a property comprised in S.No.226/4A measuring 19 cents at Madakulam Village, Madurai District. According to the petitioner, this property was originally owned by one Mr.Rakkappa Konar. During the life time of Rakkappa Konar, the said property was acquired by the Government for laying a public road. For the acquisition made in the year 1960, Mr.Rakkappa Konar filed a writ petition in W.P.No.522/1961 before the Principal Bench of this Court. By order dated 11.12.1962, the said writ petition was dismissed and thus, the acquisition has become final. According to the petitioner, though the acquisition became final, possession was never taken by the Government and thus, according to him, as of now, as per the Land Acquisition Rehabilitation and Resettlement Act of 2013, he is entitled for resuming the possession of the property. With this contention, the petitioner has come up with this writ petition.

2. We have heard the learned counsel for the petitioner, the learned Special and Additional Government Pleaders for the respondents 1 to 7 and the learned counsel for the 8th respondent.

3. It is submitted by the learned Special Government Pleader for the official respondents that it is not true to say that possession was not taken by the Government in pursuance of the acquisition proceedings. According to them, possession was taken around the year 1960 itself. Neither the petitioner nor his forefathers were in possession of the property, after the acquisition is over.

4. The learned counsel for the 8th respondent would submit that he is one of the grandsons of Rakkappa Konar. He would submit that the petitioner has forged a Will, as though the same was executed by Rakkappa Konar in his favour as well as in favour of the 8th respondent. According to the 8th respondent, Mr.Rakkappa Konar never executed a Will. Thus, according to the 8th

respondent, the petitioner cannot claim any exclusive right over the property.

5. In our considered view, whether the Will in question is a forged one or a genuine Will and whether it has come into force and also whether under the Will anybody can claim, title or possession in view of the above acquisition proceedings, are all matters to be gone into only by the competent civil Court on evidence. Thus, we cannot resolve the issues in a writ petition under Article 226 of the Constitution of India, without proof of rival claims or evidence and any such course will be possible only before the civil Court. Therefore, we are not inclined to grant the relief sought for by the petitioner. Accordingly, the writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions in WMP Nos.12372/2016 and 11853/2016 are closed.

Sd/
Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar.

To

- 1 THE DISTRICT COLLECTOR, MADURAI DISTRICT MADURAI COLLECTORATE
MADURAI-625 020.
 - 2 THE COMMISSIONER, MADURAI CORPORATION ARINGER ANNA MALIGAI
MADURAI -625 020.
 - 3 THE DIVISIONAL ENGINEER, NATIONAL HIGHWAYS MADURAI -625 020.
 - 4 THASILDAR, TIRUPARANKUNDRAM TALUK OFFICE THIRU NAGAR
MADURAI.
 - 5 THE EXECUTIVE ENGINEER, (CONSTRUCTION & MAINTENANCE) NATIONAL
HIGHWAYS MADURAI -625 002.
 - 6 THE ASSISTANT COMMISSIONER
HR & CE ENDOWMENT BOARD K.K.NAGAR MADURAI
 - 7 THE ASSISTANT ENGINEER,
TAMIL NADU ELECTRICITY BOARD,
SOUTH/ ARASARADI MADURAI -625 016.
- +1CC to M/S.V.Vinayagamorthy, Advocate, SR.No. 67198
+1CC to M/S.T.S.Mohamed Mohideen, Advocate, SR.No. 67409
+1CC to M/S. S.Manoharan, Advocate, SR.No. 67270

ORDER MADE IN
W.P(MD) No.16202 of 2016
and WMP Nos.12372/2016 and 11853/2016
09.11.2016