



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 18.03.2021

DELIVERED ON : 17.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.[MD]No.6046 of 2021

WEB COPY

K.Mohamed Kaasim

... Petitioner

Vs.

- 1.The Government of India,
Rep. by its Secretary,
Ministry of Road Transport and Highways,
Transport Bhavan, No.1, Parliament Street,
New Delhi.
- 2.The Deputy General Manager (Land Acquisition),
Regional Office,
National Highway Authority of India (NHAI),
307, Melur Main Road,
Lake Area near Mattuthavani,
Madurai - 625 107.
- 3.The Special District Revenue Officer (Land Acquisition),
Competent Authority for Land Acquisition (CALA),
O/o. Special District Revenue Officer,
Plot No.3, Surya Towers 2nd Floor,
East 1st Street, Sakkudi,
Madurai - 625 020.
- 4.The Project Director,
National Highway Authority of India (NHAI),
Plot No.1, Aishwaryam Heights,
Indra Nagar,
Chennamanaikennpatti (PO),
Thadikombu Road,
Dindigul - 624 004.
- 5.The Special Tahsildar (Land Acquisition),
Natham to Thuvarankurichi Unit - 3,
Opposite to Devadaas Sivagamiammal Mahal,
Senthurai Road, Natham,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to give intention to the petitioner before disbursing the compensatory amount for the construction of National Highway Madurai - Natham - Thuvarankurichi for his joint family properties in Survey No.65/1A, 2A, 67/2A, 2B1, 74/43, 65/1B, 2B, 67/2B2 and 67/1B Nadumandalam Village (Kuttupatty), Natham Taluk, Dindigul District to allot and



disburse 1/3 of compensatory amount in his account considering the representation dated 25.01.2021.

For Petitioner : No appearance
For Respondent No.1 : Mr.Sivakumar
Central Government Standing Counsel
For Respondents 2&4 : Mr.Srinivasan
For Respondents 3&5 : Mr.M.Rajarajan
Additional Government Pleader

O R D E R

The case of the petitioner is that a joint family property in which the petitioner is one of the members is situated at Dindigul District, Natham Taluk, Nadumandalam Village (Kuttupatty) in Survey No.65/1A, 2A, 67/2A, 2B1, 74/43, 65/1B, 2B, 67/2B2 and 67/1B.

2.According to him, these properties were purchased by his family ancestors and after the demise of his forefathers, the properties have been divided between the two brothers namely, the petitioner's father and his brother. According to him, five children are born to his parents. The petitioner claims himself to be a good worker involved in agricultural activities. But, however, he was prevented from doing the agricultural works in view of his love marriage against the wishes of his family members.

3.While so, a portion of the joint family property was acquired by the National Highway Authority of India (NHAI) for the construction of 4 way lane from Madurai - Natham - Thuvankurichi. The petitioner had come to know that the Highways authority has deposited a compensation amount of Rs.48 Lakhs in the account of his father and brother. The grievance of the petitioner is that though it is a joint family property, it actually stands in the name of only three members, namely, his father, mother and his brother. But, the petitioner was wrongfully excluded from the joint holding of the ancestral property. According to the petitioner, as the properties were ancestral, the petitioner has a share in it.

4.In the said circumstances, the petitioner had submitted a representation on 09.12.2019 to the acquisition authority to include him as one of the claimants and also he should be informed when the disbursement of compensation amount takes place to the existing claimants. The petitioner in this regard had appeared to have approached this Court in W.P.[MD]No.16862 of 2020 and in W.P.[MD] No.17335 of 2020, one to include his name in the revenue records and other not to register any document before the registering authority in respect of the joint family property.

5.As far as the present writ petition is concerned, the grievance of the petitioner is that he is to be informed by the



National Highways authorities at the time of the disbursement of the compensation amount and he must be allotted 1/3rd share from the amount deposited.

6.This Court in the light of the factual narrative, is not inclined to entertain the writ petition for the reason that unless the petitioner establishes his right over the property as the member of the joint family, the prayer in this writ petition cannot be granted. Even otherwise, it is for the petitioner to establish his right before he seeks any direction against the acquisition authority. Without establishing his right to the property in the first place, it is not for the petitioner to seek any direction to the authority to give him or to allot him any part of the compensation amount payable to the owners of the property.

7.In any case, the petitioner has given a representation to the authority only recently on 25.01.2021 and it is open to him to pursue the representation and justify his claim in the property which was subjected to acquisition and consequent deposit of the compensation amount. However, it is not open to the petitioner to seek to issue a Writ of Mandamus in this regard and this Court cannot issue any Mandamus on the basis of the self serving averments of the petitioner alone. Moreover, the petitioner himself has approached this Court twice recently and those writ petitions are also pending as on date. The petitioner has rushed to this Court without any specific cause of action as on date. Even otherwise, the Writ petition with a prayer as framed, cannot be countenanced both in law and on facts.

8.For the above stated reasons, this writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1.The Secretary,
Government of India,
Ministry of Road Transport and Highways,
Transport Bhavan, No.1, Parliament Street,
New Delhi.

2.The Deputy General Manager (Land Acquisition),
Regional Office,
National Highway Authority of India (NHAI),

<https://hcservices.ecourts.gov.in/hcservices/>



307, Melur Main Road, Lake Area near Mattuthavani,
Madurai - 625 107.

3.The Special District Revenue Officer (Land Acquisition),
Competent Authority for Land Acquisition (CALA),
O/o. Special District Revenue Officer,
Plot No.3, Surya Towers 2nd Floor,
East 1st Street, Sakkudi, Madurai - 625 020.

4.The Project Director,
National Highway Authority of India (NHAI),
Plot No.1, Aishwaryam Heights,
Indra Nagar, Chennamanaikennpatti (PO),
Thadikombu Road,
Dindigul - 624 004.

5.The Special Tahsildar (Land Acquisition),
Natham to Thuvarankurichi Unit - 3,
Opposite to Devadaas Sivagamiammal Mahal,
Senthurai Road, Natham, Dindigul District.

W.P.[MD]No.6046 of 2021
17.04.2021

SRK(CO)
KB(11.05.2021) 4P 6C