



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :11.02.2022
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.26619 of 2021
and
W.M.P.No.28065 of 2021

Govindaraj

... Petitioner

Vs.

1.The Deputy Collector (Revenue)
cum Land Acquisition Officer,
Karaikal.

2. Hameed Fathima Gani

3. Sangeetha

4. Muthulakshmi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st respondent to refer the claim of petitioner seeking compensation in respect of wet lands in Ward-D, Block-2, T.S.No.13/2 (New No.13/2/B) & T.S.No.13/8 (New No.13/8/B) situated at Kovilpattu Village, Karaikal sought to be acquired as per the proceedings of 1st respondent in No.9117/DCR/LA/NHAI/B1/2017 dated 04.10.2017 to Civil Court as per Section 3H(4) of National Highways Act within stipulated period of time granted by this Court.

For Petitioner : Mr. S.Sounthar

For Respondents : Mr.J.Kumaran
Additional Govt. Pleader (Pondicherry)
for R1

: Mr.T.P.Manoharan
Standing Counsel
for Mr.T.M.Naveen for R2 to R4

O R D E R

The petitioner has filed this writ petition seeking for the issuance of Writ of Mandamus to direct the 1st respondent to refer the claim of the petitioner seeking compensation in respect of wet lands in Ward-D, Block-2, T.S.No.13/2 (New No.13/2/B) & T.S.No.13/8 (New No.13/8/B) situated at Kovilpattu



Village, Karaikkal sought to be acquired as per the proceedings of the 1st respondent in No.9117/DCR/LA/NHAI/B1/2017, dated 04.10.2017 to the Civil Court as per Section 3H(4) of National Highways Act, within the stipulated period of time granted by this Court.

2. The case of the petitioner is that he is the tenant of wet land in the above said land which has been in possession of the petitioner nearly for more than 70 years as cultivating tenant, and hence, the petitioner is entitled for statutory direction under Cultivating Tenancy Protection Act. The said land was originally owned by one Amina Unmal. The said Amina Unmal bequeathed the above said land in favour of her deceased brother's wife Fathima Beevi @ Jamila Ummal vide Will dated 18.12.1953 and the 2nd respondent claims title under her, who is the grand daughter of the above said Jamil Ummal. The petitioner's father Late.Kunjithapatha Padayachi was cultivating the said property till his death, in the year 1974. After the death of his father, the petitioner has been cultivating the said land of the 2nd respondent and her predecessors in title. While so, the 2nd respondent filed a civil suit for recovery of possession in O.S.No.44 of 2011 on the file of the District Munsif, Karaikkal, wherein, he admitted that the petitioner is cultivating the land in question. During the pendency of the civil suit, the 2nd respondent sold the suit property to one Ravichandran, who died. The 3rd respondent being the wife of the deceased, is entitled to represent his estate, impleaded in her own capacity. While so, the 1st respondent/Land Acquisition Officer has decided to acquire the above said lands for widening of National Highway-45-A (Villupuram-Puducherry-Cuddalore-Nagapattinam) as per the notification under Section 3D and 3G (3) of National Highways Act, 1956. The 1st respondent vide proceedings dated 04.10.2017 sought to acquire the land under the National Highways Act, 1956. Thereby the petitioner made a claim in his capacity as a cultivating tenant before the 1st respondent as the petitioner is entitled to claim compensation amount or apportionment. Therefore, the 1st respondent ought to refer the matter before the 1st respondent under Section 3H(4) of National Highways Act. However, no order was passed by the 1st respondent and the apportionment of the petitioner as expected under Section 3H(4) of National Highways Act. In order to avail the above said benefit, the petitioner made a representation on 15.12.2020 to the 1st respondent/Land Acquisition Officer. Till date, no order was passed. Hence this writ petition.

3. Though very many grounds have been raised, Mr. S.Sounthar, learned counsel for the petitioner submitted that the petitioner made a representation on 15.12.2020, to refer the matter before the competent Civil Court and the same has not been considered. Therefore, he prayed that it would suffice if



this Court may issue a direction to the 1st respondent to consider the petitioner's representation and pass orders on the same within the stipulated time fixed by this Court.

4. Mr.T.P.Manoharan, learned Standing Counsel appearing for the respondents 2 to 4 submitted that as per the Act, the petitioner is a cultivating tenant who is only an enjoyer of the land. Hence, being the enjoyer of the land, the relevant provision is applicable to the petitioner under Section 3G(2). He further submitted that with regard to dispute in the present writ petition, already a civil suit is filed and the same is pending before the competent Civil Court. Unless the civil suit is decided in either way, the claim made by the petitioner before the 1st respondent is not a decidable one. If at all, any claim is to be decided by the 1st respondent in terms of Section 3G(2) of the National Highways Act, and not under the 3H(4) of the Act, and accordingly, he prayed for the dismissal of the present writ petition.

5. Mr.J.Kumaran, learned Additional Government Pleader submitted that the petitioner had already filed an O.P.No.1 of 2021 for declaration as cultivating tenant on the file of the Revenue Court, Karaikkal and the same is pending.

6. Heard Mr.S.Sounthar, learned counsel appearing for the petitioner and Mr.T.P.Manoharan for Mr.T.M.Naveen, learned Standing Counsel appearing for the respondents 2 to 4 and Mr.J.Kumaran, learned Additional Government Pleader appearing for the first respondent (Pondicherry) and perused the materials placed on record.

7. It is the case of the petitioner that he claims that he is a cultivating tenant in the aforesaid land belonging to the 2nd respondent. It is not in dispute that the petitioner has approached the competent Civil Court and Revenue Court for appropriate remedies. The grievance of the petitioner is that the petitioner is entitled to receive the compensation in terms of Section 3H(4) of National Highways Act, whereas, the 2nd respondent claims that the petitioner if at all, is entitled to decide his claim only under Section 3G(2) of the Act. However, this Court, to render any opinion with regard to the entitlement of the petitioner will affect the interest of the 2nd respondent as the suits are pending before the Courts below. Hence, without expressing any opinion on the merits of the case, this Court is inclined to direct the 1st respondent to refer the dispute of the petitioner to the competent Civil Court after rendering a finding with regard to entitlement of the petitioner under Section 3H(4) or 3G(2) of the National Highways Act. Such exercise shall be carried out and completed by the 1st respondent in accordance with the National Highways Act within a



period of 24 weeks from the date of receipt of a copy of the order.

8. Accordingly, this writ petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

gba

To
The Deputy Collector (Revenue)
cum Land Acquisition Officer,
Karaikal.

+1 cc to Mr.S.Sounthar, Advocate Sr.NO. 8933
+1 cc to Government Pleader Sr.NO. 9293

W.P.No.26619 of 2021
and
W.M.P.No.28065 of 2021

SV(CO)
A.SK(09/03/2022)