



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P(MD)No.18127 of 2017

and

W.M.P(MD)Nos.14592 to 14594 of 2017

V.Raju

... Petitioner

Vs.

1.The Arbitrator(District Collector),
(Under the National Highways Act),
Office of the District Collector,
Theni,
Theni District.

2.The Authorised Officer/
District Revenue Officer (Land Acquisition),
Dindigul - Kumuli Road,
NH-45E & 220,
Theni District.

3.V.Nagajothi,
The Authorised Officer/
District Revenue Officer (Land Acquisition),
Dindigul - Kumuli Road,
NH-45E & 220,
Theni District.

4.The Revenue Divisional Officer,
Periyakulam,
Theni District.

5.The Special Tahsildar,
(Land Acquisition),
NH-45, Ext.NH-220, Unit - I,
Theni, Theni District.

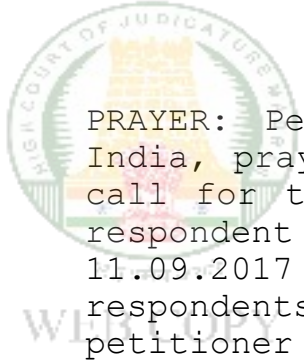
6.Sorubarani,
The Special Tahsildar,
(Land Acquisition),
NH-45, Ext.NH-220, Unit - I,
Theni, Theni District.

7.Maharani

8.P.Gubendran

... Respondents

[R.8 is impleaded vide order of this Court, dated
<https://hcservices.ecourts.gov.in/hcservices/>
11.04.2018 made in W.M.P(MD)No.7429 of 2018 in W.P
(MD)No.18127 of 2017]



PRAYER: Petition 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 of the second respondent in ref.Na.Ka.No.49/2010/Si.Ma.Va.A/Ni.Ye, dated 11.09.2017 and quash the same and consequently, direct the respondents herein to disburse the payment of compensation to the petitioner for acquisition of 37 cents of land out of 63½ cents belonging to the petitioner in S.No.1923/1D2, Thamaraikulam Village Bit II, Periyakulam Taluk, Theni District, together with interest at 12% p.a., from 05.10.2012 till date of payment, as per the communication of the Special Tahsildar (L.A.), N.H.45 - Extn(Ma) 220, Four Way Road, Phase - I, Theni, dated 13.06.2016, within a reasonable time as may be fixed by this Court, as per the representation of the petitioner, dated 03.10.2016.

For Petitioner	: Mr.M.Vallinayagam Senior Counsel for Mr.K.Appadurai
For Respondent	: Mr.S.Dhayalan, Government Advocate for R.1 to R.6 Mr.D.P.Sundara Raj for R.7

ORDER

The petitioner's land was acquired for the purpose of laying road by the National Highways of Authority of India. There is a civil dispute between the petitioner and the seventh respondent with respect to 16 ½ cents lying between their properties.

2. According to the petitioner, by virtue of possession, he has derived title, but the seventh respondent would contend that he had derived title by way of purchase made by him in the years 1956, 1966 and 1978.

3. The Authorised Officer - cum - Special District Revenue Officer (Land Acquisition), in his proceedings in ref.Na.Ka.No.49/2010/Si.Ma.Va.A/Ni.Ye, dated 11.09.2017, directed the parties to approach the civil Court for establishing their title and thereafter, to receive the compensation.

4. The learned Senior Counsel appearing for the petitioner would contend that the seventh respondent had received the compensation for the land purchased by him. There was an error in issuance of patta with respect to S.No.1923/1C and 1D. By mistake, the name of the petitioner was entered in S.No.1923/1C and the name of the seventh respondent in S.No.1923/1D. By mutual understanding before the Land Acquisition Officer, they have agreed for disbursement of compensation in respect of S.No.1923/1C in favour of the seventh respondent. Further, it was also agreed to transfer the patta to the respective owners by submitting appropriate application before the revenue authorities. Accordingly, transfer of patta was also ordered and the seventh respondent has received his share in



respect of S.No.1923/1C, but, in view of the dispute over 16 ½ cents, the compensation with respect to the land acquired in S.No.1923/1D has been withheld by the Land Acquisition Officer.

5. The learned Senior Counsel appearing for the petitioner would further contend that as ordered by the second respondent, they will resolve their dispute with respect to 16 ½ cents before a civil Court, but, the authorities cannot withhold the quantum of compensation with respect to the admitted portion of the land acquired from the petitioner.

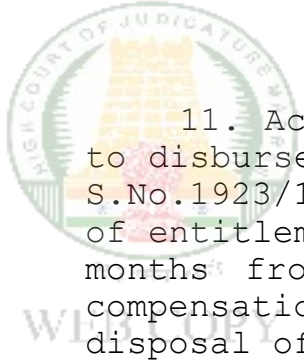
6. Whereas the learned Counsel for the seventh respondent would vehemently contend that the compensation cannot be disbursed till the dispute regarding the title is finally resolved. According to him, there are subsequent purchasers and the land owners by virtue of sale and settlement deeds. Therefore, they should also be impleaded as parties. This Court, vide order dated 11.04.2018, passed in W.M.P(MD)No.7429 of 2018 in W.P(MD)No.18127 of 2017, impleaded the eighth respondent.

7. From the sketch produced by the learned Counsel for the seventh respondent, it is clear that there are three parts of land and within the land acquired for the road. S.Nos.1923/1A2, 1B2, 1C2 admittedly belonged to the seventh respondent by virtue of purchase. The land falling in S.No.1923/1D2 belongs to the eighth respondent, namely, P.Gubendran and the petitioner. But, between these portions, there is a dispute over title with regard to a strip of land measuring 8 cents. For the purpose of deciding the title over the disputed strip of land, the land owners of S.No.1923/1D2 cannot be deprived of their compensation payable by the Government to admitted portion.

8. I have considered the rival contentions.

9. The order passed by the second respondent dated 11.09.2017 with respect to referring the matter to the civil Court with regard to the title dispute is very much legal and suffers no infirmity except withholding the compensation payable to the admitted portion. Admittedly, the seventh respondent raised a dispute with respect to 16 ½ cents, out of which, 8 cents have been acquired by the Government. The remaining portion of the land in S.No.1923/1D2 admittedly does not belong to him.

10. Therefore, it is fair to direct the second respondent to disburse the compensation with respect to the undisputed portion of the property to the concerned owners of the land. Therefore, it is enough to withhold the compensation with respect to 8 cents, viz., the acquired portion, between S.No.1923/1C2 and 1D2. The contesting parties can resolve their dispute with respect to 16 ½ cents before the civil Court and on the basis of the civil Court, the second respondent can disburse the compensation to the title holders.



11. Accordingly, a direction is issued to the second respondent to disburse the compensation with respect to the admitted portion in S.No.1923/1D2 to the concerned land owners, whoever proves evidence of entitlement to receive the compensation, within a period of three months from the date of receipt of a copy of this order. The compensation with respect to 8 cents shall be withheld till the disposal of the civil suit between the parties.

12. In the result, the impugned order passed by the second respondent in ref.Na.Ka.No.49/2010/Si.Ma.Va.A/Ni.Ye, dated 11.09.2017, is modified to the above extent and the writ petition is disposed of with the above observations. No costs. Consequently, the connected writ miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

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(Under the National Highways Act),
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- 4.The Special Tahsildar,
(Land Acquisition),
NH-45, Ext.NH-220, Unit - I,
Theni, Theni District.

+1cc to M/S.D.P.Sundara Raj, Advocate SR.No. 61368

+1cc to Special Government Pleader, SR.No. 61338

+1cc to M/S.K.Appadurai, Advocate SR.No. 61120

W.P (MD) No.18127 of 2017

and

W.M.P (MD) Nos.14592 to 14594 of 2017

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rsb