



WEB COPY

W.P.[MD]No.22235 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.11.2019**

CORAM:

THE HONOURABLE **MR. JUSTICE M. SUNDAR**

W.P. (MD) No. 22235 of 2019

and

W.M.P. (MD) No. 19006 of 2019

Idol Arulmigu Mahadevar,
represented by the Executive Officer,
Arulmigu Mahadevar Thirukovil,
Thikkurichi, Vilavancode Taluk,
Kanyakumari District.

... Petitioner

Vs.

1. The Competent Authority/
Special District Revenue Officer,
Land Acquisition, National Highways,
Tirunelveli.
2. The Project Director,
Land Acquisition Division,
National Highways,
Golden Nagar,
K.P. Road, Nagercoil.
3. The Special Tahsildar,
Land Acquisition National Highways-47,
Vilavancode, Kanyakumari District.

4. P.C. Chandrasekaran

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the third respondent to pay the compensation amount to the petitioner for the land acquired in S.No.303/2B, Vilathurai Village, Vilavancode Taluk, Kanyakumari District or in the alternatively refer the dispute to the decision of the competent civil as contemplated under Section 3H(4) of the National Highways Act, 1956.

For Petitioner

: Mr. N. Vignesh

for Mr. H. Arumugam

For Respondents

: Mr. Aayiram K. Selvakumar

Additional Government Pleader

for R.1 and R.3

: Mr. K.K. Senthilvelan

Standing Counsel

for R.2

: Mr. M.P. Senthil

for R.4



ORDER

Mr.N.Vignesh, learned Counsel on record for writ petitioner, Mr.Aayiram K.Selvakumar, learned Additional Government Pleader for respondents 1 and 3, Mr.K.K.Senthilvelan, learned Standing Counsel for second respondent and Mr.M.P.Senthil, learned Counsel for fourth respondent are before this Court.

2. With consent of all the aforesaid learned Counsel, main writ petition is taken up, heard out and is being disposed of.

3. To be noted this order is also a consent order. This writ petition now turns on a very narrow compass.

4. Notwithstanding very many averments made in the affidavit filed in support of writ petition (hereinafter 'writ affidavit' for the sake of convenience) and notwithstanding very many grounds raised / contentions canvassed, the parties to instant writ petition before this Court submit that this writ petition can be disposed of by giving a simple direction to the first respondent to refer the dispute to the Principal Civil Court of original jurisdiction in accordance with Section 3-H(4) of the 'National Highways Act, 1956' (hereinafter 'said Act' for brevity).

5. To be noted, the subject matter of instant writ petition is land admeasuring 89.50 Ares or thereabouts from and out of a total extent of 1.57 Hectares comprised in Survey No.303/2 in Kunnathur Village, Vilavancode Taluk, Kanyakumari District (hereinafter 'said land' for brevity). There is no dispute or disagreement that the said land was acquired under the said Act.

6. The issue now is dispute between writ petitioner and fourth respondent regarding title qua said land which necessary impacts the entitlement of compensation under the said Act.

7. The proceedings that have been kick started under the said Act owing to tussle over title resulted in the first respondent sending a letter to the third respondent being communication dated 31.07.2019 bearing No.Na.Ka.J3/1356/2019.

8. What is of relevance is, Section 3-H(4) of said Act mandates that the act of referring a dispute to the decision of the Principal Civil Court of original jurisdiction shall be done by the competent authority. Competent Authority in turn has been defined under Section 3(a) of the said Act. Section 3(a) reads as follows:

*'3(a) "**competent authority**" means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority for such area as may be specified in the notification.'*



9. It is necessary to extract Section 3-H(4) of said Act which reads as follows:

'3-H Deposit and Payment of amount:

(1) ...

(2)....

(3)....

(4) *If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated.'*

10. This Court is informed that the competent authority within the meaning of Section 3(a) of the said Act is first respondent.

11. Therefore, reference has to be made by the first respondent.

12. The first respondent shall recall all the records and documents from the third respondent or in other words, rescind aforesaid 31.07.2019 communication and thereafter, in his capacity as competent authority, shall make reference in accordance with 3-H (4) by consensus of the disputants. The aforesaid exercise shall be completed by the first respondent as expeditiously as possible and in any event within a period of four weeks from the date of receipt of a copy of this order and thereafter, this Court directs the Principal Civil Court of original jurisdiction to bestow its attention for expeditious disposal as it is represented that the fourth respondent is a septuagenarian senior citizen.

13. It is made clear that all rival contentions and respective rights/claims of the parties ie., writ petitioner and fourth respondent (private respondent) are preserved to be determined by the Principal Civil Court of original jurisdiction uninfluenced / untrammelled by this order.

14. Writ Petition is disposed of with the above directions. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)



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To

- 1.The Competent Authority/
Special District Revenue Officer,
Land Acquisition, National Highways,
Tirunelveli.
- 2.The Project Director,
Land Acquisition Division,
National Highways,
Golden Nagar,
K.P.Road, Nagercoil.
- 3.The Special Tahsildar,
Land Acquisition National Highways-47,
Vilavancode, Kanyakumari District.

+1 CC to Mr.K.K. SENTHILVELAN, Advocate (SR-97453[F] dated 12/11/2019)

+1 CC to Mr.M.P. SENTHIL, Advocate (SR-97487[F] dated 12/11/2019)

+1 CC to Mr.H. ARUMUGAM, Advocate (SR-97605[F] dated 12/11/2019)

+1 CC to SPL GP (SR-97747[F] dated 12/11/2019)

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