



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 01.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.17023 of 2019

P. Jayachandran

... Petitioner

Vs.

1. The Competent Authority (Land Acquisition),
National Highways (NH-49),
Special District Revenue Officer,
Office of the District Collectorate Complex,
Ramanathapuram District,
Ramanathapuram.

2. The Special Tahsildar (Land Acquisition),
National Highways (NH-49)-Unit II,
Manamadurai,
Sivagangai District.

3. Muthu Pillai

4. Jayamani

5. Mohan

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 to refer the dispute relating to the apportionment of the compensation amount referred in proceedings of 1st respondent in Ref. No. Roc.NH49/Unit-V/121/2015, dated 04.06.2019 to the Principal Civil Court as contemplated under Sec.3-H(4) of National Highways Act, 1956.



For Petitioner : Mr.S. Natarajan

For R-1 & R-2 : Mr.M. Sarangan,
Additional Government Pleader.

For R-3 to R-5 : Mr.D. Sivaraman
* * *

ORDER

Heard the learned counsel on either side.

2. The petition mentioned land was acquired under the provisions of the National Highways Act 1956.

3. The competent authority determined the amount payable as compensation. However, the writ petitioner asserted that the entire compensation amount should be paid only to him. This was disputed by the private respondents herein. Since the authority did not make any reference under Section 3H(4) of the National Highways Act 1956, the present writ petition came to be filed.



4. During the pendency of the writ petition, since there was no interim order, the authority purportedly acted under Section 3H(3) of the Act and disbursed what according to him are the shares payable to the private respondents. When this was brought to the notice of this Court, on 20.12.2019, the following order was passed:-

“ It is represented by the learned counsel for the petitioner that during the pendency of this writ petition seeking reference of the dispute in terms of Section 3H(4) of the National Highways Act, the Special Tahsildar, Land Acquisition has disbursed the amount to the individuals. Section 3H(4) of the National Highways Act indicates that if any dispute arises as to the apportionment of the amount, shall be referred to the decision of the Principal Civil Court of original jurisdiction. Though the respondents 1 and 2 are aware of the dispute and this writ petition is also filed, it is submitted that the respondents 1 and 2 have disbursed the compensation to the private respondents contrary to the statutory provisions.

2.In the said circumstances, the respondents 1



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and 2 are directed to deposit the amount which was disbursed to the private respondents within a period of four weeks from the date of receipt of a copy of this order, so that it will be available once a dispute is settled by the Civil Court. This interim order is only to protect the interest of parties during the pendency of proceedings. It is open to the respondents 1 and 2 either get back the amount from the private respondents or by other means.

3.Post the matter on 20.01.2020. "

5. It is stated that pursuant to the said direction, the fifth respondent had redeposited the amount what disbursed to him. Respondents 3 and 4 do not appear to have complied with the said direction. They in fact want the said direction to be vacated.

6. Here we are not concerned with the relative merits of the inter-se claims. It is true that Sections 3H(3) and 3H(4) of the Act apparently overlap each other. However, in my view, Section 3H(4) of the Act will apply. When a dispute



arises among the persons as to the apportionment of the amount, the competent authority shall refer the dispute to the decision of the concerned Principal Civil Court of original jurisdiction.

7. Since in this case the competent authority has not complied with the statutory mandate, mandamus will have to be necessarily issued. This writ petition stands allowed. The first respondent is directed to make reference within a period of three weeks from the date of receipt of a copy of this order. If the reference is made, the jurisdictional civil Court shall dispose of the same on merits and in accordance with law within a period of six months thereafter. The interim order granted earlier on 20.12.2019 is made absolute. No costs.

01.07.2022

Index : Yes / No
Internet : Yes/ No

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G.R.SWAMINATHAN,J.



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