

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 09.11.2018****CORAM****THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN****W.P. (MD) Nos. 21263, 21444 & 21576 of 2018****WEB COPY**

1. Mariappan

2. Muthulakshmi

... Petitioners in W.P. (MD) No. 21263/18

1. G. Raja

2. J. Parthiban

3. M. Vinayagarmoorthy

4. S. Ramanathan

5. N. Sabarinathan

... Petitioners in W.P. (MD) No. 21444/18

Ramasubramanian

... Petitioner in W.P. (MD) No. 21576/18

Vs.

1. The Special District Revenue Officer,  
Land Acquisition (NH),  
District Collector Office,  
Ramanathapuram District.

2. The District Revenue Officer,  
Sivagangai District,  
Sivagangai.

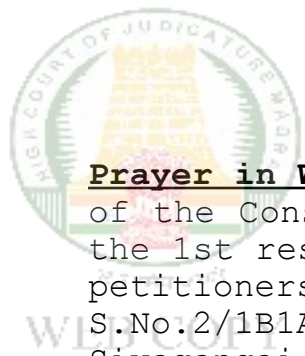
3. The Special Tahsildar (LA),  
NH-49, Unit - I,  
Manamadurai,  
Sivagangai District.

4. The Deputy Director,  
National Highways Authority of India,  
307, Melur Main Road,  
K.K. Nagar, Madurai.

5. The Assistant Commissioner,  
Hindu Religious & Charitable Endowments,  
Paramakudi.

... Respondents in all WPs

**Prayer in W.P. (MD) No. 21263/18:** Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Mandamus, calling for the records relating with the order of the 1st respondent made in Na.Ka.No.N.H.49/Unit V/122/2013, dated 14.09.2018 and quash the same as it is arbitrary and illegal and in consequence to direct the 1st respondent to disburse the fair and just compensation to the petitioners, for acquisition of their land measuring 626 Sq.Mtr in S.No.2/1B1B in Nelmudikkarai village, in Tirupuvanam Taluk, Sivagangai District.



**Prayer in W.P. (MD)No.21444/18:** Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to disburse the fair and just compensation to the petitioners, for acquisition of their land measuring 1730 Sq.Mtr in S.No.2/1B1A in Nelmudikkarai village, in Tirupuvanam Taluk, Sivagangai District, within a reasonable time limit.

**Prayer in W.P. (MD)No.21576/18:** Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to disburse the fair and just compensation to the petitioner, for acquisition of his land measuring 138 Sq.Mtr in S.No.2/1B1C in Nelmudikkarai village, in Tirupuvanam Taluk, Sivagangai District, within a reasonable time limit.

For Petitioners : Mr.R.Suriya Narayanan  
For Respondents : Mr.M.Rajarajan,  
Government Pleader  
(In all WPs)

### **COMMON ORDER**

As the issues involved in all these writ petitions are similar in nature, they are disposed of by way of this common order.

2. W.P.(MD)No.21263 of 2018 is filed in the nature of Writ of Certiorarified Mandamus to quash the impugned order dated 14.09.2018, passed by the first respondent. 626 Sq.Mtrs of land comprised in Survey No.2/1B1B in Nelmudikkarai Village, Tirupuvanam Taluk, was acquired for widening a National Highway. Award enquiry was conducted and the amount of compensation payable was also fixed. But, before the amount could be disbursed to the petitioners herein, an objection was raised by the Hindu Religious and Charitable Endowments Department (hereinafter referred to as 'HR & CE Department'). Therefore, the matter has been lying at that stage and the petitioners have not been disbursed with any compensation amount. That necessitated filing of W.P.(MD)No.21073 of 2017 and by order dated 15.11.2017, a direction was given to dispose of the representation of the petitioners dated 13.10.2017. Pursuant thereto, the impugned order dated 14.09.2018 came to be passed. The competent authority has taken the stand that the petitioners should approach the appropriate forum and after establishing their right, apply for disbursement of the compensation. This order is challenged in this writ petition.

3. Heard the learned Counsel appearing for the petitioners and the learned Government Advocate appearing for the respondents.

4. Section 3H(4) of the National Highways Act, 1956, reads as

under:

**"3-H) Deposit and payment of amount:**

... 4) If 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."*

WEB COPY

5. In this case, a dispute has arisen between the petitioners on the one hand and the HR & CE Department on the other. Therefore, the competent authority was obliged to refer the dispute to the decision of the Court concerned. In this case, without making any such reference, the competent authority has been sitting over the papers and when this Court directed him to act in the matter, he has taken the stand that it is for the petitioners to move the appropriate forum. This is clearly not correct. Therefore, the order impugned in this writ petition is quashed and this writ petition is accordingly, allowed.

6. But then, a direction cannot be given to the competent authority to make the payment to the petitioners herein. All that this Court can do, at present, is to direct the competent authority to refer the dispute between the petitioners on the one hand and the HR & CE Department on the other to the decision of the Principal Civil Court of original jurisdiction within whose limits the land is situated. Such a reference shall be made within a period of four weeks from the date of receipt of a copy of this order. The Court, to which the matter is referred, shall dispose of the reference within a period of six months thereafter. Based on the outcome of the reference, the competent authority shall make the disbursement forthwith.

7. W.P.(MD)Nos.21444 & 21576 of 2018 have been filed in the nature of a Writ of Mandamus, because no order has been passed by the competent authority. But then, the fact remains that a similar dispute exists in these cases also. Therefore, the very same direction to the competent authority is issued in these writ petitions also.

8. Accordingly and as indicated above, these writ petitions are allowed. No costs.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Special District Revenue Officer,  
Land Acquisition (NH),  
District Collector Office,  
Ramanathapuram District.



2. The District Revenue Officer,  
Sivagangai District,  
Sivagangai.
3. The Special Tahsildar (LA),  
NH-49, Unit - I,  
Manamadurai,  
Sivagangai District.
4. The Deputy Director,  
National Highways Authority of India,  
307, Melur Main Road,  
K.K. Nagar, Madurai.
5. The Assistant Commissioner,  
Hindu Religious & Charitable Endowments,  
Paramakudi.

+1cc to Mr.R.Suriya Narayanan, Advocate Sr.No.94655  
+1cc to Spl.Government Pleader Sr.No.94684,94688,94683

GK

VB/BK/SAR2/06.12.2018/4P/8C

**W.P. (MD) Nos.21263, 21444 & 21576 of 2018**  
**09.11.2018**