



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.10.2016

CORAM:

THE HON'BLE DR.JUSTICE S.VIMALA

W.P(MD) No.19788 of 2016

V.Valanadu

... Petitioner

-vs-

1. The Recognized Officer - cum -
Special District Revenue Officer,
(Land Acquisition - National High Ways),
Collectorate, Ramanathapuram.

2. The Tahsildar,
(Wing-1, National Highways 49),
(Land Acquisition), Melkarai,
Manamadurai, Sivagangai District.

3. A.Kannappan @ Veeranan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus to call for the records in Na.Ka.The.Ne.49/A-1/82/2015 dated 05.10.2016 on the file of the 2nd respondent and quash the same as illegal, incompetent and against the provisions of Section 3-H (4) of the National Highways Act, 1956 (Act 48/1956) and to direct the respondents 1 and 2 to refer the dispute to the Principal District Court, Sivagangai to resolve the dispute of apportionment of award amount in the light of the provisions of Section 3-H (4) of the Act and in consequence to direct the respondents to deposit the entire award amount on the file of the concerned District Court, Sivagangai.

For Petitioner	:	Mr.S.Ramesh
		For Mr.V.Vijaya Sethupathy
For R1 & R2	:	Mr.Ayiram K.Selvakumar
		Addl. Govt. Pleader

O R D E R

This petition has been filed, seeking to quash the impugned order of the 2nd respondent dated 05.10.2016 passed in Na.Ka.The.Ne.49/A-1/82/2015 as illegal and incompetent, by which, the 2nd respondent straightaway allowed the 4/5th share amount to be divided between the 3rd respondent instead of depositing the same before the competent Civil Court. The petitioner also seeks to direct the respondents 1 and 2 to refer the dispute to the



Principal District Court, Sivagangai so as to resolve the dispute of apportionment of award amount in the light of the provisions of Section 3-H (4) of the Act and to deposit the entire award amount on the file of the concerned District Court, Sivagangai.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 & 2.

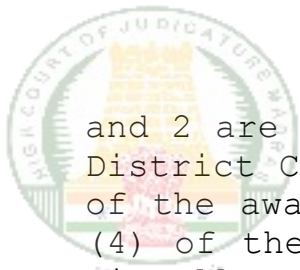
3. The case of the petitioner is that the ancestral properties of the petitioner's deceased wife have been acquired by the respondents 1 and 2 under National Highways Scheme vide notice dated 07.11.2014 in Na.Ka.No.NH-49/Unit-V/120/2011; that one of the sisters-in-law of the petitioner, namely, Radha / daughter of the 3rd respondent filed a suit in O.S.No.56 of 2007 on the file of Principal District Court, Sivagangai for the relief of partition of 1/5th of the suit properties and separate possession and the same is pending and she had included majority of the properties mentioned in the notification, in the suit schedule for partition; when the petitioner and his sister-in-law came to know about the enquiry proceedings of the 2nd respondent, they submitted objection with supportive documents, particularly mentioning about the pendency of the suit in O.S.No.56 of 2007; that the 2nd respondent, without considering the objection of the petitioner and his sister-in-law, simply called the 3rd respondent and passed the impugned order by disbursing 4/5th share in favour of the 3rd respondent, which is under challenge in this writ petition. In addition, the petitioner seeks direction to the respondents 1 & 2 to refer the matter to the concerned Civil Court so as to resolve the dispute of apportionment of award amount in the light of the provisions of Section 3-H (4) of the Act and to deposit the entire award amount before the concerned Civil Court at Sivagangai.

4. For the sake of easy reference, Section 3-H(4) of the National Highways Act, 1956 is extracted as under:

"3-H(4). If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the Principal Civil Court of Original Jurisdiction within the limits of whose jurisdiction the land is situated."

5. From the above provisions, it is clear that the appropriate authority for apportionment of the award amount is only the Civil Court and therefore, the impugned order of the 2nd respondent dated 05.10.2016 is liable to be set aside.

6. Accordingly, this writ petition is allowed and the impugned order dated 05.10.2016 passed by the 2nd respondent in Na.Ka.The.Ne.49/A-1/82/2015 is hereby set aside. The respondents 1



and 2 are directed to refer the dispute to the concerned Principal District Court, Sivagangai for deciding the issue of apportionment of the award amount in the light of the provisions of Section 3-H (4) of the Act, referred supra. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar.

To:

1. The Recognized Officer - cum -
Special District Revenue Officer,
(Land Acquisition - National High Ways),
Collectorate, Ramanathapuram.
2. The Tahsildar,
(Wing-1, National Highways 49),
(Land Acquisition), Melkarai,
Manamadurai, Sivagangai District.

+2CC to M/S.V.Vijaya Sethupathy, Advocate, SR.No. 60716

W.P(MD) No.19788 of 2016
14.10.2016

ar
AM/GSV.PM/SAR-III/17.10.2016/3P/5C(IT)