



W.A.No.2980 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.A.No.2980 of 2021

The Executive Officer,
Arulmigu Selva Vinayagar & Kothandaramar Temple,
West Tambaram,
Chennai-600 045.

.. Appellant

Vs

1.B.Sivaraman

2.B.Krishnamurthi

3.B.Thyagarajan

4.The Commissioner,
Hindu Religious and Charitable Endowments Dept.,
Nungambakkam,
Chennai-600 034.

5.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Dept.,
Nungambakkam,
Chennai-600 034.



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6.The Special Revenue District Officer,
Land Acquisition,
National Highways Schemes,
Kanchipuram and Tiruvallur Districts,
Kanchipuram.

.. Respondents

Prayer : Appeal under Clause 15 of the Letters Patent against the order passed by the learned Single Judge in W.P.No.15344 of 2014 dated 19.07.2021 and 12.08.2021.

For the Appellant : Mr.J.Chandran Sunder Sashikumar
for Mr.S.Adaikkappan @ Sithirai
Anandam

For the Respondents : Mr.R.Rajarajan
for respondent Nos.1 to 3

: Mr.N.R.R.Arun Natarajan
Spl. Govt. Pleader (HR & CE)
for respondent Nos.4 and 5

Mr.P.Muthukumar
State Government Pleader
for respondent No.6

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.J.Chandran Sunder Sashikumar, learned counsel for the appellant; Mr.R.Rajarajan, learned counsel for respondents 1 to 3; Mr.N.R.R.Arun Natarajan, learned Special Government Pleader (HR & CE) for respondents 4 and 5; and,



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Mr.P.Muthukumar, learned State Government Pleader for respondent
No.6.

2. The order passed by the learned Single Judge is assailed.

3. The present respondents 1, 2 and 3 had filed writ petition bearing W.P.No.15344 of 2014 seeking directions against the fourth respondent in the writ petition to pay the compensation amount of Rs.1,33,45,948/- to the original petitioners in respect of the ownership of the property situated at No.55, G.S.T. Road, Survey No.5, Irumpuliyur Village, Tambaram Taluk. The petitioners also challenged the order appointing a Fit Person.

4. The learned Single Judge has allowed the writ petition accepting that the HR & CE Department has no claim over the property in question and the consideration for acquisition is to be handed over to the original petitioners. The learned Single Judge observed that no-objection has been conveyed by the Assistant Commissioner, HR & CE Department.



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5. In fact, the stand of the HR & CE Department is not clear.

The Assistant Commissioner, HR & CE Department, had requested the Highways Authority to pay the compensation to the Fit Person appointed for the temple and not to pay compensation to the individuals and, on the second breath, before the learned Single Judge, has contended otherwise. The learned Single Judge has also commented upon the stand of the HR & CE Department.

6. It appears that the issue with regard to the title, namely whether the private persons are the owners or the temple, is the subject matter of dispute.

7. Section 3-H(4) of the National Highways Act, 1956 provides that if any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the Principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated.



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8. The dispute exists between the parties as to whether the temple is the owner of the property or the private individuals are the owners of the property.

9. In the light of that, we set aside the order of the learned Single Judge and direct the National Highways Authority to adopt the procedure under Section 3-H(4) of the Act. As the Assistant Commissioner, HR & CE Department has already raised a dispute and requested that the compensation should be paid to the Fit Person and not to any individuals, whereas the writ petitioners/ individuals have claimed the compensation amount on the ground that they are owners of the property, the dispute of title exists. In view of that, it would be appropriate to resort to the recourse provided under Section 3-H(4) of the Act.

10. The authority concerned shall refer the dispute to the concerned Principal Court of civil jurisdiction, preferably within one month from today. The parties shall appear before the Principal



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Court of civil jurisdiction, where the matter is being referred to for adjudication, on 1.11.2023. In view of the fact that the date is already given by this court, it will not be necessary for the civil court to issue fresh notices. The civil court shall endeavour to decide the said suit/dispute expeditiously.

11. The amount with the DRO/Land Acquisition Officer shall be remitted to the court where the dispute is referred to. The Court, where the dispute is referred to, shall invest the said amount in a fixed deposit till the disposal of the suit/dispute. The Principal District Judge shall thereafter take steps for payment of the amount in tune with the judgment that may be delivered by the civil court.

The writ appeal is disposed of accordingly. There will be no order as to costs. Consequently, C.M.P.No.20257 of 2021 is closed.

(S.V.G., CJ.)

(P.D.A., J.)

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Index : Yes/No
Neutral Citation : Yes/No
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