



W.P(MD)No.12217 of 2021

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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Reserved on : 01.03.2023

Pronounced on : 26.06.2023

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.12217 of 2021

and

W.M.P.(MD)No.9611 of 2021

R.Jayapandi

... Petitioner

**Vs.**

1.Special District Revenue Officer (LA),  
National Highways – 45E & 220,  
Theni.

2.The Special Thasildhar /  
(Land Acquisition),  
NH 45 Ext & NH 220 Unit – I,  
Theni.

3.The District Collector,  
Theni.

4.M.Alagu Murugan

... Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the



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entire records pertaining to the impugned order of the 1st respondent Na.Ka.No.49/2010/Se.Ma.Va.A.Ne.A dated 30.08.2018 and quash the same.

For Petitioner : Mr.R.Jeyapandi,  
Party in person

For Respondents : Mr.A.K.Manikkam,  
Spl. Government Pleader for R1 to R3.  
Mr.A.Hajamohideen for R4.

### **ORDER**

Heard the petitioner in person, the learned Special Government Pleader for the official respondents and the learned counsel for the private respondent.

2.The petitioner challenges the order passed by the first respondent directing payment of compensation for acquisition of the subject land to the fourth respondent. The petitioner feels aggrieved by the exclusion of his family.



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3.A portion of land comprised in S.No.2011/1A Tamaraikulam Bit II Village, Periyakulam Taluk, Theni District was acquired under the provisions of the National Highways Act, 1956. The notice of award was issued to the following persons:-

*“Chinnakaruppa Thevar  
Perumal  
Kasammal  
Pushpam  
Jayapandi  
Anbarasan”*

4.The names of the aforesaid persons were found in Patta No.588. The authorities subsequently noticed that the name of Perumal was erroneously included. The land forming part of a larger extent originally belonged to Late.Periyakaruppa Thevar. His legal heirs were Chinnakaruppa Thevar, Ayyar Thevar and Muthu Thevar. Ayyar Thevar died without any issue. His widow / Seeniyammal had relinquished her share in favour of her brother-in-laws namely, Chinaakaruppa Thevar and Muthu Thevar. S.No.2011/1 measuring 2 acre and 4 cents was



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sub-divided into S.Nos.2011/1A, 2011/1B and 2011/1C. Chinnakaruppa Thevar had four children namely, Rasu Thevar, Manickam, Jeyakodi and Jeyaraman. Rasu Thevar had passed away. His legal heirs are Peruaml, Kasammal, Pushpam and Anbarasan. S.No.2011/1A stood in the joint names of Chinnakaruppa Thevar and others. The private respondent concedes that Chinnakaruppa Thevar branch owned 1 acre and 2 cents.

5.The specific stand of the private respondent is that Manickam son of Chinnakaruppa Thevar purchased the northern 1 acre and 2 cents out of 2 acre and 4 cents from Muthu Thevar vide sale deed dated 24.05.1978 (Document No.370/1978). Subsequently, there was a partition of the properties of Chinnakaruppa Thevar vide Document No.248 of 1984 dated 03.04.1984. The southern portion of 1 acre and 2 cents in S.No.2011/1 was duly partitioned and each one was allotted 25 ½ cents. There was exchange of property between Rasu Thevar and Manickam vide Document No.558 of 1984 dated 28.06.1984. Manickam died on 28.11.1996 leaving behind his wife and five children. The private respondent herein namely Alagu Murugan is one of them.



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In view of the sale deed dated 24.05.1978, the northern portion measuring 1 acre and 2 cents is the absolute property of Manickam. 1409 square meters of land was acquired in this portion.

6. After carefully considering the rival pleadings and the materials on record, I am more than satisfied that all these issues could have been avoided if the petitioner had been associated with the process throughout. After issuing notice of award to the petitioner on the strength of the revenue entries which originally obtained in the year 2015, mutations were made behind the back of the petitioner. In fact, the petitioner was not put on notice before passing the impugned order. In normal circumstances, I would have set aside the impugned order and remitted the matter for reconsideration by the authorities. But that would be of no avail. It is for two reasons. The award amount had already been disbursed to Alagu Murugan in whose favour, the other legal heirs of Manickam have already given authorization.



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7.The developments that are adverse to the petitioner including the impugned order are anchored primarily on the sale deed dated 24.05.1978 and the deed of exchange dated 28.06.1984.

8.The petitioner / Jayapandi would characterize them as fraudulent documents. The allegation of fraud cannot be casually made. The sale deed dated 24.05.1978 is a registered document. It was executed 45 years ago. The revenue authorities as well as the first respondent have gone by it. If according to the petitioner, it is a fabricated and fraudulent document, he has to necessarily get a declaration to that effect before the jurisdictional Civil Court. Till the petitioner is able to get such declaration, he cannot assail the order impugned in this writ petition. It is for this reason I decline to interfere with the impugned order. If the petitioner succeeds in getting the sale deed dated 24.05.1978 nullified, then, it is open to the petitioner to renew his challenge but not till then.



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9. With this liberty to the petitioner to approach the jurisdictional Civil Court, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**26.06.2023**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes/ No  
ias

To:-

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**G.R.SWAMINATHAN, J.**

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**Pre-Delivery Order in  
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**26.06.2023**