

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

**C.R.P.(PD).No.4044 of 2018**

**and**

**C.M.P.No.22348 of 2018**

1.Kanagammal

2.Ravichandran

3.Punitha

4.Suresh

5.Suganthi

6.Narendra Prabhu

7.Vijayashanthi

.. Petitioners

Vs.

1.Pushpanathan

2.The Special District Revenue Officer,

Land Acquisition,

National Highways 66,

Villupuram.

.. Respondents

Prayer: Petition filed under Article 227 of the Constitution of India, against the Order and Decree dated 09.08.2018 made in I.A.No.30 of 2018 in L.A.O.P.No.1 of 2011, on the file of learned Additional District Judge No.II, Tindivanam.

For Petitioners : Mr.P.Dinesh Kumar

For Respondents : Mr.Pushpanathan

### **ORDER**

This Civil Revision Petition has been filed by the petitioner against the order in I.A.No.30 of 2018 in L.A.O.P.No.1 of 2011 dated 09.08.2018, which was filed under Section 10 of the code of Civil Procedure, seeking stay of all further proceedings in L.A.O.P.No.1 of 2011, pending disposal of the appeal filed by them in A.S.No.6 of 2016. The Reference in L.A.O.P.No.1 of 2011 has been made under Section 3H of the National Highways Act, since there was a dispute as to who are the persons entitled to receive the compensation for the land acquired by the National Highways Authority. Even before the acquisition proceedings commenced, a suit was filed by the petitioners herein, seeking a separate possession of their share in the suit property and the suit was dismissed by the Trial Court on 21.03.2016. It is against this judgment and decree, the Appeal in A.S.No.6 of 2016 has been filed by the petitioners herein. In the mean time the acquisition proceedings intervened and the reference was made to decide as to who is entitled to receive the compensation. Therefore, it is

clear that the question that is to be decided is, as to whether the petitioners are entitled to a share in the compensation or not. Evidence in this regard has already been recorded in O.S.No.86 of 2006. If the petitioners succeed in the Appeal, they would be entitled to the share in the compensation, otherwise they will not be entitled to a share. The Trial Court had dismissed the application under Section 10 of Civil Procedure Code on the ground that it is belated. No doubt, application under Section 10 of Civil Procedure Code has been filed after completing cross-examination of P.W.1 in the L.A.O.P.

2. I find that there will be duplication of evidence, if both the proceedings in L.A.O.P NO.1 of 2011 and AS.No.6 of 2016 are simultaneously proceeded with. I am of the considered opinion that, as rightly contended by Mr.P.Dinesh Kumar learned counsel appearing for the petitioners, if L.A.O.P is decided either way it will have a bearing on the the appeal which has to be decided on the basis of the evidence already available. Therefore, in order to avoid duplication, I find that the proceedings in L.A.O.P.No.1 of 2011 should be kept pending, till the

disposal of the appeal in A.S.No.6 of 2016. The Trial Court, namely, the Second Additional District Judge, Tindivanam, is directed to dispose of the appeal in A.S.No.6 of 2016 within a period of two months from the date of receipt of a copy of this order either by physical hearing or virtual hearing and thereafter decide L.A.O.P.No. 1 of 2011.

3. With the above direction, the Civil Revision Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

23.11.2020

kmm

Internet: Yes/No  
Index: Yes/No

To

The learned Additional District Judge No.II,  
Tindivanam.

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**R.SUBRAMANIAN, J.**

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**23.11.2020**