



W.P.No.34831 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.02.2024

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THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.34831 of 2023 and
W.M.P.Nos.34837 of 2023 & 1031 of 2024

K.Ankoorbasha

...Petitioner

Versus

1. The Special Tahsildar
(Land Acquisition)
No.2 Office, Neyveli,
Cuddalore – 607802
2. The District Collector,
Cuddalore District,
Cuddalore – 607001.
3. The Secretary,
Department of Revenue,
Government of Tamil Nadu,
Fort St.George Chennai – 600 009.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorafied Mandamus calling for the records relating to the impugned order under proceedings No.Na.Ka.A/185/2014 dated 16.06.2015 on the file of the first respondent herein and quash the same and consequently direct the respondents to pay the enhanced amount of compensation of Rs.15,62,361/- to the writ petitioner herein with due interest from the date of due for payment.



WEB COPY



W.P.No.34831 of 2023

For Petitioner : Mr.M.Shanmugavelu

For Respondents : Mr.T.Arunkumar,
Additional Government Pleader

ORDER

The writ petition has been filed seeking to quash the impugned order under proceedings No.Na.Ka.A/185/2014 dated 16.06.2015 by the first respondent and consequently direct the respondents to pay the enhanced amount of compensation of Rs.15,62,361/- to the writ petitioner herein with due interest from the date of due for payment.

2 Learned counsel appearing for the writ petitioner would submit that the writ petitioner is the absolute owner of the property in Survey No.305/8 and 306 situated at Kammapuram Village, Virudhachalam Taluk, Cuddalore District and the land was acquired by the respondents for industrial purpose by fixing compensation at Rs.5,27,639/- and was paid and subsequently the petitioner approached the first respondent for the enhanced compensation and his claim was rejected by the first respondent by passing the impugned order stating that there is third party claim over the property.



W.P.No.34831 of 2023

WEB COP 2.1

The learned Counsel further submitted that some third party filed the suit for partition and after full-fledged trial, the same was dismissed and in the judgment, the Civil Court has clearly recognized the $\frac{1}{2}$ share right of the petitioner in the property and the petitioner has been given liberty to get the amount for $\frac{1}{2}$ share of the property. The first respondent, without considering the right of the petitioner, recognized by the Civil Court, simply rejected the claim of the writ petitioner on the ground that the suit was dismissed. Therefore the impugned order is liable to be quashed and the petitioner is entitled to get enhanced compensation.

3 Learned Additional Government Pleader appearing for the respondents would submit that there is no specific direction in the judgment of the Civil Court regarding payment to the writ petitioner, who is the fourth defendant in the suit.

4 Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents and perused the materials available on record.



W.P.No.34831 of 2023

WEB COPY

5 Admittedly the property was acquired by the respondents and initial compensation of Rs.5,27,639/- has also been paid to the writ petition, which shows his right on the property was recognized by the respondents by paying the compensation of Rs.5,27,639/- originally awarded. Subsequently when the writ petitioner approached the first respondent for enhancement, the first respondent passed the impugned order rejecting the claim of the petitioner stating that there is no specific order in the Judgement of the Civil Court in O.S.No.10 of 2010 dated 19.10.2012, which was filed by the third parties for partition, regarding payment and right of the writ petitioner.

6 A careful perusal of the records, shows that the suit filed by the third party for specific performance was dismissed by the Civil Court stating that there is no property for partition, but, however, the Civil Court declared that the plaintiffs have $\frac{1}{2}$ share in the suit property and given liberty to them to approach the appropriate authority to get compensation for the property acquired.

7 But, however, the respondents themselves recognized the right of



W.P.No.34831 of 2023

the writ petitioner and paid the original award amount and the Civil Court also stated that the writ petitioner, who is the fourth defendant in the suit purchased the property and the respondent also paid the initial compensation and therefore there is no reason to reject the claim of the petitioner that too quoting the civil suit filed by the third party, which was also dismissed as there is no property for partition.

8 In the result, the writ petition shall stand allowed and the impugned order is set aside and the first respondent is directed to consider the petitioner's representation and disburse the $\frac{1}{2}$ of the enhanced award amount, if he is otherwise eligible, with accrued interest, if any, within a period of four weeks from the date of receipt of a copy of this order. Consequently connected miscellaneous petition in W.M.P.No.34837 of 2023 is closed and the miscellaneous petition in W.M.P.No.1031 of 2024 seeking to implead the proposed parties as respondents is dismissed. No costs.

13.02.2024

Index: Yes/No

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W.P.No.34831 of 2023

WEB COPY

To

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W.P.No.34831 of 2023

P.VELMURUGAN, J.,

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