



W.P.(MD)No.3653 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.10.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.3653 of 2021

P.Latha

... Petitioner

Vs.

1.The Special District Revenue Officer,
(Land Acquisition National Highways),
Ramanathapuram, Ramanathapuram District.

2.The Special Tahsildar,
(Land Acquisition National Highways),
Unit-I, Manamadurai,
O/o. the Special Tahsildar,
National Highways-49,
Manamadurai,
Sivagangai District.

3.Poologam.A

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing respondents 1 and 2 to disburse the half share to the petitioner and her brother P.Ravichandran in the total compensation payable on account of the acquisition of the property in Survey No. 106/2C measuring an extent of 4752 Sq. Meters in Valaiyanenthal Village, Thiruppuvanam Taluk, Sivagangai District, within the time stipulated by this Court.



WEB COPY



W.P.(MD)No.3653 of 2021

For Petitioner : Mr.M.Kannan

For R-1 & R-2 : Mr.K.S.Selvaganesan,
Additional Government Pleader

For R-3 : Mr.R.Senthilkumar

ORDER

This Writ Petition has been filed for the issue of writ of mandamus directing the first and second respondents to disburse the half share to the petitioner and her brother from out of the total compensation payable on account of the acquisition of the subject property by the National Highways Authority of India.

2. The case of the petitioner is that the subject property is an ancestral property. The third respondent is the father of the petitioner and according to the petitioner, the third respondent left the first wife in lurch and the petitioner and her brother were taken care by their mother. The third respondent had married another woman and out of that marriage, there were two children.

3. The property in question was acquired by the National Highways Authority of India. The compensation amount was also



W.P.(MD)No.3653 of 2021

determined by the first respondent. The petitioner had sought for disbursement of half share in the total compensation amount and since the same was not acted upon, the present Writ Petition has been filed before this Court.

4. The learned counsel appearing on behalf of the third respondent submitted that the third respondent died during the pendency of this writ petition and that the third respondent has two children, viz., Lingam and Sivakumar out of the second marriage.

5. The second respondent has filed a counter-affidavit. The relevant portion in the counter-affidavit is extracted hereunder:

“4) I humbly submit that the land is Survey Number 106/2C to an extent of 0.60.5 Hectare, Private Wet land stood as Patta Number 30 in the name of Alagukone. S/o Komali Kone, In which an extent of 4752 sq meters of land was acquired for the formation of new four way Thiruppuvanam Bye Pass Road. For determination of compensation payable to the land owner enquiry under Section 3G(3) of the National Highways Act was conducted by the 1st respondent on 25.05.2015. The 3rd respondent and the son of



WEB COPY



W.P.(MD)No.3653 of 2021

Alagukone appeared for enquiry and submitted records claiming title over the property. He has not submitted the legal heirship certificate in respect of Alagukonar. Finally an Award No. 25/2014-2015 in Proceedings Roc. NH49/UnitV/161/2013 dated 12.07.2014 was passed by the 1st Respondent by withholding the compensation amount of Rs.14,11,944/- Payable land owner of S.No. 106/2C for want of if legal heirship Certificate in respect of Alagukone and other required documents. Subsequently the petitioner has filed one objection Petition dated 23.08.2015 and claimed compensation for the land in S.No.106/2C as she is the daughter of 3 respondent born through his first wife. After acquisition the land in S.No.106/2C was subdivided and the same is recorded as detailed below in the revenue records.

Sl.No	Survey No.	Extent	Classification	Patta No and Pattadar Name
1	106/2C1	0.02.63	Private Wet	30, Alagukone S/o. Komalikone
2	106/2C2	0.03.60	Private Wet	Alagukone, S/o.Komalikone
3	106/2C3	0.47.52	Government Poramboke	Indian National Railways
4	106/2C4	0.06.75	Private Dry	30, Alagukone S/o Komalikone
Total		0.60.50		



WEB COPY



W.P.(MD)No.3653 of 2021

Based on the claims made by the 3rd Respondent and Counter Claim made by the Petitioner, enquiry was conducted by the 2 respondent. The Petitioner and the 3rd Respondent have submitted various Judgements and records. Initially the petitioner claimed 50% share from the compensation amount subsequent in the petitioner claimed 3/4 share of the compensation amount by stating that the Pattadar Alagukone bequeathed the half share of properties including S.No.106/2C to the petitioner through registered settlement deed dated 29.11.2000 bearing documents No. 1788/2000 on the file of Sub Registrar office, Thriupuvanam. On verification of records and Judgment copies filed by the 3rd respondent it is found that the Inam settlement deed executed by Alagukone was cancelled by this order of Additional Subordinate Judge Sivaganga Judgement made on A.S.No.38/2005 dated 04.04.2008. Against the Judgement made in A.S. 38/2005, the Petitioner and his brother have filed Second Appeal S.A (MD) No.752 of 2007 was also dismissed by the Hon'ble High Court Order dated 27.06.2019.

The Second Appeal is dismissed as withdrawn No Casts.



WEB COPY



W.P.(MD)No.3653 of 2021

Subsequently the petitioner and his brother have also filed Partition Suit in O.S.No.18/2006 on the file of Subordinate Judge, Sivaganga claiming half share of he properties of 3rd respondent including S.No.106/2C. The Court made the following order.

1) "The directing a partition by metes and bound of the plaintiff half share mentioned in the schedule herein by giving separate possession properties bere of the there".

As per the court order the Petitioner was entitled for half share of the properties owned by the 3rd respondent including S.No.106/2C. But the Petitioner claimed 3/4 share amount. The 3rd respondent deposed before the 2nd respondent for making payment 1/2 share compensation to the Petitioner. But the Petitioner refused to accept 1/2 share and going on sending various Petitions before the authorities concerned. In order to make payment of compensation an order was issued in this office memo Roc.A1/12/2013 dated 11.12.2020 informing the fact that the Petitioner and his brother are eligible for half share in the



WEB COPY



W.P.(MD)No.3653 of 2021

compensation payable for the land acquired in S.No. 106/2C According the Petitioner in her Letter dated 25.01.2021 has also sent concern Letter to this Office to receive ½ share. As process is involved money transaction the petitioner was asked to appear to in person before the 2nd respondent for recording her statements. In this regard a notice in Memo Roc.A1/161/2013 dated 05.03.2021. The Petitioner refused to receive the Registered post and the same was returned to this office by endorsing Unclaimed Returned to sender". The respondents 1 and 2 ready to make payment of compensation to the Petitioner and also to the 3 respondent. But the Petitioner alone is delayed the payment of compensation by ways of retaining the Letter communicated from the 2 respondent office. As stated above there is no delay on the part of 1 and 2 Respondents. Further action will be made soon on appearance of the Petitioner before 2 Respondent by recording her statement."

6. It is clear from the counter affidavit filed by the second respondent that there is already a preliminary decree passed in the partition suit in O.S.No.18 of 2006 where the petitioner and her brother were held to



W.P.(MD)No.3653 of 2021

have half share in the property. The children of the third respondent through the second marriage will also be entitled for the share by virtue of Section 16 of the Hindu Succession Act.

7. In view of the above, there shall be a direction to the first respondent to conduct an enquiry, by issuing notice to the petitioner, her brother and two children, viz., Lingam and Sivakumar born through the second marriage of the petitioner's father. The first respondent shall pay the compensation in line with the share to each of the parties, who shall be entitled, by taking into account the decree passed in the partition suit in O.S.No.18 of 2006. This process shall be completed by the first respondent within a period of six (6) weeks from the date of receipt of a copy of this order.

8. This Writ Petition is disposed of with the above directions.

No costs.

12.10.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
tsg



W.P.(MD)No.3653 of 2021

To

1. The Special District Revenue Officer,
(Land Acquisition National Highways),
Ramanathapuram, Ramanathapuram District.

2. The Special Tahsildar,
(Land Acquisition National Highways),
Unit-I, Manamadurai,
O/o. the Special Tahsildar,
National Highways-49,
Manamadurai,
Sivagangai District.



WEB COPY



W.P.(MD)No.3653 of 2021

N.ANAND VENKATESH, J

tsg

W.P.(MD)No.3653 of 2021

12.10.2023