

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2021

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 14488 of 2017
and
W.M.P. No. 15718 of 2017

Suseela Mariappan ... Petitioner

-vs-

1. The State of Tamil Nadu
Rep. by the District Collector,
Kancheepuram District.
2. The Land Acquisition Officer
Kancheepuram District.
3. 144, The Hindustan Engineering Training Centre
Padur Village,
Old Mahabalipuram Road,
Kancheepuram District. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, to forbear the first and second respondents, their men, agents, servants, subordinates or anybody acting on their behalf from in disturbing the compensation amount for S.No.294/1, Padur village, Thiruvallur Taluk, Kancheepuram District to anybody especially to the third respondent.

For Petitioner : Mrs.Selvi George

For Respondents : Mr.M.Elumalai, AGP for R1 and R2
Mr.Kandan Doraisami for R3

O R D E R

The prayer sought for herein is for a Writ of Mandamus, to forbear the first and second respondents, their men, agents, servants, subordinates or anybody acting on their behalf from in disturbing the compensation amount for S.No.294/1, Padur

village, Thiruvallur Taluk, Kancheepuram District to anybody especially to the third respondent.

2. The case of the petitioner is that, the land to an extent of 44.3/4 cents situated at S.No.294/1, Padur village, Thiruvallur Taluk, Kancheepuram District was purchased by the petitioner in her name and her minor daughter's name by a valid registered sale deed, dated 13.07.1990 in Doc.No.1721 of 1990 at the concerned Registrar's Office. Since then, the petitioner claimed that, she has been in possession and enjoyment of the property and the revenue records also got mutated in the name of the petitioner.

3. Subsequently, it seems that, the respondents 1 and 2 have acquired the land in question along with some other land for the purpose of expansion of road, thereby the land acquisition proceedings ended in Award and at the time of passing the award, it seems that, there has been a rival claimant along with the petitioner and in this regard, the third respondent also seems to have made a claim to get compensation for the land in question acquired by the respondents 1 and 2.

4. Only in that circumstances, the petitioner has given a representation on 27.02.2017 to the District Collector, Kancheepuram, the first respondent herein that, firstly, the compensation shall not be given to any one for the land in question and it should be given to the petitioner, secondly, the quantum of compensation fixed in this regard is not adequate, therefore, adequate compensation has to be fixed, therefore the issue can be referred to the Civil Court for adjudication. Though the said representation was given by the petitioner on 27.02.2017, since the same was not considered and no order as expected by the petitioner had come from the respondents, the petitioner has approached this Court by filing the present writ petition with the aforesaid prayer.

5. Heard Mrs.Selvi George, learned counsel appearing for the petitioner who having reiterated the aforesaid would seek indulgence of this Court to give a suitable direction to the respondents 1 and 2 to refer the matter to the Civil Court and in the meanwhile, let there not be any disbursement of compensation to anyone including the third respondent, unless the claim made by the petitioner and the rival claimant is decided by the competent Civil Court.

6. I have heard Mr.M.Elumalai, learned AGP appearing for the official respondents who would submit that, in this regard, the counter affidavit has been filed by the District Revenue Officer, Kancheepuram, where he has relied upon the following averments :

"7. I submitted that Tmt.Susila, w/o. late P.Mariappan objecting to pay compensation to the parties who were having patta or any other manner claim compensation. They further state that they are the legal owners of the said land. Therefore pass the award in favour of Tvl.Chennai Hindustan Engineering Training Centre Patta No.144 interested person land reforms Villupuram. 1) Tmt.Susila, w/o. Mariyappan and her daughter, 2) Tmt.Reka, 3) Thiru.R.Balakshrinan, 4) Thiru.Jayaboovan, 5) Tmt.Saraswathi, 6) Tmt.Kasthuri, 7) Tmt.Vasanthi, 8) Tmt.Jayalakshmi, 9) Thiru.Swaminathan, 10) Tmt.Uma, 11) Thiru.Ramesh Babu, 12) Thiru.Balasubramanian, 13) Thiru.Panchatsaram. Hence, in the circumstances, the above rightful owners have not yet produced original documents like sale deed, partition deeds and encumbrance certificates in respect of land and also the above Survey No.294/1B (01996 Sq.mtrs) amount has to be kept in Civil Court Deposit in relevant Subordinate Judge's Court at Chengalpattu under Section 21(2) of the Tamil Nadu Highways Act, 2001, which is as follows :

"When the amount has been determined under Section 19, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute for the decision of the Court."

Hence the contention of the petitioner is not correct. Therefore, it is prayed that this Hon'ble Court may be pleased to dismiss the writ petition and thus render justice."

7. By relying upon these averments, the learned AGP would submit that, since there has been rival claimants in respect of the land in question as per the provisions of the Tamil Nadu Highways Act, 2001, especially under Section 21(2) of the said Act, the compensation amount has been deposited in the Court and the matter has been referred to the Civil Court for appropriate adjudication and decision.

8. By making the aforesaid submission, the learned AGP would further submit that, if at all the petitioner wants to agitate the issue before the competent Civil Court, where the matter has already been referred, the respondents 1 and 2 since have already referred the matter as stated supra in the counter, it is for the petitioner to approach and get it. Till such time, no compensation would be disbursed to anyone including the third respondent with regard to the land in question as claimed by the petitioner.

9. I have considered the said rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

10. The main grievance of the petitioner appears to be, as projected by the petitioner in the affidavit filed in support of this writ petition as well as his representation, dated 27.02.2017, is that, the petitioner is the absolute owner of the land in question and therefore, if at all any compensation to be paid for the land having been acquired for highways purpose, that should be paid only to the petitioner and in this regard, if there is any rival claim, especially from the third respondent, the same shall be referred to the Civil Court for adjudication only thereafter, according to the adjudicatory decision to be made by the competent Civil Court, the issue can be decided. Therefore the parties can very well be relegated to the Civil Court and till such time, no compensation for the land in question be disbursed to the petitioner and any other person including the third respondent.

11. The said main grievance as espoused by the petitioner since has been already met by the official respondents as has been stated in the counter affidavit which has been quoted herein above, that as per the provisions of the Tamil Nadu Highways Act, the matter has been already referred to and the compensation amount has also been deposited, it is open to the petitioner to approach the Civil Court or competent Court, where the matter has already been referred to, establish her case with regard to the ownership of the land in question and accordingly get the compensation.

12. With regard to the enhancement of compensation also, it is open to the petitioner to agitate the issue in the manner known to law.

13. In view of the said development having been taken place as referred to above and the prayer sought for in the writ petition has already been met in the manner as discussed above, this Court feels that no further orders are required to be passed in this writ petition, except observing the aforesaid development. Accordingly, this writ petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
State of Tamil Nadu,
Kancheepuram District.
2. The Land Acquisition Officer,
Kancheepuram District.

+lcc to Mr.Muthumani Doraisami, Advocate Sr.24742
+lcc to Mrs.Selvi George, Advocate Sr.24783
+lcc to the Government Pleader Sr.24994

W.P. No. 14488 of 2017

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