



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.08.2018

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
W.P(MD)No.11153 of 2015
and
M.P. (MD) .No.1 of 2015

M.Narasimma Bharathi

.. Petitioner

Vs.

1. The Special District Revenue Officer,
Land Acquisition,
National Highways No.45-E & 220,
Theni District,
Theni.

2. The District Collector,
Theni District,
Theni.

.. Respondents

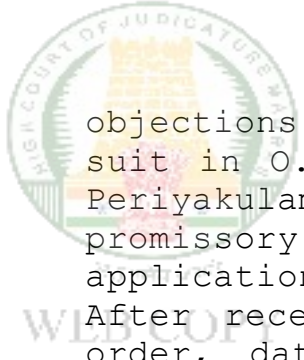
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 1st respondent in Na.Ka.No.49/2010/Si.Ma.Varu.A/Ni.A/ dated 29.04.2015 and quash the same and consequently, direct the respondents to disburse the compensation amount to the petitioner within a time to be stipulated by this Court.

For Petitioner	: Mr.M.Senthil Kumar
For 1 st respondent	: Mrs.R.Meenakumari
For 2 nd respondent	: Mr.A.Thiyagarajan, Government Advocate

ORDER

This writ petition has been filed by the petitioner challenging the impugned order, dated 29.04.2015, passed by the first respondent, whereby and whereunder the first respondent has informed the petitioner that the payment of compensation is stopped till the disposal of O.S.No.53 of 2015 on the file of the Subordinate Court, Periyakulam.

2. The petitioner's land in Survey No.1922/3A measuring about 863 sq. mts. situated at Thamaraikulam 2nd Bit Village, Periyakulam Taluk, Theni District was acquired by the first respondent under the National Highways Act and after enquiry, the first respondent had fixed the compensation amount at Rs.25,58,364/-. The petitioner was also willing to receive the said amount with



objections. In the meantime, the petitioner's brother has filed a suit in O.S.No.53 of 2015 on the file of the Subordinate Court, Periyakulam, for recovery of a sum of Rs.5,36,533/- based on a promissory note and in addition to that, he has also filed an application in I.A.No.45 of 2015 for attachment before judgment. After receipt of notice, the first respondent, by the impugned order, dated 29.04.2015, has informed the petitioner that the payment of compensation is stopped till the disposal of the suit in O.S.No.53 of 2015. Challenging the said order, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner would submit that till date there is no interim order passed by the Civil Court directing the first respondent to stop payment of compensation and therefore, the first respondent ought not to have stopped the payment of compensation. Thus, he prayed to set aside the impugned order and to direct the first respondent to disburse the compensation amount.

4. The learned counsel appearing for the first respondent would submit that the first respondent was impleaded as garnishee in the ABJ petition filed by the petitioner's brother and if any order will be passed by the Civil Court, the first respondent would be put to task and therefore, the first respondent has stopped the payment of compensation. She would further submit that the entire compensation amount has already been deposited in the bank account of the first respondent. Thus, she prayed to dismiss this writ petition.

5. The learned counsel appearing for the second respondent would submit that he is only a formal party.

6. Heard the learned counsel appearing for both sides and perused the records carefully.

7. Admittedly, it is not in dispute that the petitioner is the absolute owner of the property and he is entitled to receive the compensation from the first respondent. It is also not in dispute that as on date, there is no interim order passed against the first respondent with regard to the dispersal of compensation amount to the petitioner. Without there being any order or direction, the first respondent has no right to retain the amount. It is stated by the respondents that the entire compensation amount has been deposited in the bank. As there is no interim order against the first respondent, there is no impediment for the first respondent to release the entire amount to the petitioner. There is no merit in the impugned order passed by the first respondent.

<https://hcservices.ecourts.gov.in/hcservices/>

8. In view of the above, the impugned order passed by the first respondent is set aside and the first respondent is directed



to release the entire compensation amount along with the accrued interest to the petitioner within a period of two weeks from the date of receipt of a copy of this order.

9. This Writ Petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The Special District Revenue Officer,
Land Acquisition,
National Highways No.45-E & 220,
Theni District,
Theni.
2. The District Collector,
Theni District,
Theni.

+1cc to Mr.M.Senthil Kumar, Advocate Sr.No.79820

+1cc to Mrs.R.Meenakumari, Advocate Sr.No.79751

GCG

VB/SKN/SAR1/17.09.2018/3P/5C

Order made in
W.P (MD) No.11153 of 2015
23.08.2018