



W.P(MD)No.9559 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.12.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9559 of 2023
and
W.M.P.(MD)No.8520 of 2023

K.Govinda Konar

... Petitioner

Vs.

1.The District Collector,
Tirunelveli District.

2.The Sub Collector,
Chernamahadevi,
Tirunelveli District.

2.The Special Tahsildar (Land Acquisition),
River Linking Project Unit-1,
Ambasamuthram @ Cheranmahadevi,
Tirunelveli District.

4.Raj

5.Ananthasubramanian

6.Sivaramakrishnan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to

1/8



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call for records in impugned communication in A/52/2019 dated 06.02.2023 on the file of the 3rd respondent and quash the same as illegal and consequently direct the respondents 1 -3 to recover the excess amount from the respondents 4-6 and disburse the amount to all legal heirs of Late.Krishnakonar forthwith.

For Petitioner : Mr.S.Kumar

For Respondents : Mr.S.RA.Ramachandran,
Addl. Government Pleader for R1 to R3.
Mr.C.Suresh Kannan for R4 to R6.

ORDER

Heard both sides.

2.For river linking project, the petition mentioned lands in Kesavasamuthram Village, Chernamahadevi Taluk were acquired. The lands were purchased by one Sudalai Muthu Konar and one Palavesa Konar. Sudalai Muthu Konar passed away. He was survived by his son Krishna Konar. The revenue record in respect of the petition mentioned lands came to be mutated in favour Krishna Konar. Krishna Konar had



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two wives namely, Esakkiammal and Krishanammal. Through Esakkiammal, two daughters were born namely, Gomathi and Umayal. Through Krishanammal, as many as nine children were born. One of them was Sudalai Muthu Konar (junior). Sudalai Muthu Konar got married to one Krishanammal. Sudalai Muthu Konar had a daughter by name Rajam. The said Rajam got married to Raj / fourth respondent herein. Sudalai Muthu Konar (Junior) passed away in the year 2004. Rajam passed away in the year 2012. Rajam and Raj had two sons namely, the respondents 5 and 6 herein.

3.The authorities decided to acquire the lands through private negotiations. They obtained consent from Chokkalingam, Subramanian Govindhan and Paramasivan who are the brothers of Sudalai Muthu Konar (junior). It is relevant to note here that even though Sudalai Muthu Konar had passed away by then, his daughter / Rajam was very much alive, no consent was taken either from Rajam or the daughters whether born through the first wife or the second wife. The consent was taken on 12.11.2009. Whiles, the entire amount of Rs.37,77,522/- was straightaway paid to the respondents 4 to 6 herein on 16.02.2022. When



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the petitioner herein came to know the same, he raised objections and since it was not considered, the present writ petition came to be filed.

4.The stand of the respondents is that since the revenue record reflected the name of Sudalai Muthu Konar (Junior), the entire amount was directly paid to him. In normal circumstances, I would not fault the authorities in going by the names set out in the revenue record. But in this case, the authorities cannot said to be so innocent. If that be so, they need not have or would not have taken consent from Chokkalingam, Subramanian Govindhan and Paramasivan who are the sons of Krishna Konar born through the second wife / Krishanammal. It is beyond dispute that the property was not purchased by Raj or his sons. They had inherited the property. Even Sudalai Muthu Konar (junior) did not buy the property. He in turn inherited it from his father / Krishna Konar. Krishna Konar in turn inherited the property from his father / Sudalai Muthu Konar (Senior).

5.Though I repeatedly queried as to when the mutation in favour Sudalai Muthu Konar (junior) was made and whether it was preceded by



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notice to the other legal heirs of Krishna Konar, there is no definite answer forthcoming. In these circumstances, one has to necessarily invoke Section 76 of Central Act No.30 of 2013. Section 76 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 reads as follows:-

*“76. **Dispute as to apportionment.**—When the amount of compensation has been settled, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such disputes to the Authority.*

6.The expression “authority” is defined in Section 3(f) of the Act.

It reads as follows:-

*“3.**Definitions (f)** -Authority? means the Land Acquisition and Rehabilitation and Resettlement Authority established under section 51;”*

7.Section 51 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is as follows:-



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“51. Establishment of Land Acquisition, Rehabilitation and Resettlement Authority.—(1) The appropriate Government shall, for the purpose of providing speedy disposal of disputes relating to land acquisition, compensation, rehabilitation and resettlement, establish, by notification, one or more Authorities to be known as -the Land Acquisition, Rehabilitation and Resettlement Authority? to exercise jurisdiction, powers and authority conferred on it by or under this Act.

(2) The appropriate Government shall also specify in the notification referred to in sub-section (1) the areas within which the Authority may exercise jurisdiction for entertaining and deciding the references made to it under section 64 or applications made by the applicant under second proviso to 28 sub-section (1) of section 64.

8.I, therefore, direct the first respondent to make a comprehensive and proper reference under Section 76 of the Act. Such a reference shall be made within a period of six weeks from the date of receipt of a copy of this order. The reference shall be answered within a period of sixteen weeks thereafter. If the reference is answered to the effect that the petitioner and others also will have share in the award amount, it is the duty of the administration to pay the same to the other claimants and recover the excess amount paid to the respondents 4 to 6 herein.



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9.The conduct of the third respondent remains to be probed. The first respondent herein is directed to enquire into the issue. The first respondent is directed to take appropriate action based on the outcome of his enquiry.

10.This writ petition is disposed of on these terms. No costs. Consequently, connected miscellaneous petition is closed.

18.12.2023

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