



W.P.No.1040 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2024

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.P.No.1040 of 2024

and

W.M.P.Nos.1096, 1097 & 1099 of 2024

D.Adhilakshmi

... Petitioner

Vs.

1. The Special Tahsildar(L.A),
Tindivanam-Nagari,
New Railway Project,
Office of Revenue Divisional Officer,
Tiruthani.

2. Jayanthi

3. D.Venkatesan

4. Indumathi @ Delli Rani

5. Parthasarathy

6. Santhiya
Respondents

...



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings in Na.Ka. No. 198/2023/A1 dated 15.09.2023 on the file of the first respondent herein and to quash the same and direct the first respondent to refer the dispute to the appropriate authority relating to the apportionment of the compensation pertaining to the lands to an extent of 4 acres and 98 cents in Survey Nos. 154/2A 154/2B, 158/1F, 158/1E and 158/3 situated in Vazhaganankuid Village R.K.Pet Taluk Tiruvallur District.

For Petitioner : Mr. Ajoy kumar Gnanam

For R1 : Mr.T.Arunkumar
Additional Government Pleader

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings in Na.Ka. No. 198/2023/A1 dated 15.09.2023 on the file of the first respondent herein and to quash the same and to direct the first respondent to refer the dispute before the appropriate authority relating to the apportionment



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of compensation pertaining to the lands to an extent of 4 acres and 98 cents in Survey Nos. 154/2A 154/2B158/1F 158/1E and 158/3 situated in Vazhaganankuid Village, R.K.Pet Taluk, Tiruvallur District.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the official respondent and perused the materials available on record.

3. Since no adverse order is passed against the private respondents, notice to the private respondents/R2 to R6 is dispensed with.

4. It is submitted by the learned counsel for the petitioner that the petitioner and her husband executed a settlement deed in favour of the respondents 2 to 6, by reserving their life estate. The recital in the settlement deed shows that they have retained their possession during their life time and after their life time, the life estate passes from the settlor to setlee. The petitioner's husband died on 29.11.2007. In the



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meantime, the Government acquired the subject property. Since the petitioner is a life estate holder, she is seeking proportionate compensation. Instead of paying the compensation to the petitioner, the official respondent/R1 sent a impugned proceedings which is against the settled proposition of law. Hence, the petitioner filed the present writ petition.

5. Learned Additional Government Pleader appearing for the official respondent submitted that the patta was already transferred in the name of settlee at the time of acquisition and the subject property stood in the name of the settlee. Hence the petitioner is not entitled to get the compensation.

6. Admittedly the petitioner Adhilakshmi and her husband Dhanabal are the owners of the subject property. The petitioner and her husband Dhanabal executed a settlement deed on 04.08.2004 in favour of the respondents 2 to 6 who are their grandchildren. Encumbrance Certificate produced by the Government official shows that the petitioner



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Aadhilakshmi is the owner of the subject property. It is found from the recital of the settlement deed that the settlors have retained their life interest and possession. After the life time of Dhanabal and Adhilakshmi herein, only the possession will pass to the settees. One of the settlor, Dhanabal died on 29.11.2007. In the meantime, the first respondent proceed with the process of the acquisition proceedings in respect of Railway Project. After coming to know about the acquisition and payment of compensation, the petitioner made representation/objection dated 11.04.2023 to the first respondent. Since the one of the settlor Dhanabal died and the petitioner is the life interest holder, the other settlor, who is the petitioner herein, filed a petition and objection before the official respondent to pay the compensation. The official respondent without considering the documents produced by the petitioner, passed the impugned proceedings, which is unwarranted. Since the possession is still with the petitioner, the petitioner is entitled to get the compensation. In view of the same, the impugned proceedings passed by the first respondent is quashed. The first respondent is directed to consider the petitioner's representation with regard to payment of compensation.



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7. It is submitted by the learned Additional Government Pleader appearing for the official respondent that already they have disbursed the amount to the private respondents. Hence the official respondent is directed to pay the proportionate amount to the petitioner with liberty to recover the same from the private respondents.

8. The petitioner made a representation/objection before the first respondent on 11.04.2023. The first respondent issued notice to the petitioner on 05.06.2023 calling upon the petitioner to attend an enquiry. In reply, the petitioner issued legal notice to the first respondent on 22.08.2023. Then the first respondent passed the impugned proceedings on 15.09.2023. Even in the impugned proceedings, the official respondent has not stated that he has already disbursed the award amount to the private respondents.

9. Without considering the petitioner's representation and without considering the fact that the petitioner is having life interest, the official respondent passed the award and disbursed the same to the private respondents, which is unwarranted.



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10. The petitioner is a life interest holder of the property on the date of acquisition and as per settlement deed, the petitioner was in possession of the property. Hence the petitioner is entitled to 30% of the award amount. The official respondent is directed to pay 30% of the award amount to the petitioner and the same may be recovered from the private respondents to whom the amount was disbursed, failing which, recover the said amount from the Revenue official concerned. The official respondent is directed to disburse the proportionate amount to the petitioner within a period of six weeks from the date of receipt of a copy of this order.

12. With the abovesaid direction, the writ petition is disposed of. Consequently connected miscellaneous petitions are closed. There shall be no order as to costs.

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No



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To

The Special Tahsildar(L.A),
Tindivanam-Nagari New Railway Project,
Office of Revenue Divisional Office,
Tiruthani.



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P.VELMURUGAN, J.

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