

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2018

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.1380 of 2014
and
M.P.No.1 of 2014

1.S.Nanjappa (deceased)
2. Neelamma
3. Kavitha
(Appellants 2 and 3 substituted vide order
of this Court dated 23.01.2018 made in
CMP.No.1381 of 2018 in W.A.No.1380/14) ... Appellants

Vs.

1. The District Collector
Dharmapuri District,
Dharmapuri.
2. The Special Tahsildhar (LA),
Adi Dravidar Welfare, Krishnagiri.
3. A.Sivanna ... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letter Patent Act,
against the order dated 21.10.2008 made in W.P.No.5928 of 1999.

Prayer in WP.No.5928 of 1999: Petition filed under Article 226
of the Constitution of India praying for a Writ Mandamus to for
bear the respondents 1 and 2 from proceedings with the
acquisition of the Petitioner's land in survey No.72,
Kumaranpalli Village, Denkanikottai Taluk, Dharmapuri District
to an extent of 2.33 acres under the Tamil Nadu Act 31 of 1978.

For Appellants : Mr.M.V.Krishnan

For Respondents : Ms.A.Srijayanthi (R1 and R2)
Special Government Pleader
No appearance (R3)

J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

The deceased appellant filed a Writ Petition in W.P.No.5928 of 2009 for issuance of a Writ of Mandamus to forbear the respondents 1 and 2 herein from proceeding with the acquisition of his land in Survey No.72, Kumaranapalli Village, Denkanikottai Taluk, Dharmapuri District to an extent of 2.33 acres under the Tamil Nadu Act 31 of 1978.

2. Before the Writ Court, the Special Tahsildhar, Land Acquisition, Adi Dravidar Welfare, Krishnagiri filed a counter affidavit indicating that the proceeding for acquisition has already been done and after conducting enquiry award was passed. According to the second respondent, the compensation amount was deposited before the Subordinate Court, Hosur.

3. The learned Judge disposed of the Writ Petition in W.P.No.5928 of 2009 by granting liberty to the appellant to move the reference Court for withdrawal of the compensation after establishing his right over the land including the title. The said order is under challenge in this intra Court appeal.

4. We have heard the learned counsel for the appellant. We have also heard the learned Special Government Pleader appearing on behalf of the respondents 1 and 2.

5. The appellant initially wanted a Mandamus to be issued to restrain the respondents 1 and 2 from proceeding with the acquisition of his land in Survey No.72, Kumaranapalli Village, Denkanikottai Taluk, Dharmapuri District. The learned single Judge found that the land has already been acquired. It was only under such circumstances the learned single Judge granted liberty to the appellant to move the reference Court. It is the case of the deceased appellant that his title has already been declared by this Court by Judgment dated 14 July 1997 in S.A.No.154 of 1994 and as such he is entitled to compensation.

6. The information furnished by the Registry indicates that the L.A.O.P.No. 6 of 1999, has already been disposed of by the reference Court by award dated 16 August 2016. There is no question of directing the reference Court at this point of time to adjudicate the issue raised by the appellant on the strength of the decree in S.A.No.154 of 1994. It is always open to the appellants to challenge the award passed by the reference Court in case they are still aggrieved. The issue raised by the appellants cannot be decided in the proceedings arising out of the order passed in W.P.No.5928 of 1999. We are therefore of the view that the appellant must move the appellate Court

against the award passed in L.A.O.P.No.6 of 1999. We grant liberty to the appellant to move the appellate Court against the award in L.A.O.P.No.6 of 1999. In case any such appeal is filed, the Appellate Court shall take note of the initiation of the Writ Petition in W.P.No. 5928 of 1999 and the present appeal.

7. The intra Court appeal is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

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To

1. The District Collector
Dharmapuri District,
Dharmapuri.
2. The Special Tahsildhar (LA),
Adi Dravidar Welfare, Krishnagiri.

+1cc to Mr.M.V.Krishnan, Advocate SR.No.15514

W.A.No.1380 of 2014

SSD(CO)
GN(23/03/2018)

सत्यमेव जयते

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