

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.02.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

W.P.No.31870 of 2015

and

W.P.M.P.No.1 of 2015

Mr. M. Ranga Pillai

...Petitioner

Versus

1. The Competent Authority &
Special District Revenue Officer,
Special Tahsildhar (L-A),
National Highways - 205,
Periyakuppam,
Tiruvallur,
Tiruvallur District.

2. K. Bakthavachalam

3. Pachayammal

4. Govindammal

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the first respondent to withhold the compensation amount to the tune of Rs.32,93,367/- with accrued interest out of the total compensation to the sum of Rs.65,86,734/- arising in the Award bearing No.74/14 in R.C.28/2010/UNIT 4, dated 21.03.2014 passed by the first respondent in so far as the petitioner's half share is concerned by virtue of Sale Deed bearing Document No.3805/1986 dated 22.12.1986 until the title dispute relating to the said property is decided in the Second Appeal No.1420 of 1997 pending on the file of this Hon'ble Court.

For Petitioners : Mr. B. Kumarasamy

For Respondent -1 : Mr. Akhil Akbar Ali,
Government Advocate

Respondents - 2 & 3 : No Appearance

Respondent 4 : No Such Address

O R D E R

1. The controversy involved in this case can be briefly stated:

● That a certain Dessammal was entitled to few items of immovable properties, of which one was comprised in Survey No.134/8 of Kakkalur Village, Tiruvallur District. This property has an extent of 17 cents. On 01-06-1974,

Dessammal had executed a Will, wherein, she had bequeathed her properties in equal shares to her daughter Kamalammal and to her brother Chenchu Pillai.

- Accordingly, Chenchu Pillai became entitled to half of 17 cents in Survey No.134/8 and he sold it to the petitioner Vide Registered Sale deed dated 22.12.1986. Kamalammal, daughter of the Dessammal and the other legatee under latter's Will, has passed away whereinafter Kamalammal's husband Manar Pillai executed a sale deed in favour of the second respondent dated 12.03.2007. This sale deed executed by Mannar Pillai included the property that the petitioner had purchased on 22.12.1986 from Chenchu Pillai. This has resulted in the petitioner filing a Civil Suit in O.S.No.44 of 1987 before the Sub Court, Tiruvallur claiming partition, claiming the half share. The suit was laid inter alia against Kamalammal, her husband Manar Pillai and also petitioner's vendor Chenchu Pillai.
- The suit was dismissed on 20.07.1985 and challenging the said decree, the petitioner preferred A.S.No.3 of 1996 before Principal District Court, Chengalpattu and lost the same on 07.01.1997. The petitioner has thereafter preferred a Second Appeal before this Court and same is pending now in S.A.No.1420 of 1997. During the pendency of this Appeal on 12.03.2007, the aforesaid Kamalammal's husband Manar Pillai has sold the entire property in Survey No.134/8 to the second respondent herein.
- Be that as it may, the entire property in Survey No.134/8 was acquired under the provisions of National Highways Act, 1956, and an award dated 21.03.2014 too was passed. Under the said award, compensation payable to the owners of the land for the entire 17 cents in Survey No.134/8 was determined at Rs.65,86,734/- While Kamalammal would be entitled to half of this amount, as regards the remaining half, the title to the same is still yet to be decided, as the sum is now locked in S.A.No.1240 of 1997. Inasmuch as, there is a dispute in apportioning the half of the compensation amount, the petitioner Vide his representation dated 24.08.2015 required the Land Acquisition Authority, the first respondent herein to refer to the matter to the concerned Civil Court under Section 3G(5) of the National Highways Act, 1956. This was not done, and apprehending that half the compensation amount, pertaining to which the petitioner has raised a title dispute might be disbursed without waiting for the decision of this Court in S.A.No.1420 of 1997, the petitioner has approached this Court seeking issuance of a Writ of Mandamus for directing the first respondent either to withholding of compensation Rs.32,93,367/- that represents 50% of the compensation amount till the dispute is resolved in S.A.No.1420 of 1997.

2. Mr.Akhil Akbar Ali, the learned Government Advocate takes notice for the first respondent. Since this case is only for a direction to the first respondent, this Court decides to dispose of this matter.

3. There is merit in petitioner's contention. It remains as an indisputable fact that the title to half the property is now pending decision in S.A.No.1420 of 1997. Section 3H(4) of the National Highways Act, 1956, provides that where "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." At any rate, it is obvious, till petitioner's title to receive the compensation is decided finally in S.A.No.1420 of 1997, it is not advisable or appropriate to disburse the 50% of the compensation amount.

4. Considering the submission of the learned counsel for the petitioner, this Court directs the Competent Authority/ first respondent to make a reference under Section 3H(4) of the National Highways Act, 1956, to the Civil court concerned and directs him further to refrain from disbursing 50% of compensation amount to any of the rival claimants.

5. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-Iv)

//True Copy//

Sub Assistant Registrar

mrr
To

The Competent Authority &
Special District Revenue Officer,
Special Tahsildhar (L-A),
National Highways - 205,
Periyakuppam,
Tiruvallur,
Tiruvallur District.

+1 cc to Mr.T. Muruganantham, Advocate Sr.10763

W.P.No.31870 of 2015

(CS-Iv)
EU(07/03/2018)