



W.P. No.23464 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No. 23464 of 2022

R.Kannan

... Petitioner

Vs.

1. The Special District Revenue Officer,
Land Acquisition, NH 45A,
Nagapattinam.

2. The Special Tahsildar
Land Acquisition, NH 45A,
Nagapattinam.

3. M.Paneerselvam

4. THE PROJECT DIRECTOR
National Highways Authority (NH45A)
No. 26, 1st floor, VGP Nagar West,
Vazhudhareddy Post,
Villupuram 605 401.
(R4 IMPEADED VIDE ORDER DT 27.09.2022
made in WMP.No.23961 of 2022 in
WP.No.23464 of 2022)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the Respondents 1 and 2 herein to disburse the compensation amount of the petitioners decease wife Mrs.Suba for the land acquired from her for forming of road National Highway NH 45A in S.No.10 /5 measuring to an extent of 8000 Sq. Ft at Andhanapettai



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Village in Nagapattinam Taluk and District to the petitioner within a time frame fixed by this Honble Court.

For Petitioner : Mr. P.Dinesh Kumar

For Respondents : Mr.K.M.D.Muhilan, GA RR1 & 2

Mr.A.Arun R3

Mrs.S.R.Sumathy R4

ORDER

The writ petition has been filed seeking a direction to the Respondents 1 and 2 herein to disburse the compensation amount of the petitioners decease wife Mrs.Suba for the land acquired from her for forming of road National Highway NH 45A in S.No.10 /5 measuring to an extent of 8000 Sq. Ft at Andhanapettai Village in Nagapattinam Taluk and District to the petitioner within a time frame fixed by this Honble Court.

2. The case of the petitioner is that the petitioner's wife Suba was the absolute owner of the land situated in S.No.10/5, measuring an extent of 8000 sq.ft. At andhanapettai Village, Nagapattinam Taluk and District. Initially, the property measuring an extent of 48,815 sq.ft. Was gifted to the petitioner's wife by his father viz., Natarajan by way of settlement deed dated 30.01.2003. While being so, the subject property was acquired by the government under the National Highways Act, through Notification dated



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05.11.2019 and also received notice for enquiry on 18.08.2020. During enquiry the petitioner's wife submitted all necessary document. However, the compensation was not disbursed in favour of the petitioner's wife. Due to health issues, the said Suba died on 27.05.2022 and thereafter, her legal heir viz. Petitioner and two sons are the absolute owners of the subject property. The present writ petition has been filed seeking an appropriate remedy.

3. Learned counsel for the petitioner submitted that initially, the petitioner's wife entered into a sale agreement and power of attorney with the third respondent on 06.04.2017 and the same was duly cancelled on 29.05.2017. To withhold the compensation amount being disbursed to the petitioner's wife, the third respondent has filed a suit in O.S.No.2/2021 before the District Munsif Court, Nagapattinam and the same is pending. Mere pendency of the suit will not deprive the rights of the petitioner to receive the compensation from the respondents. If at all, the 3rd respondent have any grievance, he has to file a suit for cancellation of the sale agreement and power of attorney in the manner known to law. As on date, there is no restrained passed as against the Land Acquisition Officer. Without any restrained order, the Land Acquisition Officer have no right to withheld the compensation amount and hence, the learned counsel prays that this Court



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may issue a direction to the respondents to disburse the compensation amount to the petitioner for the acquired land.

4. The learned counsel for the 3rd respondent submitted that this court may grant liberty to file an appropriate suit against the petitioner for cancellation of the sale agreement and power of attorney before the competent civil Court in the manner known to law.

5. Learned Government Advocate submitted that as on date, there is no restrained order passed by the trial Court and there is no title dispute between the parties. The respondents will pass an appropriate orders within the stipulated time as fixed by this court.

6. Heard the learned counsel on either side and perused the materials available on record.

7. The facts of the case are not in dispute. Admittedly the petitioner's wife is absolute owner of the above said land and she died on 27.05.2022. During her lifetime, she entered into a sale agreement with the 3rd respondent on 06.04.2017 and also executed a power of attorney in favour of the 3rd



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respondent on the same day. Subsequently, the petitioner's wife cancelled the agreement and POA with the 3rd respondent on 29.05.2017.

8. The entire facts are not disputed by the third respondent. It is equally not disputed that as on date, the cancellation deeds were not challenged by the third respondent. He has filed an injunction suit against the petitioner. Mere pendency of the said suit and without any restrained order, withholding the compensation amount of the petitioner is not sustainable one.

9. In view of the above, this court is inclined to issue a direction to the first respondent to disburse the compensation amount to the petitioner in respect of the acquired subject land within a period of six weeks from the date of receipt of a copy of this order.

10. With the above direction, the writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is also closed.

19.10.2022

rli



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M.DHANDAPANI, J.
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WEB COPY

Index : Yes / No

Speaking order : Yes / No

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To

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