

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 22752 of 2018

Hemalatha

... Petitioner

-vs-

1. The District Collector and Sole Arbitrator,
Salem Collectorate,
Salem - 636 001.
2. The Special District Revenue Officer (Land Acquisition),
National Highways No. 68,
Ram Nagar, Swarnapuri II Gate,
Five Road,
Salem - 636 004.
3. The Special District Revenue Officer (Land Acquisition),
National Highways No. 7, 46 and 47,
Salem - Krishnagiri District,
Krishnagiri.
4. Ramamoorthy Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the First Respondent to consider the Petitioner's representation dated 10.07.2018 and 24.07.2018.

For Petitioner : Mr. M. Ravibharathi

For Respondents: Mr. D. Raja,
Additional Government Pleader (for R1)

Mrs. S. Sumathy (for R2 and R3)

Mr. P.B. Sampathkumar (for R4)

O R D E R

The Writ Petition has been filed for a direction to the First Respondent to consider the representations dated 10.07.2018 and 24.07.2018 made by the Petitioner.

2. It is brought to the notice of this Court by the Learned Additional Government Pleader appearing for the First Respondent that the claim made for enhancement of compensation has been rejected by order dated 21.06.2019. It is also informed that compensation amount, which has been awarded has already been fully paid to the Fourth Respondent. The Petitioner, who is the daughter of the Fourth Respondent, claims that she is entitled to a share in that property, which has been acquired. Having regard to the fact that the suit in O.S. No. 109 of 2015 on the file of the III Additional District Judge, Salem, has been instituted for partition in respect of the share claimed in the property, in which the Petitioner and the Fourth Respondent are parties, it is for the Petitioner to work out her rights in the said suit and claim the amount from the Fourth Respondent. In such circumstances, the question of requiring the First Respondent to consider the aforesaid representations made by the Petitioner for payment of her share of the compensation amount does not arise.

3. In this context, reference may be made to the dictum laid down by the Hon'ble Supreme Court of India in Director of Settlements, A.P. -vs- M.R. Apparao [(2002) 4 SCC 638], in which it has been held as follows:-

"17.One of the conditions for exercising power under Article 226 for issuance of a mandamus is that the Court must come to the conclusion that the aggrieved person has a legal right, which entitles him to any of the rights and that such right has been infringed. In other words, existence of a legal right of a citizen and performance of any corresponding legal duty by the State or any public authority, could be enforced by issuance of a writ of mandamus. "Mandamus" means a command. It differs from the writs of prohibition or certiorari in its demand for some activity on the part of the body or person to whom it is addressed. Mandamus is a command issued to direct any person, corporation, inferior courts or Government, requiring him or them to do some particular thing therein specified which appertains to his or their office and is in the nature of a public duty. A mandamus is available against any public authority including administrative and local bodies, and it would lie to any person who is under a duty imposed by a statute or by the common law to do a particular act. In order to obtain a writ or order in

the nature of mandamus, the applicant has to satisfy that he has a legal right to the performance of a legal duty by the party against whom the mandamus is sought and such right must be subsisting on the date of the petition (Kalyan Singhv. State of U.P. [AIR 1962 SC 1183]). The duty that may be enjoined by mandamus may be one imposed by the Constitution, a statute, common law or by rules or orders having the force of law...."

Having due regard to this incontrovertible legal position coupled with the facts of this case, the relief sought by the Petitioner in the Writ Petition could not be granted and that her remedy for the same is elsewhere as set out supra.

4. Accordingly, the Writ Petition is dismissed. It is made clear that no view has been expressed by this Court on the correctness or entitlement on the merits of the claim made by the Petitioner. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

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3. The Special District Revenue Officer (Land Acquisition),
National Highways No. 7, 46 and 47,
Salem - Krishnagiri District, Krishnagiri.

+1cc to Mr.P.B.Sampathkumar, AdvocateSr.11613

W.P. No. 22752 of 2018

rk[co]
srg 06/03/2020