

In the High Court of Judicature at Madras

Dated : 21.2.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.6369 of 2017 & WMP.Nos.6868 & 6869 of 2017

K.Parthasarathy ...Petitioner

Vs

1.The District Collector, Coimbatore
District, Coimbatore-641018.

2.The Special Tahsildar, Land
Acquisition, Tamil Nadu Housing
Board, Coimbatore-641018.

Mrs.K.Rajammal (died)

3.Mrs.Andal

4.The Manager, State Bank of India,
Sarvajana High School Branch,
Peelamedu, Coimbatore.

5.Kanchana

(R5 impleaded vide order of court dated 21.2.2020
vide WMP.No.11478 of 2018 by TSSJ)

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the first respondent to pay a sum of Rs.37,00,000/- approximately to the petitioner herein from the compensation amount to be deposited to the credit of L.A.O.P.No.244 of 1990 on the file of the First Additional Subordinate Court, Coimbatore in favour of this petitioner herein or if is already deposited permit this petitioner herein to withdraw the same being his share or apportionment of the compensation.

For Petitioner	:	Ms.P.Bagyalakshmi
For Respondents 1 & 2	:	Mr.M.Elumalai, GA
For Respondents 3 & 5	:	Mr.P.Saravana Sowmiyan
For Respondent-4	:	Mr.K.Chandrasekaran

ORDER

Today vide WMP.No.11478 of 2019, by a separate order, one Ms.Kanchana has been impleaded as a party respondent to this writ petition and therefore, the respondents are re-cast. I have heard Ms.P.Bagyalakshmi, learned counsel for the petitioner, Mr.M.Elumalai, learned Government Advocate appearing for respondents 1 and 2, Mr.P. Saravana Sowmiyan, learned counsel for respondents 3 and 5 and Mr.K. Chandrasekaran, learned counsel for the fourth respondent.

2. The petitioner has filed this writ petition seeking to direct the first respondent to pay a sum of Rs.37,00,000/- approximately to him from the compensation amount to be deposited to the credit of L.A.O.P.No.244 of 1990 on the file of the First Additional Subordinate Court, Coimbatore in favour of this petitioner herein or if it is already deposited, to permit him to withdraw the same being his share or apportionment of the compensation.

3. The petitioner and respondents 3 and 5 are the children one Mrs.K.Rajammal, who was originally the third respondent and now she is no more.

4. The subject lands were acquired for a public purpose and compensation amount was arrived at. It is the case of the petitioner that he is entitled to his share of the compensation and that without allotting his share, respondents 3 and 5 withdrew the same. In respect of the remaining amount, which according to the petitioner is lying in deposit either before the Reference Court or with the fourth respondent - bank, the petitioner seeks permission to withdraw the amount.

5. The learned counsel for respondents 3 and 5 has referred to the counter affidavit filed by the said late Mrs.K.Rajammal, who was originally the third respondent when she was alive, by stating that the compensation towards her share namely a sum of Rs.58,80,916.30 Ps was deposited in her account. It has been further stated that the entire compensation amount of Rs.95,57,12,400/- was deposited in the account of the said late Mrs.K. Rajammal, that as per the decree of the civil court, she was entitled for compensation towards her share of 1.65 acres alone and that towards her share, she received only a sum of Rs.58,80,916.30 Ps. It has also been stated that it was false and incorrect to state that a further sum of Rs.70 lakhs was deposited in her savings account with the fourth respondent bank.

6. In any event, if there is a dispute with regard to apportionment, then the remedy of the petitioner would be to approach the Reference Court under Section 30 of the Land Acquisition Act, 1894. Without filing an application before the concerned court, the petitioner cannot seek a direction to the District Collector or for that matter the fourth respondent - bank to permit the petitioner to withdraw any portion of the compensation.

7. From the counter filed by the said late Mrs.K.Rajammal when she was alive, it is also seen that she has got compensation payable to her in respect of her share, which is for an extent of 1.65 acres.

8. All these issues have to be adjudicated by the petitioner before the Reference Court if he is so advised and no direction can be issued to the District Collector to disburse the amount.

9. For all the above reasons, the writ petition is dismissed. No costs. Consequently, the connected WMPs are also dismissed.

10. However, this order will not be a bar to the petitioner to approach the Reference Court for appropriate relief under Section 30 of the said Act.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector, Coimbatore District, Coimbatore-641018.

2.The Special Tahsildar, Land Acquisition, Tamil Nadu Housing Board, Coimbatore-641018.

3.The Manager, State Bank of India, Sarvajana High School Branch, Peelamedu, Coimbatore.

+1cc to Mr.P.Saravana Sowmiyan, Advocate, SR. No. 15543

+1cc to Mr.K.Chandrasekaran, Advocate, SR. No. 15028

WP.No.6369 of 2017 &
WMP.Nos.6868 & 6869 of 2017

RSV(CO)

RMP(20/07/2020)