



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Tuesday, the Tenth day of January Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice R.SUBBIAH
and

The Hon`ble Mrs.Justice J.NISHA BANU

CMP(MD) No.10192 of 2016
IN
CMA(MD) No.1734 of 2013

1 SANTHI,
2 NAGALAKSHMI,

... PETITIONERS/IMPLEAD AS A
NECESSARY RESPONDENTS IN THE APPEAL

Vs

1 THE UNION OF INDIA ,
MINISTRY OF SHIPPING, ROAD TRANSPORT AND
NATIONAL HIGH WAY, NEW DELHI THROUGH ITS,
THE PROJECT DIRECTOR, NATIONAL HIGH WAY
AUTHORITY OF INDIA
NATIONAL HIGHWAYS NO.7KM 88 TO
128.000 KOVILPATTI TK. TUTICORIN DIST, TN, HAVING THEIR
OFFICE OF THE PROJECT DIRECTOR NATIONAL HIGHWAYS
AUTHORITY OF INDIA, 83/1 SBI 1ST COLONY EXTN.
BYE-PASS ROAD, MADURAI-625016. ...APPELLANT/RESPONDENT

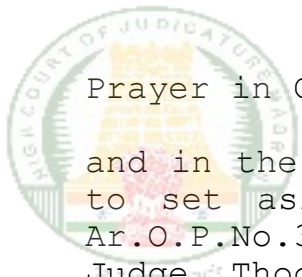
2 J.AYYANAR,
3 K.GANDHI,
4 K.AVUDAIAPPAN,
5 S.MUTHUKRISHNAN,
6 S.MARIAPPAN,
7 A.KAANDHAIYA,

8 THE ARBITRATOR CUM DISTRICT
COLLECTOR THOOTHUKUDI DISTRICT.

9 THE COMPETENT AUTHORITY
(LAND ACQUISITION), CUM DISTRICT REVENUE OFFICER,
NATIONAL HIGHWAYS-7, THOOTHUKUDI DISTRICT.

... RESPONDENTS/RESPONDENTS

Petition praying that in the circumstances stated therein
and in the affidavit filed therewith the High Court will be pleased
to implead the Petitioners as necessary parties/Respondents and rank
them as Respondents 9 to 10 in C.M.A (MD) No.1734 of 2013 and thus
render justice.



Prayer in CMA(MD). 1734/ 2013 :

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to set aside the Judgement and Decree dated 31.10.2012 made in Ar.O.P.No.339/2009 on the file of the Learned Principal District Judge, Thoothukudi.

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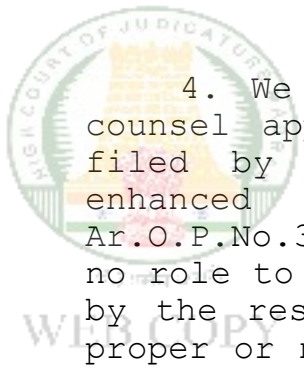
ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.K.K.senthilvelan for M/S.RAMAKRISHNADASS, Advocate for the petitioner and of Mr.N.Sankar Ganesh, Advocate for R1 to R6 and R7 & R8 not appeared in person or by Advocate, the court made the following order:-

[Order of the Court was made by **R.SUBBIAH, J.**]

This petition has been filed seeking to implead the petitioners as necessary parties/respondents and rank them as respondents 9 to 10 in C.M.A.(MD).No.1734 of 2013.

2.The Civil Miscellaneous Appeal has been filed by the Ministry of Shipping, Road, Transport and National Highways, New Delhi, as against the judgment and decree dated 31.10.2012, made in Ar.O.P.No.339 of 2009, in which the compensation amount was enhanced at the rate of 200 per sq. mt. for the lands acquired from the respondents 2 to 7 with 9% interest. In the said appeal, now the present impleading petition has been filed by the sisters of the respondents 2 to 4 stating that in Ar.O.P.No.339 of 2009, the respondents 2 to 4 has purposefully omitted to add the petitioners herein / proposed respondents, though they are also joined owners of the lands which acquired by the appellant.

3. The respondents 1 to 3 vehemently opposed to implead the petitioners herein stating that the respondents 2 to 4 are the joint proprietors and pattadhars of the agricultural land in Survey Nos.622-1, 624-6A and 623-1A1 situated in Kayathar Village, Kovilpatti Taluk, Tuticorin District. The properties are the joint family properties of the respondents 2 to 7. The said property was acquired on behalf of the first respondent / appellant. At the time of acquisition, the land value was fixed as Rs. 6.30 per sq. mt. Not being satisfied with the award, the Arbitration Original Petition in Ar.O.P.No.339 of 2009 has been filed by the respondents 1 to 6 on the file of the Principal District Judge, Thoothukudi. The learned Principal District Judge enhanced the compensation. Aggrieved over the same, the present appeal has been filed by the Government. In this appeal, the petitioners cannot be impleaded, as the subject matter of the appeal is only to decide as to whether the enhancement made by the District Judge is appropriate or not. If they have interest over the acquired property, they have to make the claim before the competent authority as stipulated U/s.3H(3) and (4) of the National Highways Act, 1956. Thus, they sought for dismissal of this petition.



4. We find some force in the submission made by the learned counsel appearing for the respondents 1 to 3. This is an appeal filed by the Government stating that the compensation amount enhanced by the Principal District Judge, Thoothukudi, in Ar.O.P.No.339 of 2009 is excessive. In the appeal, this Court has no role to decide the right of the parties. Therefore, as contended by the respondents 1 to 4, the proposed respondents are neither proper or necessary parties to adjudicate the issue involved in the appeal. If the petitioners have any grievance, they can approach the appropriate forum in accordance with law.

5. In the result, this miscellaneous petition is liable to be dismissed and accordingly dismissed.

sd/-
10/01/2017

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO
THE PRINCIPAL DISTRICT JUDGE, THOOTHUKUDI

+1cc to Mr.N.Shankar Ganesh, Advocate sR.No.2420
+1cc to Mr.N.S.Ramakrishna Dass, Advocate SR.NO.2078

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ORDER
IN
CMP (MD) No.10192 of 2016
IN
CMA (MD) No.1734 of 2013
Date :10/01/2017