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CMP Nos.20668 and 20669 of 2018 in
in AS Nos.1008 of 2015 and
CMP Nos.20687 and 20690 of 2018 in
in AS Nos.1009 of 2015

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R. SUBRAMANIAN, J.
and
R.KALAIMATHI, J.

(Order of the Court was made by R.SUBRAMANIAN,J.)
CMP Nos.20668 and 20669 of 2018 in AS No. 1008 of 2015 and

CMP Nos. 20687 and 20690 of 2018 in AS No.1009 of 2015, these four petitions are filed seeking impleading and for recalling the orders made in the Appeal order dated 29.11.2016. The petitioner in these Petitions, Kamarajar Port Ltd., is a third party to these Appeals.

2. The two Appeals viz. AS Nos.1008 and 1009 of 2015 are Appeals filed under Section 54 of the Land Acquisition Act 1894, by the Government challenging the awards passed in LAOP Nos.73 and 74 of 2010 which are references made under Section 20(1) of the Tamil Nadu Highways Act 2001.



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3. Chapter IV of the Tamil Nadu Highways Act 2001, provides for the procedure for acquisition of land for the purposes of either laying or widening the State Highways. While Section 15(1) of the Tamil Nadu Highways Act invests the power of acquisition in the State Government, Section 15(2) provides for a publication of a notice requiring the owner or any person having interest in such land to show cause why the land should not be acquired. Section 16 provides for vesting of the land in the Government upon orders being passed Sub Section (1) Section 15 for acquisition of the land. Section 18 reserves the right in every owner or person interested in the land acquired to receive the compensation. Subsection 3 of Section 19 empowers the Collector to determine the amount payable as compensation for the land acquired. Subsection 6 of Section 19 requires the Collector to be guided by the provisions of Sections 23 and 24 and other relevant provisions of the Land Acquisition Act, 1894 (Act 1 of 1894) subject to modifications regarding the publication of notifications.



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4. Section 20 of the Act requires the Collector to make a reference in cases where the person interested or owner of the land refuses to accept the determination by the collector and requires the matter to be referred for determination by the Court. Such reference shall be addressed to the Court as defined under the Land Acquisition Act 1894 and once such an application is made, the provisions of Part III of the said Act would apply to the proceedings before the Court. Section 21 of the Tamil Nadu Highways Act deals with apportionment of the compensation determined by the Collector and it reads as follows:

“21. (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 19, 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.”



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Section 22 deals with the payment of the amount that is determined. The other provisions of the enactment are not very relevant for our purposes.

5. From the above, it is clear that two distinct machineries are provided under the Tamil Nadu Highways Act 2001, one for determination of the compensation and the other for determination of the person, who would be entitled to receive the compensation. While Sections 19 and 20 deal with the determination of the amount, Section 21 deals with the determination of the person who is entitled to receive the compensation.

6. Let us now advert to the facts of the present case on the above legal backdrop. Certain lands were acquired for the purposes of widening a road by the Tamil Nadu Government, under the provisions of the Tamil Nadu Highways Act in 2006. Notices were issued to one Mahali, who was reflected to be the owner of land as per the Revenue Records, under Section 15(2). The second respondent herein appeared before the



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Collector and claimed to have purchased the property under a Sale Deed dated 14.02.2006 from the legal representative of the said Mahali from Thiru.Devadass, who was the Pattadar and an interested person.

7. The second respondent participated in the enquiry and an award came to be passed by the Collector under Section 19 on 21.10.2009. The second respondent along with the other land owners sought for a reference which was made and the cases came to be numbered as LAOP Nos.73 and 74 of 2010 on the file of the Sub Court, Ponneri. The Sub Court enhanced the compensation. As against the enhancement of compensation, the Government preferred the above two Appeals along with several other Appeals. The Appeals came to be allowed in part reducing the compensation to Rs.485 per sq.ft. Thereafter the petitioner in the above CMPs viz. Kamarajar Port Ltd., filed the above Petitions seeking to implead itself and to recall the judgment dated 29.11.2016 made in the Appeals



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8. The sum and substance of the contention of the petitioner is that these lands were acquired for the purposes of the Port Trust even in the year 1999 and 2003 and awards were passed on 04.06.1999 and 05.12.2003. Therefore, according to the Port Trust, it is the owner of the property and it is entitled to the compensation that has been awarded under the acquisition of the year 2006. Several other allegations have been made. We do not propose to go into those allegations in view of the fact that the very petitions filed by the Kamarajar Port Ltd., in these Appeals are misconceived.

9. We have already adverted to the provisions of the Tamil Nadu High ways Act 2001, which provides for a procedure for land acquisition. We have extracted Section 21 of the said Act which deals with apportionment. Subsection 2 of Section 21 of the Act, requires the Collector before whom a dispute is raised regarding the entitlement to the compensation (not the quantum), to refer the matter to the decision of the Court. Though the word 'may' is used in Subsection 2 needless to point



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out that it shall be read as 'shall', since the Collector is not empowered to decide the person who is entitled to the compensation under the Act.

10. It is claimed by the Port Trust that it had in fact made an application to the District Collector and the District Collector, Thiruvallur, has opined that the property belongs to the Port Trust. We do not propose into the ownership of the land at this juncture because we are dealing with an Appeal which has been filed under Section 54 of Act 1 of 1894, against an award determining the quantum of compensation. Neither the reference Court under Section 18 nor an Appellate Court under Section 54 which is dealing with an Appeal against an award made under Section 18 of the Land Acquisition Act 1894 is entitled to go into the question of ownership. The provisions of the Tamilnadu Highways Act being substantially similar we do not think that we can investigate title.

11. Now that it is brought to our notice that an application has



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been made before the Collector, the Collector ought to have referred the matter for determination by the Civil Court. We are therefore constrained to dismiss these applications as not maintainable in law. It is reported by the learned counsel appearing for the Port Trust that the monies that were paid to the second respondent were recovered from him and are now in deposit with the Sub Court, Ponneri. We only direct the Special Tahsildar, Land Acquisition, Thiruvotriyur/ the Collector to make references under Section 21 of the Tamil Nadu Highways Act, to the Sub Court, Ponneri or the jurisdictional Court seeking determination of the person who is entitled to the compensation.

12. The Court to which the reference is made will decide the matter in accordance with law by following the procedure prescribed under Sections 30 and 31 of the Land Acquisition Act 1894. Till such time the amount that is now lying in deposit will be invested in an interest bearing fixed deposit with cumulative interest scheme in a Nationalised Bank and the same will be paid over to the person, who is found entitled to after the



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disposal of the references that shall be made by the Collector, pursuant to our order. The Collector shall make a reference within a period of two months from the date of receipt of the copy of the order and the Court to which the reference is made will dispose of the references within a period of six months thereafter.

13. It is made clear that the Court dealing with the references under Section 20 of the Tamil Nadu Highways Act, 2001 will not be influenced by the fact that an award has been passed in favour of the second respondent and the Appeals on the quantum have been disposed of by this Court. The Court will decide the ownership independently on the evidence that is made available before it.

(R.S.M., J.) (R.K.M., J.)
03.08.2023

jv



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