



W.P. (MD).No.18624 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 01.12.2023

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD).No.18624 of 2020

and W.M.P(MD)Nos.15578, 15579 of 2020 and 5711 of 2021

Lakshmi Palanikumar

... Petitioner

Vs

1. The District Collector,
Collector Office, Madurai.
2. The Special District Revenue Officer,
Land Acquisition, Madurai Natham Road Project,
171, K.K.Nagar, Madurai -625 020.
3. The Special Tahsildar,
Land Acquisition, Madurai Natham Road Project,
Arul Malar Convent Road,
Madurai -625 020.
4. M.Uma

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ Certiorarified Mandamus, calling for the records of the 3rd Respondent in Na.Ka.No. 03/2020/The.Ne(Ni.A.), dated 27.11.2020 and quash the same as illegal and direct the Respondents 2 and 3 not to pay the compensation in respect of the



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property acquired in Door No. 1-A, R.S. No.4471/3, New Natham Road, Madurai -2 and not to pay any further compensation to the 4th Respondent considering the representation of the Petitioner, dated 27.10.2020 and pending A.S.(MD) 53 of 2015 on the file of this Court.

For Petitioner : Mr. S. Manohar

For Respondents : Mr.B.Saravanan(R1 to R3)
Additional Government Pleader

Mr.K.Guhan (R4)

ORDER

This writ petition has been filed challenging the impugned proceedings of the third respondent, dated 27.11.2020 and for a consequential direction to the respondents not to pay any compensation for the property that was acquired to the 4th respondent, by considering the representation made by the petitioner in this regard on 27.10.2017.

2.The case of the petitioner is that the subject property measuring an extent of 40cents along with superstructure that was acquired by the Highways Department originally belonged to Late. Manickkam Pillai, the petitioner, fourth respondent and yet another brother, who are the daughters and son of Manickkam Pillai. On the demise of Manickkam



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Pillai, the petitioner and her brother filed a suit in O.S.No.122 of 2007 on the file of III Additional District Judge, Madurai seeking for the relief of partition and allotment of 2/3 share in the subject property. The suit was contested and it was decreed by Judgment and Decree, dated 24.09.2014 by holding that the petitioner and her brother are entitled for 2/3 share in the property. Aggrieved by the preliminary decree passed by the trial Court, the fourth respondent filed an appeal before this Court in A.S(MD)No.53 of 2015. While entertaining the appeal, this Court passed an interim order to the effect that other proceedings can go on, except passing of final decree. This appeal is pending till date.

3.The further case of the petitioner is that in the meantime, the subject property was acquired by the Highways Department and the fourth respondent seems to have attended the enquiry and had attempted to take away the entire compensation amount for the property. According to the petitioner, she was completely kept in dark and was not even aware of the acquisition proceedings. On coming to know that the fourth respondent was attempting to take away the entire compensation amount, the petitioner made various representations to the second and



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third respondents in this regard. The grievance of the petitioner is that the third respondent, without recognizing the right of the petitioner in the subject property had paid the entire compensation amount of Rs.53,00,564/- to the fourth respondent. This compensation pertains only to the superstructure and no compensation was paid for the land, on the ground that it was classified as a Government Poramboke. Aggrieved by the same, the present writ petition has been filed before this Court.

4.The respondents 1 to 3 have filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:

“5) Necessary Notification under section 3(A)(1) of National Highways Act 1956 was published in the Government of India Gazette No.379 dated 29.01.2019 in S.O 492 dated : 28.01.2019. The contention of the 3(A)(1) Notification was published in Daily Thanthi and Hindu on 26.02.2019. I submit that the land in question under schedule of property in this Writ petition is classified and Registered as Madurai Corporation Poramboke. Though the contention of 3(A)(1) Notification under National Highways Act 1956 was published in Daily News Paper in Daily Thanthi and Hindu on 28.01.2019, no objection either for the proposed acquisition or claiming the title over the land either by the petitioner or by the 4th Respondent.



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6) I submit that the qu respondent Selvi. M.Uma has filed a case in the Court of the District Munsif of Madurai claiming the title over the land in O.S.203/2019 only on 19.07.2019 stating that the land in question was assigned on collection of market value in favour of one Thiru. Veerapathirapillai, Grand father of the 4th Respondent of this Writ by the Tahsildar Madurai on 27.10.1960 and subsequently the land was sold to Thiru. Manickampillai son of Thiru Veerapathirapillai and father of the 4th Respondent of this Writ petition as per Sale deed No.8382/ 1964 dated 29.12.1964. It was further stated in the Original Suit pending before the District Munsif, Madurai Town in O.S.203/2019 that Thiru. Manickampillai has transferred the property by virtue of Will dated 18.02.2002 and registered in the First Joint Sub Registrar Office on 18.02.2002.

7) Hence the 4th Respondent of, this Writ petition was summoned for enquiry by the Special Tahsildar(LA-NH785) Madurai with records on 18.09.2020 and accordingly Selvi. Uma has appeared for enquiry and produced the following documents to substantiate her claim for compensation. I submit that Selvi. Uma was informed that the compensation for the land under acquisition cannot be disbursed as the compensation for tie land under acquisition. But there are structures in the acquired field worth about Rs. 53,00,564/- (Fifty three lakhs and five hundred and sixty four) only as estimated Highways Engineers, I Submit that she accepted the conditions stipulated as per Government instruction and received the compensation. The records submitted by Selvi. Uma (4th Respondent)



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1. *Physically Handicapped Certificate issued by the Officer.*
 2. *Copy of Registered will registered in Doct No.45 dated 18.02.2002 which is in favour of her.*
 3. *Copy of Registered sale deed 8382/64 dated 31.12.1964 in favour of her father by her Grand father*
 4. *Orders of Madurai North Tahsildar Assessment No. 10.73. 1/ Chokkikulam/ 6.95 dated 18.02.1995 for Urban Land Tax in the name of Thiru. Manickampillai, father of Selvi. Uma*
 5. *Copy of Receipt for the remittance of Urban Land Tax dated 8.03.95*
 6. *Demand Notice issued by the Commissioner, Madurai Corporation for Property Tax in the name of Selvi. Uma*
 7. *Copy of extract of Town Survey Records for Ward No. 10, Block No. 101 T.S. No. 4471 which mentioned as Government Poramboke*
 8. *Copy of patta Pass Book as Patta No.C27 which denotes for Government Poramboke. But no patta pass book will be issued for poramboke land and especially for Town Records.*
 9. *Copy of First page of Bank Pass Book (Canara Bank)*
 10. *Copy of approval of Building Plan by the Corporation Commissioner.*
- 8) *I submit that 4th Respondent of this Writ Petition could not produce the records relating to Assignment in favour of Thiru. Veeerapathirapillai and the land in question is classified as Government Poramboke and registered as Corporation Poramboke.*

Hence I submit that the petitioner is not entitled for land cost and solatium. But as per NHAI letter NHAI/14015/1/18/RO Madurai/ 2540 dated 3.12.2019, the



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structure falling in Government Poramboke land, only the value of structure as vetted by state PWD including Highways Department and no Solatium should be paid.

9. Accordingly the structures cost of Rs.53,00,564/- was paid to the 4th Respondent Selvi. Uma after satisfying the records produced by her to substantiate her claim for structure such as copy of Will, Copy of Demand Notice of Urban Land Tax, Demand Notice for property Tax by the Corporation and the approval of Building Plan. As the Corporation itself”

5.Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents 1 to 3 and the learned counsel appearing for the fourth respondent.

6.The main ground that was urged by the learned counsel for the petitioner is that the fourth respondent had managed to knock off the entire compensation amount by relying upon a Will that is said to have been executed in her favour. The learned counsel for the petitioner submitted that the very same Will was also relied upon before the trial Court and it was not accepted and that is the reason why the preliminary decree was passed by granting 2/3 share in favour of the petitioner and her brother. It was therefore contended that the Authority ought not have



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acted upon the Will, which was not believed by the competent Civil Court and on that ground alone, the impugned proceedings of the third respondent is liable to be interfered by this Court.

7.The learned Government Advocate appearing on behalf of the respondents 1 to 3 submitted that right through the proceeding/enquiry, only the fourth respondent, appeared for the enquiry and submitted all the relevant documents before the Authority and it was found that the compensation can be paid only for the building, since the land was classified as Government Poramboke and accordingly, the cost of the building to the tune of Rs.53,00,564/- was paid to the fourth respondent. The learned Government Advocate submitted that the Authorities are not concerned about the inter se dispute between the petitioner and the fourth respondent and therefore, it is left open to the petitioner to claim for the share from the compensation amount that was paid to the fourth respondent in the pending appeal.

8.The learned counsel for the 4th respondent submitted that the fourth respondent is the absolute owner of the property, by virtue of the



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Will, dated 18.02.2002 and therefore, the petitioner and her brother are not entitled for any share in the property. He contended that it will be established before the Court in the pending appeal. Therefore, there is no reason to interfere with the order passed by the third respondent by paying the entire compensation to the fourth respondent.

9.This Court has carefully considered the submissions made on either side and the materials available on record.

10.There is no dispute with regard to the fact that there is an inter se dispute between the petitioner and the fourth respondent and the same ended by way of filing a partition suit in O.S.No.122 of 2007 before the III Additional District Judge, Madurai. In that suit, the fourth respondent had relied upon the Will said to have been executed in her favour and the same was disbelieved by the trial Court. The trial Court had proceeded to pass a preliminary decree through Judgment and Decree, dated 24.09.2014 in favour of the petitioner and her brother. This preliminary decree has been put to challenge and the same is pending in appeal before this Court in A.S(MD)No.53 of 2015.



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11.The petitioner was repeatedly informing the official respondents about the pending dispute before the Civil Court as against the fourth respondent. When it was brought to the notice of the official respondents, they should have deposited the amount before the competent Court, so that, the withdrawal of the amount by the parties can be based on the final Judgment and Decree passed in the suit/appeal. Instead the entire compensation has now been paid to the fourth respondent.

12.No useful purpose will be served in interfering and setting aside the proceedings of the third respondent, dated 27.11.2020 at this length of time, since the compensation amount has gone into the hands of the fourth respondent and the official respondents cannot now recover the amount from the fourth respondent and give it to the petitioner due to the pending civil proceedings. Therefore, it will be more appropriate to grant liberty to the petitioner to seek for the share in the compensation amount that was paid to the fourth respondent. In the considered view of this Court, the official respondents need not have



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hastened the process by paying the entire compensation amount to the fourth respondent after they were made aware of the fact that there is a pending civil proceeding between the petitioner and the fourth respondent. Therefore, the impugned proceedings of the third respondent, dated 27.11.2020 cannot be put against the petitioner while claiming her share in the compensation amount that was paid to the fourth respondent. That apart, it was also brought to the notice of this Court that the petitioner has already filed a petition in M.P.(MD) No. 5589 of 2020 in A.S.(MD)No.53 of 2015 for a direction to the fourth respondent to deposit the compensation amount received by her in the pending appeal. In view of the same, it will be left open to the petitioner to work out her remedy in M.P.(MD)No. 5589 of 2020 and seek for deposit of the amount and for the payment of the share of the petitioner and her brother. This liberty will sufficiently take care of the grievance expressed by the petitioner.



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13.This writ petition is disposed of in the above terms. No

costs. Consequently, connected miscellaneous petitions are closed.

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

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