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W.P.No.16196 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2022

CORAM:

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

W.P.No.16196 of 2017

1. C.Kusalakumari
 2. C.Santharubi
 3. C.Baskar
- ...Petitioners

Vs.

1. Union of India,
Rep. by Secretary,
National Highways Department,
New Delhi.
2. National Highways Authority of India,
Rep. by its Project Director,
In charge of NH 4 & NH - 46
Vellore District, Vellore - 632 009.
3. The Competent Authority (L.A) cum
Special District Officer,
Land Acquisition (NH 4 & NH - 46),
Vellore District, Vellore - 632 009.
4. V.Rajasekaran
5. V.Jayakumar
6. V.Thirumoorthy
7. V.Mohan Kumar

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8. V.Deenan

9. V.Selvakumar

10. V.Balachandar

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the third respondent to recover the compensation amount from the fourth, fifth, sixth, seventh, eighth, ninth and tenth respondents and to deposit the said sum in the competent civil court.

For Petitioners : Mr.David Tyagaraj

For Respondents : M/s.S.R.Sumathy, for R1 & R2
: Mr.Yogesh Kannadasan, Spl.GP, for R3
: Mr.S.Kingston Gerold, for R4 to R10

ORDER

The petitioners have filed this writ petition seeking issuance of a Writ of Mandamus to direct the third respondent to recover the compensation amount from the private respondents and deposit the same in the competent civil court.

2. The case of the petitioners is that a portion of the property comprised in Old Survey No.32/4A, 32/4A, 32/5 and New Survey No.32/4A1, 32/4A3, 32/5B, measuring an extent of 40 Sq.mts, 179 Sq.mts



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and 180 Sq.mts respectively was allotted to their father, namely, Chinnan @ Chinnasamy, vide, partition deed bearing Doc.No.5229 of 1991 dated 05.12.1991. Whiles, the said lands were acquired by the 1st respondent for the purpose of expansion of 6 Lane at Vellore Taluk, Perumugai Village NH - 46 and notice under Section 3G(3) of the National Highways Act (in short 'Act') was issued on the petitioners' father, however, it is pertinent to note that, the said notice was served on the dead person, as the petitioners' father died as early as on 06.07.2011 and the petitioners were not aware of the entire enquiry proceedings. Thereafter, on enquiry, the petitioners came to know that the compensation amount was disbursed in favour of the private respondents. Immediately thereafter, the petitioners sent a notice dated 01.02.2017 along with the a corrigendum notice dated 03.02.2017 to the 2nd and 3rd respondents, however, till date, the same was not considered. Hence, the present Writ petition is filed.

3. Though very many grounds have been raised, learned counsel for the petitioners fairly submitted that, the private respondents herein have filed a suit in O.S.No.207 of 2006 on the file of the Sub-ordinate Judge, Vellore as against the petitioners' father and the same is pending and since the



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petitioners herein are not party in the said suit, they are unable to report the exact stage of the suit before this Court. Hence, he restricted the prayer and sought permission of this Court to workout the remedy before the Trial Court by filing appropriate suit.

4. On the above said contentions, heard learned counsel on either side.

5. On perusal of the materials available on record, it is evident that, already the private respondents have filed a suit in O.S.No.207 of 2006 in which the petitioners herein are not party. In such view of the matter, this Court without expressing any opinion on the merits of the case grants permission to the petitioners to workout their remedy before the trial Court by filing appropriate Petition / Suit and canvas all their grievances before the civil court. The period during which the case was pending before this Court shall stand excluded for the purpose of computation of limitation.

6. This writ petition is accordingly disposed of with the above liberty.

No costs.



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Speaking Order : Yes/ No

Index : Yes/ No

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