

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2019

CORAM:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

WRIT PETITION NO.27092 OF 2019

AND

W.M.P.Nos.26467 and 26469 of 2019

T.M.Vijayarani

.. Petitioner

/versus/

1.The District Collector,
Collectorate, Dharmapuri 636 705.

2.The Special District Tashildar(Land Acquisition),
SIPCOT Stage-III, IV,
Gurubarapalli, Krishnagiri District.

3.Small Industries Promotion Corporation of
Tamil Nadu Limited,
Rep.by its Managing Director,
19-A Rukmani Lakshmipathy Road,
Egmore, Chennai 600 008.

4.T.M.Thirupathi

5.T.M.Sathiyamoorthy

6.Dr.C.Manimegalai

7.V.Selvi

8.V.Jayanthi

9.V.Arun Kumar

10.T.K.Brinuntha Sathish

11.T.K.Gowtham Prakash

12.Santha Padmanabhan

13.D.Venkatarajulu

14.V.Venkatamanalan

15.V.Duraisamy

16.V.Baraneedharan

17.V.Sainath

18.Sasireka

19.R.Anbarasan

20.R.Rajadurai

21.R.Manunath

22.Kalaivani

23.Sarojammal

24.N.Rajendran

25.N.Nagendran

26.S.Angaiyarkanni

27.Soundariya

28.Sathurkan Shimma

29.Sardeve Shimma(minor)
Son of Late Surendran
Rep.by his mother and natural guardian
S.Angaiyarkanni

30.Nandhini(minor)
Daughter of Late Surendran
Rep.by his mother and natural guardian
S.Angaiyarkanni

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the respondent in connection with the impugned proceedings Na.Ka.No.8148/2019/B1, dated 22.08.2019 issued by the 1st respondent and quash the same and direct the 1st respondent to refer the dispute relating to entitlement of the petitioner to her rightful share in the compensation payable for the land in Survey No.16/1B2A and 16/1B2B to the decision of the Court in accordance with Section 9(2) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997.

For Petitioner :Mr.V.Prakash, Sr.C for
Ms.M.Karthikeyani

For Respondents:Mr.D.Raja, AGP for R1 to R3

O R D E R

By consent, this writ petition is taken up for final disposal at the admission stage itself.

2. Heard Mr.V.Prakash, learned Senior Counsel appearing for the petitioner and Mr.D.Raja, learned Additional Government Pleader, who takes notice on behalf of respondents to 3.

3. The prayer in the writ petition is to issue a Writ of Certiorarified Mandamus calling for the records of the respondents in connection with the impugned proceedings Na.Ka.No.8148/2019/B1, dated 22.08.2019 issued by the 1st respondent and quash the same and direct the 1st respondent to refer the dispute relating to entitlement of the petitioner to her rightful share in the compensation payable for the land in Survey No.16/1B2A and 16/1B2B to the decision of the Court in accordance with Section 9(2) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997.

4. The case of the petitioner is that the land, which has been acquired by the 2nd respondent under the Tamil Nadu Acquisition of Land for the industrial purpose Act, 1999 originally owned by T.R. Venkatappa Naidu and Chinna Munuswami Gounder. Chinna Munuswami Gounder had two wives namely, Venkatamma and Chinna Pappa @ Chinnammal. The petitioner claims to be the daughter of Chinna Munuswami Gounder born through Chinnammal.

5. The grievance of the petitioner is that without impleading her mother as a party, a suit for partition was filed in O.S.No.7 of 2008 before the Additional District Court, Krishnagiri and decree was obtained behind her back. So, when the property was acquired by the second respondent for establishing SIPCOT, her name was not considered for awarding compensation. Hence, a representation was given by the petitioner to the authorities, which did not yield any result. Hence, she approached this Court filing Writ Petition No.34662 of 2018 in which this Court passed the following interim order:

"It is represented that the petitioner is the daughter of the second wife of Late Chinna Munusamy Gounder and she is also entitled to compensation on the land that has been acquired under the Tamil Nadu

Acquisition of Land for Industrial purposes Act, 1997. As there is a dispute with regard to the apportionment that includes entitlement, the Collector, on collecting all the details may refer the matter to the appropriate Court, for taking a decision. Till such time, the amount need not be disbursed to the parties."

6. Later, after recording the counter of the first respondent-Collector, this Court has disposed of the writ petition directing the District Collector to pass orders in accordance with law, after providing opportunity to the interested parties as expeditiously as possible, within a period of three months from the date of receipt of copy of that order. Pursuant to the order of this Court passed in W.P.No.34662 of 2019 dated 06.03.2019, the District Collector has passed the order through her proceedings dated 22.08.2019 wherein it is stated that the writ petitioner, after 59 years of the partition deed now challenges the veracity of the deed of the year 1960. Hence, her claim cannot be entertained. The said proceedings is impugned in this writ petition.

7. The learned Senior Counsel appearing for the petitioner would submit that as per Section 9 of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1999, when there are several claimants, the compensation amount has to be apportionment in the manner prescribed. Section 9 of the Act reads as below:

"9. Apportionment of amount: (1) Where several persons claim to be interested in the amount determined, the Collector shall determine the persons, who in his opinion, are entitled to receive the amount and the amount payable to each of them.

(2) When the amount has been determined under Section 7, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute for the decision of the Court."

8. The learned Senior Counsel appearing for the petitioner would submit that if there is any dispute regarding the claim made by the persons interested, the District Collector has to refer the matter to the Court for appropriate decision

and she cannot reject the claim, the manner in which she has done in this case.

9. To buttress his submission, the learned Senior Counsel would also submit that being the legal heir of Chinna Munuswami Gounder, the petitioner has a right in the property. Pursuant to the alleged partition deed of the year 1960 and decree in the civil suit in O.S.No.7 of 2008 in which the petitioner is not a party, the first respondent cannot disburse the compensation amount entirely to the other legal heirs omitting the petitioner herein. It is the duty of the Collector to refer the matter for decision of the Court, when there is a dispute regarding apportionment.

10. On hearing the submissions and pursuing the records, this Court is unable to accept the submissions made by the petitioner for the simple reason that the duty cast upon the Collector under Section 9(2) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1999 to refer the "dispute among the claimants" for the "decision of the Court" has to be confined only when the dispute is between the claimants, who are in the opinion of the Collector entitle to receive the amount and they should fall under the category of "person interested". When anybody claims right as owner, but no record is available in their favour and the Collector opines he is not entitle to receive any amount, the person, who claims as owner has to first establish the right in the property. The competent Forum to decide the title is naturally the Civil Court. The petitioner without resorting to establish her title over the property by either challenging the partition deed or the decree passed in O.S.No.7 of 2008, cannot expect the District Collector to refer the matter to the Civil Court under Section 9(2) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1999.

11. Section 9(1) and (2) is applicable to different category of the claimants. This can be easily understood from the definition Clause of the said Act, which distinguished "owner" as defined under Section 2(g) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1999, and "person interested" as defined under Section 2(h) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1999.

12. For entitlement of any compensation under this Act, the claimants shall either be the owner of the land or person interested in the land. Under Section 9, which deals with apportionment of amount, first the Collector must satisfy that the claimants before him are entitle for compensation under Sub Section (1). Then alone he is required to refer the matter to Court under Sub Section (2), if there is any dispute among the said claimants regarding apportionment. When in the opinion of

the Collector a person is not entitle for compensation, then Sub Section 9(2) will not apply. Sub Sections (1) and (2) of Section 9 has to be read conjointly.

13. The petitioner claiming share in the compensation as co-owner of the property cannot claim right to get apportionment of the compensation, without proving her title. Therefore, the District Collector in the proceedings impugned has rightly rejected the claim of the petitioner.

14. Hence, this Writ Petition is liable to be dismissed. However, it is open for the petitioner to approach the competent Court and establish her right in the property as owner and proceed for share in it. Any observation made by the District Collector or in this order shall not have any influential effect on the Civil Court to decide the case on merits after due examination of evidence.

15. In the result, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The District Collector,
Collectorate, Dharmapuri 636 705.

2.The Special District Tashildar(Land Acquisition),
SIPCOT Stage-III, IV,
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3.Small Industries Promotion Corporation of
Tamil Nadu Limited,
Rep.by its Managing Director,
19-A Rukmani Lakshmipathy Road,
Egmore, Chennai 600 008.

+1cc to Mr.M.Karthikeyan, Advocate, SR.No.77965
+1cc to the Govt.Pleader, Vide Sr.No. 78462

W.P.No.27092 of 2019
and

W.M.P.Nos.26467 and 26469 of 2019

Kak(22/10/2019)