

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.15511 of 2011

Sri Sakthi Amman Associates
rep. by its Managing Partner
A V Nagarajan

.. Petitioner

-vs-

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Revenue Department,
Fort St. George,
Chennai 600 009.

2.The Special Tahsildar,
Adi Dravidar Welfare,
Thiruppathur,
Vellore District.

3.Panneer Selvam

.. Respondents

Prayer: Petition filed under Article 226 of the
Constitution of India, praying for the issue of a Writ of
Mandamus directing the second respondent to pay to the
petitioner the compensation amount of Rs.2,22,358/- with
interest at 15% per annum from 09.07.1988.

For Petitioner : Mr.T.M.Hariharan

For Respondents : Mr.M.Elumalai,
Government Advocate
for R1 and R2

R3-Disd-vide order
dated 12.06.2012

ORDER

The writ petition has been filed seeking a direction to
the second respondent to pay the compensation amount of
Rs.2,22,358/- with interest at 15% per annum from 09.07.1988 to
the petitioner.

2.Learned counsel appearing for the petitioner would submit that the petitioner Firm has been carrying on finance business. In the course of its business, the third respondent agreed to sell his properties situated at Minnur Village, Vaniyambadi Taluk being acre 1.22 with service connection and motor pump set in Sruvey No.150/2A1 and 84 cents and 77 cents in Survey No.150/1A1 with right of passage and other rights. In this regard, an agreement of sale dated 09.07.1988 has been entered into between the petitioner and the third respondent and a sum of Rs.2,75,000/- due to the petitioner from the third respondent, has been adjusted towards the sale consideration of Rs.3,00,000/- and the petitioner has to pay balance amount of Rs.25,000/- and the third respondent has to execute the sale deed.

3.Learned counsel appearing for the petitioner would further submit that when the petitioner was always ready and willing to pay the balance sale consideration and to take the sale, the third respondent was delaying the matter and therefore, the petitioner issued legal notice dated 05.04.1999 requiring the third respondent to receive the balance sale consideration and to execute the sale deed. Despite the same, there was no reply from the third respondent. In the circumstances, the petitioner has filed O.S. No.103 of 1999 on the file of the learned Sub Court, Tirupathur for a specific performance of contract of sale to execute the sale deed in favour of the petitioner after receiving the balance of sale consideration and for permanent injunction against the defendants from alienating the suit properties to third parties. The learned Sub Court, Tirupathur, taking note of the fact that the land in question has already been acquired under the provisions of the Land Acquisition Act, came to the conclusion that the prayer was expressly barred under the Land Acquisition Act and rejected the same under Order VII Rule 11(d) of the Civil Procedure Code without prejudice to the right of the plaintiff petitioner to make necessary application in the Land Acquisition Tribunal to appropriate the advance amount to be payable to the third respondent. Opposing the order, an Appeal was filed before the Principal District Judge, Vellore. The learned First Appellate Judge, taking note of the fact that a sum of Rs.2,22,358/- has been fixed for the land covered in S.No.150/2A1 hectare 0.49.5 S.No.150/1A1 hectare 0.57.0 and the said amount has been deposited in the Court on 18.01.2001, came to the conclusion that the third respondent was unnecessary party and dismissed the suit.

4.With the above facts and circumstances, the learned counsel appearing for the petitioner pleaded that the petitioner is entitled to receive the compensation amount of Rs.2,22,358 with interest accrued thereon.

5.Placing on record a letter dated 03.09.2019, Mr.M.Elumalai, learned Government Advocate appearing for respondents 1 and 2 would submit that as the land in question has already become the subject matter of the land acquisition proceedings and award has also been passed and the entire amount of Rs.2,22,358/- has also been deposited in the Sub Court, Thirupathur which has been transferred to the Sub Court, Vaniyambadi, the petitioner can approach the Sub Court, Vaniyambadi for appropriating the said amount.

6.Since the decree has become final, this Court hereby directs the petitioner to approach the concerned Court and move an application along with the judgment and decree passed by the Trial Court and the Appellate Court, the copy of the Award and other relevant documents and the copy of this order within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said application, the Sub Court concerned shall dispose of the same within a period of four weeks thereafter. No costs.

Sd/-
Assistant Registrar

//True Copy//
Sub Assistant Registrar

vga

To

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Revenue Department,
Fort St. George,
Chennai 600 009.

2.The Special Tahsildar,
Adi Dravidar Welfare,
Thirupathur,
Vellore District.

3.The Subordinate Judge,
Thirupathur.

4.The Subordinate Judge,
Vaniyampadi.

5.The Principal District Judge,
Vellore.

+1cc to Mr.T.M.Hariharan, Advocate SR.82732
+1cc to the Government Pleader SR.83183

W.P. No.15511 of 2011

SVI (CO)
CB(11/11/2019)



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