



W.P.(MD)No.6340 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 16.10.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.6340 of 2021

L.Sevuga

... Petitioner

vs.

- 1.The District Collector, Tuticorin.
- 2.The District Revenue Officer (D.R.O), Tuticorin.
- 3.The Revenue Divisional Officer (R.D.O), Tuticorin.
- 4.The Tashildar, Tuticorin.
- 5.The Project Director, NHAI,
2314-E, K.P.Road, Near Ayyappan Koil,
Paravathipuram, Nagercoil -629 993, Tamilnadu.
- 6.M.Jeno Rita

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 29.09.2020 passed by the 5th respondent in Na.Ka.E3/49503/12 and quash the same and consequently, directing the respondents 1 to 4 to disburse a sum of Rs.1,80,900/- being the amount withheld by the 5th respondent and to direct the respondents 1 to 4 to delete the name of the 6th respondent from patta no.2032.



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For Petitioner :Mr.R.Sundar Srinivasan
For R1 to R4 :Mr.K.S.Selvaganesan
Additional Government Pleader
For R5 :Mr.Shankarapandian
for M/s.C.Arul Vadivel Associates

ORDER

This Writ Petition has been filed challenging the impugned proceedings of the second respondent dated 29.09.2020 and for a consequential direction to the respondents 1 to 4 to disburse the amount that was withheld towards the payment of compensation to the petitioner for the acquisition of land by National Highways Authorities of India (NHAI), namely, the fifth respondent.

2.The case of the petitioner is that the property in S.No.25/1B3A1 measuring an extent of 7 acres 73 cents belongs to the petitioner absolutely by virtue of a family partition. The further case of the petitioner is that the fifth respondent has initiated acquisition proceedings and 2025 sq.mtre of land was acquired. Compensation was also fixed to the tune of Rs.10,93,500/-. Insofar as 335 sq.mtre. of land is concerned, there was a dispute raised by the sixth respondent and



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hence, out of total compensation, only a sum of Rs.9,12,600/- was paid to the petitioner and the balance of Rs.1,80,900/- was deposited through the impugned proceedings of the second respondent. Aggrieved by the same, the present Writ Petition has been filed before this Court.

3.The fifth respondent has filed a counter affidavit and has provided the entire details regarding the acquisition proceedings. Insofar as the dispute regarding the payment of compensation is concerned, the same is dealt with in the following manner in the counter affidavit:

“5.It is submitted that, meanwhile the Petitioner made a representation dated 15.03.2018, to the District Administration, Thoothukudi. The Competent Authority and District Revenue Officer, Thoothukudi has passed orders on the above representation in his Proceedings No.E3/49503/12, dated 29.09.2020 as stated below:

“An extent of 0.20.25 Hec (02025 Sq.M) in Survey No.25/1B3A1 (Total Extent 3.14.5 Hec.), Kootudunkadu Village, Thoothukudi Taluk has been acquired for installing the Toll Plaza as per the Award No.1/15, dated 09.11.2015. The compensation amount of Rs.12,02,850/- was deposited in the Joint Bank Account of District Revenue Officer, Thoothukudi and Project Director, NHAI, since no Pattadars turned up for the Award enquiry. In the meanwhile it was found that the name of one Mrs.M.Jeno rita, W/o. Motchaiah, Tuticorin (in this case impleaded as the sixth respondent) has been included as joint Pattadar in Patta No.2032, as she purchased an extent of 24.96 Cent in this survey number 25/1B3A1 through the sale document No.3679/13, dated 19.09.2013. Since, both the Petitioner



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and the sixth respondent have claimed the compensation for the acquired land, a report was obtained from the Thoothukudi Taluk Head Surveyor to ascertain the right over the land. As per the report of the Taluk Head Surveyor, an extent of 0.03.35 Ares (Hec.) or 335 Sq.m was acquired in the land, which is claimed to be owned by the Petitioner as well as the sixth respondent. Hence both the Petitioner and the sixth respondent have to substantiate their right over the above disputed 335 Sq.m land through the Civil Court concerned and the disputed proportionate compensation amount for 335 Sq.m was ordered to be withheld subject to the outcome of the judgement of the Court concerned. The compensation amount of Rs. 9,00,462 /- for the balance land 1690 Sq.m (2025 - 335) is ordered to be disbursed to the Writ Petitioner as detailed below:

*Compensation amount for 2025 Sq.m Rs. 10,93,500/-
Compensation amount for 1690 Sq.m = Rs. 9,12,600/-
After deduction of income tax etc., Rs. 1,03,398 /-
the balance amount is Rs. 9,00,462 /-*

6. It is respectfully submitted that in this case, as the NHAI is only the beneficiary and funding agency for the lands acquired for linear road projects and award amount was also deposited by NHAI. Further, the Petitioner has to get relief from the Civil Court concerned for the disputed portion of the the land and after that the District Revenue Officer, Thoothukudi has to pass orders on the basis of the judgement of the Civil court and also the Petitioner has challenged and filed this writ petition against the District Revenue Officer's proceedings in which the compensation amount has been withheld. It is also submitted that soon after the District Revenue Officer, Thoothukudi, passes orders for the compensation on the outcome of the Civil Court judgement, NHAI would take necessary action for release of the compensation. ”



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4.Heard Mr.R.Sundar Srinivasan, learned Counsel for the petitioner, Mr.K.S.Selvaganesan, learned Additional Government Pleader appearing on behalf of the respondents 1 to 4 and Mr.Shankarapandian, learned Counsel appearing on behalf of the fifth respondent. Though the sixth respondent has already been served with notice and the name of the sixth respondent has also been printed in the cause list, there is no representation either in person or through Counsel.

5.The issue that arises for consideration in this Writ Petition is as to whether the objection raised by the sixth respondent is sustainable and as to whether the petitioner is entitled to be paid the balance compensation amount as claimed by the petitioner.

6.There is no dispute with regard to the acquisition proceedings initiated by the second respondent and compensation amount that was fixed. The second respondent was forced to retain the compensation of Rs.1,80,900/- only on the ground that the sixth respondent was also claiming a right over the property measuring an extent of 335 sq.metre and therefore, the compensation insofar as this portion is concerned was



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deposited before the competent authority.

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7. On carefully going through the materials available on record, it is seen that the sixth respondent is claiming her right through one Chermapandi. The grandfather of the petitioner, namely, Annamalai Chettiar, who was originally owning the property faced same resistant/challenge from the said Chermapandi and he filed a suit in O.S.No.169 of 1988 before the Additional District Munsif Court, Tuticorin seeking for the relief of declaration and permanent injunction with respect to the subject property. This suit was filed against Chermapandi and the said suit was decreed through judgment and decree dated 06.10.2003. This judgment and decree was subsequently confirmed in A.S.No.89 of 2004 by the Subordinate Court, Tuticorin on the appeal that was filed by Chermapandi.

8. In spite of the above decree passed by the competent Civil Court, in the patta that was issued by the Tahsildar, apart from the name of the father of the petitioner, it also contained five other names. Aggrieved by the same, a Writ Petition was filed before this Court by the petitioner in



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W.P.(MD)No.10588 of 2008 for a direction to the revenue authorities to consider the representation and to remove the names of others from the patta. This Writ Petition was disposed by order dated 21.11.2008. Since the direction was not complied with, the petitioner initiated contempt proceedings in Cont.P.(MD)No.371 of 2009. During pendency of the Contempt Petition, the Tahsildar filed a counter affidavit and for proper appreciation, paragraph 8 in the counter affidavit is extracted hereunder:

“8.It is submitted that as per the orders of the Assistant Collector, Tuticorin in his proceedings No.RDIS 7895/10 (A1) dated 01.11.2020 and as per the orders of the Hon'ble High Court in W.P.No.10588/2008 dated 21.11.2008, necessary changes has been made in the property bearing Survey No.25/1B 3A1 of Kootudankadu Village of Tuticorin Taluk registered in Patta No.879 and now the property bearing survey No,25/1B3A1 stands registered in New Patta No,2032 of Kootudankadu village, Tuticorin Taluk only on the name of Thiru.Sevugan Annamalai S/o. Lakshmanan Chettiar. All other names already found in patta No.879 except the petitioner have already been deleted as per the directions of the Assistant Collector, Tuticorin in proceedings No.RDIS/7895/10 (A1) dated 01.11.2020. It is submitted that the delay in giving effect to the order of the Hon'ble High Court is purely due to administrative reasons and the respondent herein never intend to disobey the order of this Hon'ble High Court. The delay is neither willful nor deliberate. The respondent herein tender unconditional apology for the delay in complying with the direction of this Hon'ble Court.”

9.It is clear from the above that the names of the others were deleted and patta was issued in the name of the petitioner in Patta No.



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2032. Thus, apart from the Civil Court decree, the revenue authorities had also recognised the right and title of the petitioner in the subject property.

10.It is further seen from the records that there was yet another civil proceeding initiated by two other persons in O.S.No.53 of 2011 pertaining to the subject property. Apart from the petitioner, the said Chermapandi was also added as a party to the proceedings. This proceedings also ended against the Chermapandi and it was confirmed in the appeal and the Second Appeal that was preferred by the Chermapandi with a delay of 2489 days was also dismissed by this Court by order dated 26.02.2016. With this order, the challenge to the right and title over the subject property became final and there is absolutely no doubt that it is the petitioner, who is the owner of the subject property.

11.In view of the above, the claim made by the sixth respondent through Chermapandi is totally unsustainable and the petitioner is entitled for the payment of entire compensation amount. The second respondent was not the competent authority to decide this issue and



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therefore, the second respondent had retained the compensation with regard to the disputed portion and had deposited it before the competent authority.

12.In the light of the above finding, this Court can direct the second respondent to pay the retained compensation amount to the petitioner within a time frame fixed by this Court.

13.The petitioner has also sought for a direction to the revenue authorities to delete the name of the sixth respondent from Patta No. 2032. As discussed supra, it is seen that the petitioner is the absolute owner of the subject property and it is sufficiently clear from the Civil Court decree that has been referred to and also the fact that the revenue authorities have issued an individual patta in favour of the petitioner by deleting the names of others on an earlier occasion. Therefore, the sixth respondent, who is claiming her right through Chermapandi, cannot have any individual right and therefore, her name must be removed from the patta that has been issued in Patta No.2032.



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14.In the light of the above discussion, the proceedings of the second respondent Na.Ka.E3/49503/12 dated 29.09.2020 is hereby set aside. There shall be a direction to the second respondent to pay the balance compensation amount to the petitioner within a period of four weeks from the date of receipt of a copy of this order. If there is any delay in payment of the balance compensation amount, it shall be paid with interest @ 6%.

15.There shall also be a direction to the fourth respondent to remove the name of the sixth respondent from Patta No.2032 and make necessary changes in the revenue records and name of the petitioner alone shall be shown as pattadhar in Patta No.2032. This process shall be completed by the fourth respondent within a period of four weeks from the date of receipt of a copy of this order.

16.In the result, this Writ Petition is allowed. No costs.

Index :Yes / No
Internet :Yes
NCC : Yes/No
cmr

16.10.2023

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- 4.The Tashildar, Tuticorin.



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N.ANAND VENKATESH, J.

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