



W.P.No.23162 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2022

CORAM
THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.23162 of 2015

and

M.P.No.1 of 2015

Kannammal

...Petitioner

Vs.

1. The Land Acquisition Officer and
The District Revenue Officer,
Erode.

2. Deivasigamani

3. Kandasamy

4. Sathishkumar

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus call for the records pertaining to the award passed by the 1st respondent in (Award No.4/2015) Na.Ka.No. 7247/2007/Aa.1 dated 30.4.2015 and quash the same as far as the direction to deposit the compensation amount in court deposit with regard to the land in R.S.No.992/2B in Vadamugam Vellode Village is concerned and consequently direct the 1st respondent to give the respective share of the petitioner in the said compensation amount as awarded by the 1st respondent for the said land.

For Petitioner : Mr.I.C.Vasudevan



W.P.No.23162 of 2015

For Respondents : Mr.G.Krishna Raja, AGP, for R1.
: Mr.A.Sundaravadhanan, for R2 & R4

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ORDER

The petitioner has filed this Writ petition seeking issuance of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in respect of the award in Award No.4/2015, vide proceedings Na.Ka.No.7247/2007/Aa.1 dated 30.04.2015, quash the same as far as the direction to deposit the compensation amount in court deposit with regard to the land in R.S.No.992/2B in Vadamugam Vellode Village is concerned and to consequently direct the 1st respondent to disburse the petitioner's respective share in the said compensation amount in favour of the petitioner.

2. The case of the petitioner is that originally the land comprised in R.S.No.992/2B situated at Vadamugam Vellode Village belonged to the petitioner's father namely Periyanna Gounder and after his demise, the petitioner, the 2nd and 3rd respondents herein being the legal heirs of the said Pereiyanna Gounder, succeeded the subject property. Whiles, the 1st respondent has acquired the above said land to an extent of 730 sq.mtrs., for the purpose of formation of Sarkar Poromboke outer Ring Road and passed an Award in Award No.4/2015 vide proceedings Na.Ka.No.7247/2007/Aa.1



W.P.No.23162 of 2015

dated 30.04.2015, in which a direction was issued to keep the compensation amount in respect of the subject property in Court deposit, as the 4th respondent has made a petition dated 21.04.2015, claiming 1/3rd share in the said compensation, on the ground that the said Periyanna Gounder has executed an unregistered Will dated 16.03.2006 in his favour in respect of the subject property. Hence, challenging the said Award, this Writ petition is filed.

3. Learned counsel for the petitioner submitted that, the subject land originally belonged to the petitioner's father and after his demise, the petitioner, the 2nd and 3rd respondents being the only legal heirs of the said Periyanna Gounder, are entitled to enjoy the land and the petitioner is entitled to 1/3rd share of the compensation amount in respect of the subject land. Whiles, the 1st respondent issued direction to keep the compensation amount in respect of the subject property in Court deposit, based on the petition made by the 4th respondent, who is none other than the Son of the 2nd respondent / petitioner's brother, without hearing the petitioner, which is not sustainable. Further, even if there is any dispute with regard to the title, it is the duty of the Land Acquisition Officer to refer the matter to the



W.P.No.23162 of 2015

competent Civil Court for apportionment of compensation amount in terms of Section 21 of the Tamil Nadu Highways Act, 2001 (in short 'Act'), however, till date, the same was not done in the petitioner's case, and instead, the compensation amount was deposited in Court, which cannot be sustained and it is a clear violation of Section 21 of the said Act. He furthermore submitted that, subsequent to the passing of award under challenge, the 4th respondent has filed a suit in O.S.No.49/19 on the file of the Learned II Additional District Judge, Erode and the same is pending. Hence, he prayed for appropriate orders.

4. On the above said contentions, heard learned counsel for the respective respondents and perused the materials available on record.

5. Section 21 of the Tamil Nadu Highways Act, 2001 has been pressed into service by the petitioner to contend that when any dispute arises as to the apportionment of the compensation amount determined under section 19, the Collector may refer such dispute for the decision of the Court. For better appreciation, the relevant provision is extracted hereunder :-



W.P.No.23162 of 2015

21. Apportionment - (1) Where several persons claim to be interested in the amount determined, the Collector shall determine the persons who in his opinion, are entitled to receive the amount and the amount payable to each of them.

(2) 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.

As rightly pointed out by the petitioner, as per Section 21 of the said Act, instead of referring the subject matter to the competent Civil court, the 1st respondent directed for court deposit of the compensation amount in respect of the subject property. Hence, this Court, issues direction to the 1st respondent to place the matter before the District Collector, Erode, to refer the matter to the competent Civil Court as per Section 21 of the said Act for apportionment of the compensation amount and the said exercise shall be completed by the 1st respondent within a period of eight weeks from the date of receipt of a copy of this order.

6. Further, with regard to the pending suit in O.S.No.49/2019 on the file of the II Additional District Judge, Erode filed by the 4th respondent is



W.P.No.23162 of 2015

concerned, this Court, grants liberty to the petitioner to canvass all her grievances before the trial court where the above said suit is pending.

7. Registry is directed to mark a copy of this order to the District Collector, Erode.

8. With the above observations and directions, this Writ petition is accordingly allowed. No costs. Consequently, connected Miscellaneous petition is closed.

21.06.2022

skt

Speaking Order : Yes/ No
Index : Yes/ No

To

1. The Land Acquisition Officer and

6/8



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W.P.No.23162 of 2015

The District Revenue Officer,
Erode.

2. The District Collector,
Erode.

M.DHANDAPANI, J.

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W.P.No.23162 of 2015
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W.P.No.23162 of 2015

21.06.2022