

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.No.24254 of 2019

B.Sasikumar

.. Petitioner

/versus/

1.State of Tamilnadu rep.by
The District Collector,
Erode District,
Erode-638 011.

2.The Special Tahsildar,
(Land Acquisition Officer/Rural)
Erode-638 011.
Erode District.

3.The Executive Engineer and
Administrative Officer,
Tamilnadu Housing Board,
Surampatti Nal Road,
Erode, Erode District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of Writ of Mandamus, directing the respondents to transfer the remaining compensation amount of Rs.66,43,559/- with accrued interest and other statutory entitlement, from the revenue account to the credit of LAOP No.17 of 2003 on the file of the learned Additional District Court, Erode, towards the extent of the petitioner's lands covered in the Award No.2/1994 (L.A.3/89/A), dated 10.06.1994 by considering the petitioner's representation dated 03.06.2019.

For Petitioner : Mr.N.Manokaran

For Respondents: Mr.D.Raja
Addl.Govt.Pleader

O R D E R

The petitioner herein seeks deposit of the balance enhanced compensation amount to be paid by the said land acquired under the Urban Housing Scheme.

2. According to the petitioner, the said land belongs to his father. Pending acquisition proceedings, his father died. 50% of the compensation amount was received by him and by his mother and sister and the balance sum of Rs.83,04,509/- is lying in the revenue account. In this writ petition he seeks Mandamus to direct the respondents to transfer the remaining compensation amount with accrued interest from the revenue account to the credit of LAOP.No.17 of 2003 on the file of Additional District Court, Erode towards the extent of the petitioner's land covered in award No.2 of 1994.

3. The 2nd respondent has filed counter, wherein, it has been specifically stated that the petitioner herein who is entitled for 1/3rd share as a legal heir of Balasubramaniam, making a claim to get the entire remaining compensation amount for himself, which is not permissible under law, when there are other two claimants for the compensation. The land acquisition proceedings commenced under Section 4(1) notification dated 16.04.1991 culminated in passing award 2/94 dated 10.06.1994. The compensation of Rs.2,49,806/- was received by the land owner Balasubramaniam, who is the father of the petitioner. Thereafter, he sought for reference under Section 18 of the Act. Therefore, the matter was referred to the Additional District Court, Erode and taken on file in LAOP.No.17 of 2003. The land acquisition claims Tribunal passed an award on 28.05.2004. There was a dispute regarding the apportioned award amount, the petitioner herein preferred I.A.No.134 of 2015 claiming the entire compensation excluding the mother and sister based on the settlement deed alleged to have been executed by Balasubramaniam. The said I.A. was dismissed by the III Additional District Court, against which, the petitioner has preferred Review Petition and the same is pending. While so, without adjudicating his right of apportionate compensation amount the petitioner has filed the present writ petition which is not maintainable.

4. It is contended by the learned Additional Government Pleader that when there are two other sharers for the compensation amount, the petitioner without impleading them and without ascertaining his share in the property, which is the subject matter of CRP filed by the petitioner and pending before this Court cannot seek for payment of entire money, which he is not entitled.

5. Considering the submissions made by the petitioner as well as the learned Additional Government Pleader, this Court finds no merit in this writ petition and the same is bound to be dismissed for the following two reasons:-

(i) The other claimants are not made a party in this writ petition.

(ii) The plea of the petitioner to disburse the money in toto to him is unsustainable.

6. In view of the dispute regarding the apportioned compensation money, the respondent instead of keeping the money in the revenue account shall deposit it in the LAOP No.17 of 2003 account on the file of Addl District Court so that the money may be invested in any one of the nationalised banks which will accrue interest. Same shall be disbursed after the dispute between the petitioner and other co-owners are resolved.

7. In the result, the writ petition is dismissed. No costs

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rpl

To

1.The District Collector,
Erode District,
Erode-638 011.

2.The Special Tahsildar,
(Land Acquisition Officer/Rural)
Erode-638 011.
Erode District.

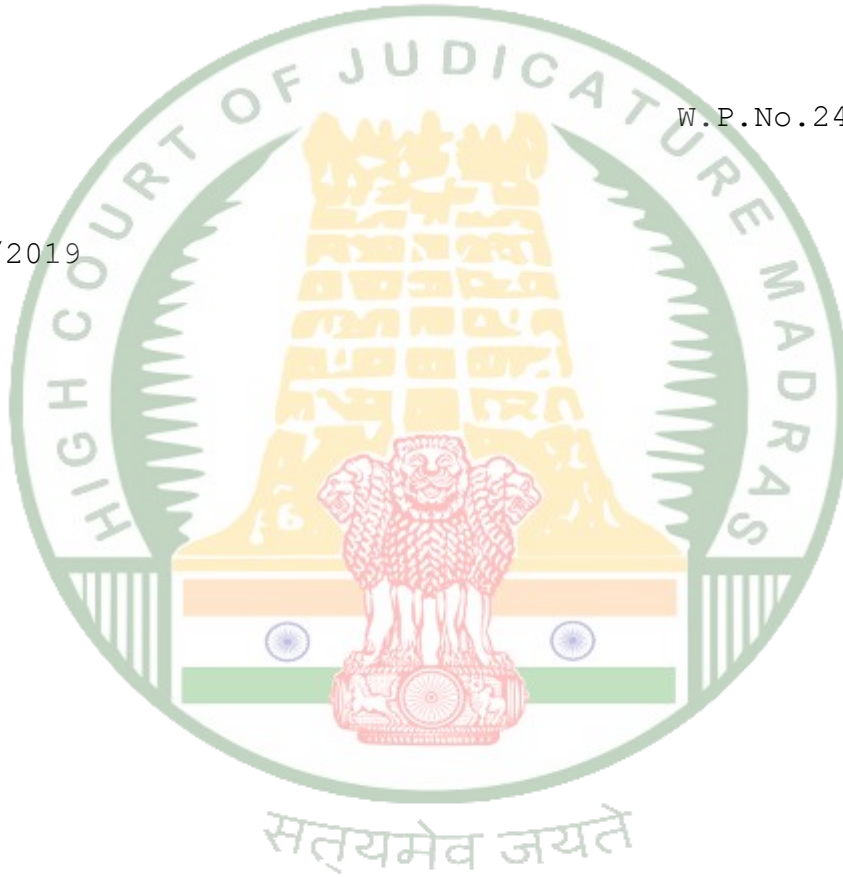
WEB COPY

3.The Executive Engineer and
Administrative Officer,
Tamilnadu Housing Board,
Surampatti Nal Road,
Erode,
Erode District.

+lcc to Mr.N.Manokaran, Advocate Sr.81705
+lcc to the Government Pleader Sr.81935

W.P.No.24254 of 2019

ss[co]
srg 04/11/2019



WEB COPY