

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.17304 of 2020

S.Sundararaj

...Petitioner

Vs.

1 The District Collector
Collectorate Buildings, Tiruppur.

2 The Tahsildar
Udumalpet.

3 The Chief Manager
Power Grid Corporation India Limited
Palladam DSC Office 28B-2 First Floor
Pollachi Road, P.Vadugapalayam, Palladam
Tiruppur - 641 664.

...Respondents

This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mamdamus directing the third respondent to consider the representation of the petitioner dated 12.05.2020 seeking to deposit the compensation amount to the credit of the competent civil court.

For Petitioners : Mr.N.Umapathi

For Respondents 1 & 2 : Mr.S.N.Parthasarathi
Government Advocate

For Respondent -3 : Mr.Jayesh Dolia
standing counsel

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ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the third respondent to consider the representation made by the petitioner on 12.05.2020, wherein the petitioner is seeking for a direction to the third respondent to deposit the compensation amount before the competent civil court.

2. The case of the petitioner is that the subject property is now in dispute before the Sub-Court, Udumalpet in O.S.No.267 of 2018. In the mean time, the third respondent took steps to lay High Tension Power lines. The work was also completed and it was at the stage of determining compensation. Since the share in the property is yet to be determined by the Competent Civil Court where the suit is pending, the petitioner has requested the third respondent to deposit the entire compensation before the Civil Court, so that ultimately after the disposal of the suit, the parties can withdraw their respective share. Since the representation was not considered, the present Writ Petition has been filed before this Court seeking for appropriate directions.

3. Mr.Jayesh Dolia, learned standing counsel appearing on behalf of the third respondent Corporation submitted that the Agricultural Officer, Udumalpet has made a preliminary assessment for the compensation payable towards 104 coconut trees. The learned counsel further submitted that the said Officer will have to pass final assessment order and the same has to be forwarded to the District Collector. The learned counsel further submitted that insofar as the land compensation is concerned, the first respondent had already directed the revenue to assess the compensation and the report has been submitted before the first respondent and the proposal is pending before the first respondent for approval. The learned counsel, therefore, submitted that both these reports will be taken into consideration by the first respondent and the final compensation will be fixed.

4. The learned counsel further submitted that since there is a dispute between the parties, Section 16(4) of the Indian Telegraph Act will come into operation. For proper appreciation, Section 16(4) is extracted hereunder:-

"16. Exercise of powers conferred by Section 10, and disputes as to compensation, in case of property other than that of a local authority:-

(1)

(2)

(3)

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount

has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

5. The learned counsel submitted that wherever there is a dispute as to the persons entitled to receive compensation is concerned, the Telegraph Authority will have to pay the compensation into the Court of the District Judge and ultimately, the District Court will issue notice to the concerned parties, hear them and pass orders on the share that has to be given to each of the parties, who makes the claim. The learned counsel, therefore, submitted that after the final compensation is determined by the first respondent, the third respondent will deposit this amount before the civil court as per the above provisions.

6. Taking into consideration the facts and circumstances of the case and after carefully bestowing the attention on the submissions made by the learned standing counsel appearing on behalf of the third respondent, this Writ Petition is disposed of with the following directions:-

(a) The Agricultural Officer, Udumalpet is directed to pass the final assessment order and forward the approval to the first respondent within a period of two weeks from the date of receipt of a copy of this order;

(b) The first respondent on receipt of the final assessment order of the Agricultural Officer, Udumalpet, shall take into consideration both, the assessment orders passed by the Agricultural Officer as well as the report received from the Revenue towards land compensation and determine the final compensation amount payable to the parties. This exercise shall be completed by the first respondent within a period of six weeks from the date from which the assessment order is received from the Agricultural Officer, Udumalpet;

(c) Immediately after the final compensation amount is determined by the first respondent, the same shall be informed to the third respondent and the third respondent shall deposit the entire compensation amount before the concerned District Court within a period of four weeks thereafter; and

(d) The concerned District Court shall issue notice to the parties and hear them and determine the share that each of them is entitled. It is also left open to the District Court to wait for the final disposal of the suit in O.S.No.267 of 2018, pending on the file of the Sub-Court, Udumalpet.
No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mra

To

- 1 The District Collector
Collectorate Buildings, Tiruppur.
- 2 The Tahsildar
Udumalpet.
3. The Agricultural Officer,
udumalpet.
4. The District Court,
Tiruppur District.
5. Sub Court, Udumalpet.
- 6 The Chief Manager
Power Grid Corporation India Limited
Palladam DSC Office 28B-2 First Floor
Pollachi Road, P.Vadugapalayam, Palladam
Tiruppur - 641 664.

+1cc to M/s.N.Umapathi, Advocate, S.R.No.40662
+1cc to the Government Pleader, S.R.No.40746

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SR II (CO)
KKV/07/0/2021