



W.P.(MD) No.3023 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.08.2024

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) No.3023 of 2024

Samsudeen

... Petitioner

/vs./

The Special Tahsildar,
(Land Acquisition),
Kaveri - Vaigai Kundaru Joint Channel Scheme,
GR-III, Pudukkottai,
Pudukkottai District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent to disburse the award amount to the petitioner land in survey No.328/2 with an extent of 0.77.00 hectors, patta No.936 situated at Nathampannai Village, Pudukottai Taluk and District within a time frame stipulated by this Court without insisting the validity of unregistered Hiba.

For Petitioner : Mr.M.Ramu
For Respondent : Mr.P.Thambidurai
Government Advocate



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ORDER

The above writ petition has been filed for a Mandamus to direct the respondent to disburse the award amount to the petitioner for the land in S.No. 328/2, measuring an extent of 0.77.00 hectors, patta No.936 situate at Nathampennai Village, Pudukottai Taluk and District within a time frame stipulated by this Court without insisting the validity of the unregistered Hiba.

2.The petitioner would submit that the lands in question had been acquired by the respondent for the Kaveri-Vaikai-Kundaru Link Canal under Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013. The petitioner had received summons for enquiry from the respondent and he had attended the enquiry on 05.09.2023 along with his brother, Syed Sulthan. He had requested the respondent to pay the compensation to him for the land on the basis of a Hiba that had been executed both in favour of the petitioner as well as his brother, Syed Sulthan. However, the respondent had instructed the petitioner to get 'No Objection' from the other legal heirs.



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3.The petitioner would submit that his brother, Syed Sulthan had under a oral Hiba gifted the property gifted to him by their mother to the petitioner herein and he is in possession and enjoyment of the same. Syed Sulthan also has no objection to the award amount being disbursed to him. When the request was made, the respondent had insisted on a registered document despite the petitioner explaining that the oral Hiba without the document is very much valid. Therefore, aggrieved by the same, the petitioner is before this Court.

4.A counter has been filed by the respondent, in which it is stated that there has been an objection from the other legal heir of the mother of the petitioner, Raviya Beevi Ammal (the petitioner's sibling). Another legal heir, Asma Begam has also submitted her objection for the payment of compensation.

5.The respondent would submit that when they have sought for legal opinion, they were advised that the Hiba should satisfy three criteria, namely acceptance, taking over possession and the bequest/gift should not be in respect of more than 1/3rd of the property of the donor and if so, it must be ratified by the



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other legal heirs on the death of the testator. He would further submit that in the instant case, these three criteria have not been proved.

6.Taking into consideration the rival contention, the Writ Petition stands disposed of with a direction to the respondent to issue notice to all the legal heirs of late.Raviya Beevi Ammal enclosing the copies of the representation made by the petitioner, hold an enquiry, allow the parties to submit the documents and thereafter pass a speaking order. This exercise shall be completed within a period of 8 weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

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

12.08.2024

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To

The Special Tahsildar,
(Land Acquisition),
Kaveri - Vaigai Kundaru Joint Channel Scheme,
GR-III, Pudukkottai,
Pudukkottai District.

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P.T.ASHA, J.

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