



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2021

CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD)No.6921 of 2020

and

W.M.P.(MD)No.6345 of 2020

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K.Puzhalarasan

... Petitioner

vs.

1.The District Collector,
Dindigul, Dindigul District.

2.The District Revenue Officer,
(Land Acquisition),
National Highways-209,
Dindigul, Dindigul District.

3.The Special Tahsildar,
(Land Acquisition),
Dindigul, Dindigul District.

4.Dhanalakshmi

5.Hema

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to grant 50% of the compensation in lieu of the acquisition with regard to the half share of the properties of the petitioner in S.Nos.332/1C1, 346/2B and 347/2B3, Reddiarpatti Village, Oddanchatram Taluk, Dindigul District by considering the representation of the petitioner, dated 03.06.2020.

For Petitioner	: Mr.S.C.Herold Singh
For R1 to R3	Mr.D.Ghandiraj Special Government Pleader
For R4 and R5	: Mr.J.Lawrance

O R D E R

This Writ Petition has been filed in the nature of Mandamus, seeking a direction to the respondents to grant 50% of the compensation in lieu of the acquisition with regard to the half share of the properties of the petitioner in S.Nos.332/1C1, 346/2B and 347/2B3, Reddiarpatti Village, Oddanchatram Taluk, Dindigul District.

2.Heard Mr.S.C.Herold Singh, learned Counsel for the petitioner, Mr.D.Gandhiraj, learned Special Government Pleader for R1 to R3 and Mr.J.Lawrance, learned Counsel for R4 and R5.



3.The dispute is purely between the petitioner and Respondents 4 and 5. Since a Writ has been filed, necessarily Government Officials will have to be impleaded and therefore, Respondents 1 to 3 have been made as parties to this Writ Petition.

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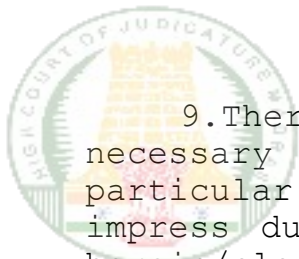
4.The property in question, which is now acquired by the officials, originally belonged to Lingusamy. Lingusamy had one son Govindaraj and one daughter Kamalam. The petitioner is the son of Kamalam. Respondents 4 and 5 are the wife and daughter of Govindaraj. It is stated that Kamalam died in the year 2006. Lingusamy had executed a Will on 18.06.2008, which had also been registered before the Sub Registrar, Chatrapatti. Since the Will would have to be tested in manner known to law, let me not delve deeper into the terms thereof.

5.Since the lands have been acquired by the respondents 1 to 3, they are under obligation to pay compensation. It is a fact that the land, if had been remained as land, would be quite worthless and somebody would have to invest money, to see some returns coming from the land. But suddenly, the Government had come into the picture in view of acquisition and an amount had been determined as the value of land and is now readily available for partition. Disputes had arisen among the family of Govindaraj and Kamalam, in effect, between the petitioner and Respondents 4 and 5.

6.The petitioner wants a share in the compensation payable by the official respondents towards the acquisition of the land. He had given a representation and finally, had also instituted a suit in O.S.No.278 of 2020, seeking partition and separate position, which suit is now pending before the Subordinate Court at Palani.

7.It is the contention of Mr.S.C.Herold Singh, learned Counsel for the petitioner that the Writ Petitioner may be paid 50% of the compensation, since according to him, by any stretch of imagination, as a legal heir of the daughter of Lingusamy, the petitioner is entitled to 50% of the share. Therefore, the Writ Petition has been filed seeking payment of 50% of the compensation amount.

8.I would rather give a liberty that the issue may be settled before the Civil Court and the petitioner, if he so advised and if he thinks that it is appropriate, may also include the compensation amount and his share thereof in the partition suit as a schedule, as a claim, which he can make against the defendants therein and on decree being passed. Even if the amount is disbursed to the respondents 4 and 5, he can legitimately claim that share to be paid out at that particular point of time. The payment of compensation to anybody, even to the respondents 4 and 5, should not be to the prejudice of the petitioner or to the advantage of the respondents 4 and 5.



9. Therefore, I would dismiss the Writ Petition, however, giving necessary liberty to the petitioner herein to include this particular claim as a further schedule in the pending suit and impress during the course of trial, the rights of the petitioner herein/plaintiff therein for a share in the compensation amount. I am confident that if such a claim is made, even if the compensation amount is paid by the official respondents to the Respondents 4 and 5, they may be answerable at the time whenever preliminary decree is passed and the learned Subordinate Judge, Palani, would also be under an obligation to give a finding with respect to the petitioner/plaintiff's share in the compensation amount. To that extent, the interests of the parties would be protected.

10. With the said observations, though the Writ Petition is dismissed, liberty to that extent is reiterated and granted to the petitioner. The Respondents 1 to 3 may take a decision to disburse the compensation in accordance with the records available within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

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/ /2022

Sub Assistant Registrar (CS)

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To

1. The Subordinate Judge,
Palani

2. The District Collector,
Dindigul, Dindigul District.

3. The District Revenue Officer,
(Land Acquisition),
National Highways-209, Dindigul, Dindigul District.

4. The Special Tahsildar,
(Land Acquisition), Dindigul, Dindigul District.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-38155[F] dated 10/12/2021)

+1 CC to M/s.J.LAWRANCE, Advocate (SR-38212[F] dated 10/12/2021)

+1 CC to M/s.SPL GP (SR-38303[F] dated 13/12/2021)

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