

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P No.32228 of 2012
and
M.P No.1 of 2012 & 1 of 2013

A.K.Kanagavalli
..Petitioner
Vs

1.The District Collector
Kancheepuram District
Kancheepuram
2.The Special Tahsildar
(Land Acquisition)
Oragadam Industrial Park
Thiruperumabattur.
Respondents

..

Prayer: This Writ Petition is filed under Section 226 of Constitution of India to issue a Writ of Mandamus directing the respondents to refer the dispute relating to land acquisition for survey numbers 310B/1, 310B/2 and 310B/3 and 544, Pondur Village, Sriperambattur Taluk, Kancheepuam District to the competent court for apportionment of the compensation amount.

For Petitioner :Mr.V.Raghavachari

For Respondents: :Mr.D.Suryanarayanan for R1 & R2
Additional Government Pleader

O R D E R

This writ petition has been filed challenging the proceedings dated 18.04.2012 to refer the dispute to the competent court.

2. According to the writ petitioner, the subject matter of the acquired land belonged to her father Shri Adikesavulu Pillai. After the death of her father, his wife and 5 children including the petitioner are the legal heirs of the deceased. The allegation of the petitioner is that the petitioner's brother had attempted to acquire the entire compensation

Therefore, there is a dispute with regard to the aforesaid apportionment of the award amount. The petitioner has sent a objection to the concerned authorities and the authority has issued a notice to the petitioner on 18.04.20212 and her brother Narayanan, who is not a party in the writ petition to appear for enquiry by producing all the documents for payment of the compensation amount. When the petitioner appeared before the second respondent for enquiry, he attempted to settle the dispute between her and her brother instead of referring the dispute to a competent court. The said notice is the subject matter of the writ petition.

3. In the counter affidavit filed by the respondent, in para 8, it has been stated that the respondents had not made any attempt to settle the dispute contrary to the provisions mentioned in the Act. As per Section 21 of the Tamil Nadu Highways Act 2001, the Collector has power to determine the persons interested and arrive to the conclusion with regard to payment of amount. Since the writ petitioner had sent a representation with regard to her share in the property, the first respondent herein issued instructions to the second respondent vide his letter in Na.Ka/No.25015/2009/F2 dated 18.04.2012 and enquiry was conducted on 26.04.2012 in the office of the second respondent. The writ petitioner appeared and objected for granting compensation to her brother A.Narayanan. But the petitioner has not produced any document relating to her share in the property comprised in S.No.310B/3 and 544/5. The second respondent had sent enquiry report and sought for order from the first respondent. The first respondent in his letter in Na.Ka.No.25012/2009 dated 31.08.2012 had directed the second respondent to disburse the compensation amount to eligible and concerned person after proper verification of documents. Pending the writ petition, the compensation amount was not settled and the same is kept in the government treasury. Subsequently, the compensation amount of Rs.1,41,11,837/- drawn from government treasury and deposited in Sub Court, Kancheepuram under Court deposit by cheque No.269444 dated 18.09.2014 on 26.02.2015.

4. On the aforesaid facts, this Court observes that firstly, the petitioner has not impleaded his brother A.Narayanan as party in the present writ petition. Secondly, the compensation amount has been deposited before the competent Civil Court for apportionment. Thirdly, the dispute can be resolved before the competent civil court and not under Section 226 of Constitution of India. Therefore, on the aforesaid observations, this Court is of the view that this Court cannot go into the disputed fact of apportionment of payment of compensation amount and the present writ petition is liable to be dismissed. However, it is open to the petitioner to approach

the competent civil court to work out his remedy by producing the relevant documents within a reasonable time.

5. In the result, the writ petition stands dismissed with the above observation. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector
Kancheepuram District
Kancheepuram

2.The Special Tahsildar
(Land Acquisition)
Oragadam Industrial Park
Thiruperumabattur.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.22707

W.P No.32228 of 2012 and
W.M.P.No.1 of 2012 & 1 of 2013

RSI (CO)
CB(06/07/2021)



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