



WEB COPY



W.A.No.2516 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.A.No.2516 of 2022

P.Kuppusamy

... Appellant/Petitioner

-VS-

1. The District Collector,
Coimbatore District.

2. The Special District Revenue Officer (Land Acquisition),
National Highways-47,
No.3, Savarimuthu Chettiar Street,
Red Fields, Coimbatore-45.

3. K.Subramaniam

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 30.03.2021 passed in W.P.No.7570 of 2015.

For Appellant	:	Mr.V.Anandhamoorthy
For R1 & R2	:	Mr.V.Manoharan Addl. Govt. Pleader
For R3	:	No Appearance

J U D G M E N T

(By D.Krishnakumar,J.,)

This Writ Appeal has been filed, challenging the order of the learned Single Judge dated 30.03.2021 passed in W.P.No.7570 of 2015, by which the Writ Petition



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filed by the Writ Petitioner/Appellant herein was dismissed, holding the it is open to the Writ Petitioner to approach the respondent for disbursement of compensation after disposal of pending Second Appeal.

2. It is the case of the Writ Petitioner/Appellant herein that he had challenged the order dated 09.12.2014 of the 2nd respondent made in Na.Ka.No.327/2010 before the Writ Court, inasmuch as the 2nd respondent rejected the claim of the Writ Petition regarding disbursement of the compensation amount for the land acquired by the respondents 1 & 2. It is further case of the appellant that he had purchased the property on 01.01.2006 and since then, he is the absolute owner of the property. The land in question was sought to be acquired by the respondents 1 & 2 for expansion of road in NH-47 and from 11.08.2010, the land vests with the Highways Department for payment of compensation. While so, the 3rd respondent had filed a suit in O.S.No.175 of 1993 for specific performance on the file of the Subordinate Court, Tiruppur, claiming that he had entered an agreement dated 21.07.1988 in respect of the land in S.No.141/412 and the suit was dismissed on 10.04.2003. Challenging the judgment and decree passed in O.S.No.175 of 1993, the 3rd respondent filed A.S.No.112 of 2003 before the I Additional District Judge, Coimbatore and the same was dismissed for non prosecution. Subsequently, the restoration petition filed with a delay of 888 days was also dismissed.



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3. It is also the case of the appellant that thereafter, the 3rd respondent filed S.A.No.467 of 2006 before this Court and the same was also dismissed for non prosecution on 09.09.2014 and the restoration petition filed along with C.M.P.No.4984 of 2017 came to be dismissed for default on 27.09.2022. Thus, it is argued on the side of the appellant that there is no legal impediment to accede to the claim made by the appellant regarding payment of compensation for the land acquired by the respondents 1 and 2.

4. Learned Additional Government Pleader appearing for R1 & R2 contended that the amount towards compensation had not been disbursed to the appellant owing to the suit filed by the 3rd respondent and now, since there is no further legal impediment for the respondents 1 and 2 for disbursement of the amount, the 2nd respondent will consider the claim of the appellant suitably.

5. Admittedly, the 3rd respondent had initiated a suit and objected to the payment of compensation to the appellant. Though the 3rd respondent filed a suit, he did not evince any interest in contesting the suit, which is evident from the fact that the both Appeal Suit and Second Appeal were dismissed for non prosecution. Even today, none appeared on behalf of the 3rd respondent and the act of the 3rd respondent seems to be



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that he has taken the Court for ride, which is highly condemnable. That apart, the respondents 1 & 2 have not produced any material to show that the Second Appeal has been subsequently restored by this Court and pending for adjudication. In view of the afore-stated position, the appellant cannot be made to run from pillar to post, as he had been fighting tirelessly since the date of acquisition for getting compensation for the land acquired by the respondents 1 & 2.

6. In the result, this Writ Appeal is allowed and the order dated 30.03.2021 of the learned Single Judge made in W.P.No.7570 of 2015 is set aside. The 2nd respondent is directed to consider the claim of the appellant and disburse the amount along with accrued interest to him, if he is otherwise eligible within a period of twelve weeks from the date of receipt of a copy of this judgment. The appellant shall file an affidavit undertaking that the payment of compensation will be subject to the dispute, if any pending as on date, over disbursement of the compensation amount. No costs.

[D.K.K., J.,]

[K.B., J]

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Index: Yes / No

Internet: Yes / No

Speaking Order/Non Speaking Order

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