



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.1449 of 2019

and W.M.P. (MD) No.1224 of 2019

S.Sukumar ... Petitioner

Vs.

1.The District Collector,
Dindigul District.

2.The District Revenue Officer,
Office of the District Revenue Officer,
Dindigul District.

3.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Dindigul District.

4.The Special Tahsildar,
Urban Land Tax Section,
Office of the Tahsildar (West),Dindigul District.

5.Muthulakshmi Ammal ... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to forbear the respondents from disbursing the compensation amount in respect of the award passed in Govt. Roc No.10941/2010/E2 with regard to the land to an extent of 961 sq. ft. in S.No.236 to the 5th respondent or anybody else through her till the final decision taken in the appeal preferred before the Revenue Divisional Officer, Dindigul, dated 19.09.2018 which appeal is duly received and acknowledged by the 3rd respondent.

For Petitioner
For Respondents

:Mr.VR.Venkatesan
:Mr.M.Murugan for R1 to R4
Government Advocate
Mr.H.Lakshmi Shankar for R5

**ORDER**

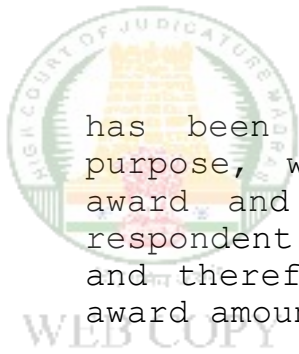
The prayer in the Writ Petition is for a Writ of Mandamus to forbear the respondents from disbursing the compensation amount in respect of the award passed in Govt. Roc No.10941/2010/E2 with regard to the land to an extent of 961 sq. ft. in S.No.236 to the 5th respondent or anybody else through her till the final decision taken in the appeal preferred before the Revenue Divisional Officer, Dindigul, dated 19.09.2018, which appeal is duly received and acknowledged by the 3rd respondent.

2. Heard the learned counsel for the petitioner, the learned Government Advocate for the respondents 1 to 4 and the learned counsel for the fifth respondent.

3. In respect of the land at S.No.236 at Chettinayakkanpatti Village, Dindigul Taluk and Dindigul District, the petitioner filed this writ petition on the pretext that, the extent of 952 sq. ft. in the said survey number belongs to the petitioner and his family members. However, including the said land, the official respondents claimed to have passed the award and they are trying to pay the award amount to and in favour of the fifth respondent, who is the purchaser of the other extent of the land in the same survey number, but not the 952 sq. ft. and in this regard, it is the further case of the petitioner that, no award has been passed in favour of the petitioner in respect of 952 sq.ft. also and without determining the same, if the award amount is paid to the fifth respondent, that will cause prejudice to the interest of the petitioner. Therefore, the petitioner is before this Court with this writ petition.

4. I have heard the learned counsel for the petitioner, who would submit that, infact to decide the said issue with regard to the entitlement and apportionment of the compensation made through the award, the petitioner already approached the competent civil Court by filing a civil suit in the year 2018 itself. However, the said suit at the SR stage has been returned for want of jurisdiction on 25.09.2018 stating that, in view of the prayer couched in the said plaint, the same would not be maintainable before the concerned District Munsif Court, in view of the ousting of the civil Court jurisdiction under the Patta Passbook Act. Thereafter, the petitioner seems to have sought some information from the first respondent District Collector under Right to Information Act, that application also has been pending and in the meanwhile, since the petitioner apprehends that, the award amount would be entirely paid to the fifth respondent including for the alleged land claimed to have been belonged to the petitioner, the present writ petition has been filed.

5. However, the learned counsel for the fifth respondent submits that, the fifth respondent is the owner of the land, which



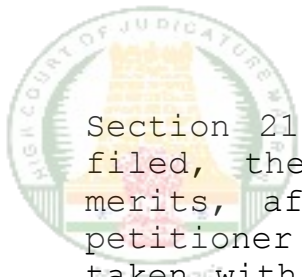
has been acquired by the official respondents for the public purpose, where, an enquiry was conducted before determining the award and in that enquiry, both the petitioner and the fifth respondent participated, based on which, the award has been passed and therefore, the fifth respondent alone is entitled to get the award amount.

6. The learned Government Advocate for the official respondents, on the other hand, would submit that, only after enquiring both the petitioner as well as the fifth respondent, award has been passed by the competent authority and if at all any grievance over the said award or with regard to the apportionment of the award amount amongst the owner of the property and if any dispute to the said fact, it is for the affected party with regard to the apportionment of the award amount can approach the District Collector under Section 21 of the Tamil Nadu Highways Act, 2001 (hereinafter referred to as 'the Act'), under which, the land has been acquired and if the District Collector is not able to determine the same, he would refer the matter by driving the parties to approach the civil Court for determination of the issue and without resorting to the same as has been contemplated under Section 21 of the Act, since the petitioner has directly approached this Court, the prayer sought for herein cannot be granted.

7. I have heard the submissions made by the learned counsel for the respective parties.

8. Having regard to the said factual matrix of the case, as has been projected by the learned counsel for the parties, this Court is of the view that, in view of the import of Section 21 of the Act, the petitioner either has to approach the District Collector, ie., the first respondent herein under Section 21(1) of the Act, otherwise, file a suit before the competent civil Court under Section 21(2) of the Act. Though some attempts have been made by the petitioner to that effect to approach the civil Court, the same has not been completed, as the plaint seems to have been returned for some other reason. Thereafter, the petitioner has admittedly not made application under Section 21(1) of the Act to the first respondent ie., the District Collector. Therefore, the prayer sought for by the petitioner cannot be granted. At the same time, if the petitioner wants to make an application under Section 21(1) of the Act, to the first respondent herein, ie., District Collector immediately, the same can be directed to be considered by the District Collector on merits, after hearing both sides, ie., the petitioner and the fifth respondent and accordingly, the issue with regard to the apportionment can be decided.

9. In that view of the matter, by rejecting the prayer sought for herein by the petitioner, liberty is given to the petitioner to make an application to the first respondent District Collector under



Section 21(1) of the Act immediately and once such application is filed, the same shall be decided by the District Collector, on merits, after giving an opportunity of being heard, to both the petitioner as well as the 5th respondent and once such a decision is taken with regard to the apportionment, the parties shall abide by the said decision and if the District Collector is not able to decide such apportionment, he can pass an order driving the parties to approach the competent authority under sub Section (2) of Section 21 of the Act. The needful, as has been indicated above, shall be undertaken by the first respondent within a period of eight weeks from the date of receipt of such application from the petitioner.

10. It is also submitted by the learned counsel for the petitioner that, the award copy, since has not been served, either on the petitioner or on the fifth respondent, the competent authority/Revenue Divisional Officer, who passed the award shall give a copy of the same to the petitioner as well as the fifth respondent within a period of two weeks from the date of receipt of a copy of this order.

11. On receipt of the same, the said exercise, as indicated above in the earlier paragraphs, has to be undertaken by the petitioner and on receipt of such application, the needful shall be done by the first respondent.

12. With the aforesaid observations and directions, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD II)

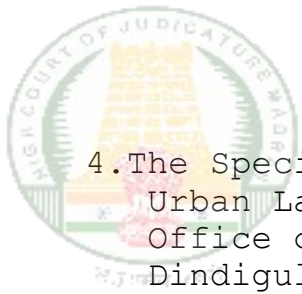
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Sub Assistant Registrar(CS)

To

- 1.The District Collector,
Dindigul District.
- 2.The District Revenue Officer,
Office of the District Revenue Officer,
Dindigul District.
- 3.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Dindigul District.

<https://hcservices.ecourts.gov.in/hcservices/>



4.The Special Tahsildar,
Urban Land Tax Section,
Office of the Tahsildar (West)
Dindigul District.

+1 CC to M/s.V.R.VENKATESAN, Advocate (SR-78313[F] dated 29/07/2019)

+1 CC to M/s.H.LAKSHMI SHANKAR, Advocate (SR-78376[F] dated 30/07/2019)

+1 CC to M/s.SPL GP (SR-78524[F] dated 30/07/2019)

W.P. (MD)No.1449 of 2019
29.07.2019

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