



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated :29.10.2018

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A(MD)No.1501 of 2018

and

C.M.P(MD)No.10674 of 2018

Thavamani

... Appellant / 3rd Respondent

Vs.

1.Lakshmamanakumar

...1st Respondent / writ petitioner

2.The District Collector,
Theni District,
Theni.

3.The Special Thasildar /
Land Acquisition,
NH - 45 Ext. and 220 Unit II,
Uthamapalayam,
Theni District.

... 2nd & 3rd Respondents /

1st & 2nd Respondents

Prayer : Writ Appeal is filed under Clause 15 of the Letters Patent, to allow this writ appeal and set aside the order in W.P(MD)No.18598 of 2018 dated 14.09.2018.

Prayer in WP(MD). 18598/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus direct the 1st and 2nd respondents to disburse the award amount awarded in Award No.10 of 2011, at once by considering the petitioners representation dated 04.06.2018

For Appellant

: Mr.N.Dilip Kumar

For R-1

: Mr.K.Viralinathan

For R-2 & R-3

: Mr.M.Rajarajan,

Government Advocate

JUDGMENT

**[Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.]**

This writ appeal is filed challenging the order dated 14.09.2018 passed in W.P(MD)No.18598 of 2018, directing the respondents 2 & 3 to deposit the 1/9th share of the award amount alone, relating to the subject property to the credit of suit in O.S.No.41 of 2016 on the file of the Sub-Court, Theni.

2.The brief facts of the case are as follows:

(i) The first respondent / writ petitioner was the owner of the lands in Survey No.594/2 and 602/2 to an extent of 0.34.0 and 0.195 hectares respectively and the same is in his possession and enjoyment and it is stated that the said lands were acquired by the National Highways in the year 2011 and a sum of Rs.23,95,980/- and Rs.1,55,040/- were awarded towards compensation in award No.10 / 2011.

(ii) The grievance of the first respondent / writ petitioner was that despite dispossession of his lands, he was not paid the compensation and hence, sought for a Mandamus.

(iii) It is the further case that the appellant / third respondent also claims right in the said property. It is also stated that a suit in O.S.No.41 of 2016 is filed before the Sub-Court, Theni and in which, both the appellant and the first respondent are parties and that is the suit for partition and the same is pending.

3. The learned single Judge had given a finding that 8/9th share of the subject property belongs to the writ petitioner/first respondent and the disputed 1/9th share alone belongs to the appellant/third respondent. Hence, it was directed to deposit 1/9th share to the credit of the suit and the rest of the amount to be released to the writ petitioner and also directed disposal of the suit.

4. Aggrieved by the said order, the appellant / third respondent has filed this writ appeal.

5. The learned counsel for the appellant contended that the appellant has serious objections for the said deposit ordered in the writ petition as the civil suit is pending between the parties with regard to partition of the subject property. He further submitted that the suit in O.S.No.41 of 2016, which was pending on the file of the Sub-Court, Theni, is now got transferred to the file of the District Munsif Court, Theni.

6. We have heard the submissions made on either side and perused the materials before us.



7. As the civil suit is still pending, which has to decide the rights of the parties, we are of the opinion that the entire compensation as per the award may be deposited by the respondents 1 and 2 to the credit of O.S.No.41 of 2016 on the file of the District Munsif Court, Theni, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the said amount may be moved to any one of the nationalised banks in an interest bearing deposit till the disposal of the suit. In other aspects, the direction given by the learned single Judge is confirmed.

8. With the above modification, this writ appeal is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-II)

To:

1.The District Munsif,
District Munsif Court,
Theni.

2.The District Collector,
Theni District,
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3.The Special Thasildar /
Land Acquisition,
NH - 45 Ext. and 220 Unit II,
Uthamapalayam,
Theni District.

- 1 CC TO Mr.N.DILIPKUMAR , ADVOCATE IN SR No.93177.
- +1 + 1 CC TO Mr.V.MURUGANANDAM , ADVOCATE IN SR No. 93236
-
- +1 cc to Special Government Pleader, SR.No.92969.

PM

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Judgment made in
W.A(MD)No.1501 of 2018