



W.P(MD)No.4008 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.4008 of 2023

1.Subramani

2.Kalisamy

3.Kalimuthu

4.Ramasamy

... Petitioners

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The National Highways Authority of India,
Rep. By its Regional Office,
2nd & 3rd Floor, Vijay Krishna Plaza,
No.1, Lake Area,
Mattuthavani,
Madurai-625 007.

3.The Competent Authority,
District Revenue Officer (Acquisition),
Door No.567, APJ Abdul Kalam Street,
Dindigul District-624 004.

4.The Special Tahsildar (Land Acquisition),



W.P(MD)No.4008 of 2023

Land Acquisition National Highways NH-209,
Oddanchathiram Unit,
Dindigul.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the third respondent to disburse the 3/4th award amount granted in respect of S.Nos.172/1A2, 172/1D2, 176/1C1, 176/1A1, 176/1B, 176/1B2 and 172/1C in Reddiarpatti Village, Ottanchathiram, Dindigul District to the petitioners within a time stipulated by this Court.

For Petitioner : Mr.G.Sridharan

For Respondents : Mr.G.Suriyananth
Additional Government Pleader for R1, R3 & R4

: Mr.P.Karthik
Standing Counsel for R2

ORDER

Heard the learned counsel on either side.

2. The petition mentioned lands were acquired under the National Highways Act. The award enquiry was already conducted. However, one S.Ganesan filed W.P.(MD)No.21640 of 2021 for restraining the authority from disbursing the award amount till the disposal of the partition suit filed by him. The Writ Petition was dismissed in the following terms:-



W.P(MD)No.4008 of 2023

“2. The property in question originally belonged to Palaniappa Asari. He purchased the same vide sale deed dated 17.06.1973. Palaniappa Asari had four sons viz., Kalimuthu, Muthusami, Ramasamy and Subban @ Subramani. The petitioner herein is the son of Subban @ Subramani. The property in question was acquired for widening National Highways. Award has also been passed.

3. The case of the writ petitioner is that since he had filed a partition suit, making the private respondents as defendants, the authority should not disburse the award amount. Since an objection had been received from the writ petitioner, the competent authority had also stayed his hands. However, anticipating that he may disburse the amount, the writ petition came to be filed.

4. It is seen that as already pointed out, the property was the self-acquired property of Palaniappa Asari. Palaniappa Asari died intestate. The specific stand of the private respondents is that way back in the year 1983, Subban @ Subramani executed a sale deed conveying his 1/4th share in the petition mentioned property in favour of Kalimuthu and Muthusamy. It is pointed out that the sale deed was executed on behalf of the writ petitioner and his brother Kaliappan also. The petitioner of-course had filed a partition suit and it is still pending, but the petitioner has not obtained any restraint order from the jurisdictional civil Court.

5. From the materials placed before me, I am more than satisfied that the competent authority cannot be restrained from disbursing the award amount to Kalimuthu and the legal heirs of Muthusamy and Ramasamy. This finding is given based on the materials now placed before me. The rights of the parties will of-course abide by the outcome of the partition suit.”

3. The petitioner's grievance is that the scope of the suit is in respect of only 1/4th share of Thiru.Ganesan. According to the petitioners, Thiru.Ganesan does not even have 1/4th share. I do not want to go into the factual aspect. The petitioner's counsel would state that even though this Court had dismissed



W.P(MD)No.4008 of 2023

the writ petition filed by Thiru.Ganesan and there cannot be any dispute regarding 3/4th of the compensation amount, not even a paisa has been disbursed by the authority. Hence, this writ petition has been filed.

4. The petitioners are prepared to abide by the outcome of the civil suit. Since the present case proceeds on undisputed facts, the third respondent is directed to disburse 3/4th of the award amount granted in respect of the petition mentioned lands to the writ petitioners herein. This shall be done within a period of six weeks from the date of receipt of a copy of this order.

5. The Writ Petition is allowed. No costs.

27.02.2023

Index : Yes / No
Internet : Yes/ No
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To

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W.P(MD)No.4008 of 2023

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W.P(MD)No.4008 of 2023

G.R.SWAMINATHAN, J.

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W.P(MD)No.4008 of 2023

27.02.2023