



W.P(MD)No.714 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.714 of 2019
and W.M.P(MD)No.615 of 2019

John Peter Chelladurai

... Petitioner

Vs

1.Special Tahsildar (Land Acquisition),
National Highways 227,
Tiruchirappalli-Ariyalur-Chidambaram Division,
Zone 2, Ponnagaram,
Trichy.

2.Isabella Rani
3.Ilin Mary

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorararified Mandamus, calling for the records comprised in Na.Ka.A.1/2015 dated 23.08.2018 issued by the first respondent and quash the same in so far as the first respondent has failed to refer the matter to the civil court for adjudication and consequently direct the first respondent to refer the matter to the competent civil court in accordance with Section 3H(4) of the National Highways Act 1956.

For Petitioner : Mr.K.Prabhakar

For R – 1 : Mr.S.Shanmugavel
Additional Government Pleader

For R – 2 : No appearance

For R – 3 : Mr.K.Bhaskaran



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ORDER

This Writ Petition has been filed by the petitioner challenging the order passed by the first respondent dated 23.08.2018, thereby rejecting the request made by the petitioner and also sought for a direction to refer the dispute before the civil Court under Section 3(H)(4) of the National Highways Act, 1956.

2.The land comprised in Survey Nos.39/1, 39/4, 39/6, 39/7, 38/3, 38/4 and 39/8 situated in Venkatachalapuram North Village, Lalgudi Taluk, Trichy District admeasuring 1.70.5 hectares belonged to one John Baskar. He had executed a Will in favour of his wife/the second respondent herein on 09.12.2013 bequeathing the properties. After his demise on 28.05.2016, the petitioner purchased the subject property from the second respondent for valid consideration by the registered sale deed dated 19.12.2017 vide Document No.11 of 2018. Thereafter, the revenue records were mutated in favour of the petitioner. While being so, a portion of the subject land was acquired for the expansion of National Highways by the first respondent. After acquisition, an award was passed in Award No.3 of 2017 dated 06.11.2017 and awarded compensation.



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Thereafter, the petitioner was issued notice to attend the enquiry in respect of the claim over the acquired property. The petitioner attended the enquiry and submitted all the documents to prove his title over the acquired property. In the meanwhile, the third respondent herein, who is claiming to be the second wife of John Baskar filed a suit in O.S.No.224 of 2016 on the file of the District Munsif Court, Lalgudi, for a declaration declaring that she is the legally wedded wife of John Baskar. Simultaneously, the second respondent also filed a suit in O.S.No.37 of 2017 on the file of the District Munsif Court, Lalgudi for a declaration that she is the legally wedded wife of John Baskar. In view of the above, the first respondent declined the claim made by the petitioner.

3. Admittedly, the petitioner had purchased the subject property by the registered sale deed dated 19.12.2017. Even before the purchase, the third respondent filed a suit in O.S.No.224 of 2016 on the file of the District Munsif Court, Lalgudi, for declaration declaring that she is a legally wedded wife of John Baskar. However, both the suits are pending. In view of the Will executed by John Baskar in favour of the second respondent, the second respondent had title over the property. In turn, she executed a sale deed in



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favour of the petitioner. Therefore, the third respondent has no right over the subject property which was purchased by the petitioner and subsequently, a portion of the subject property was acquired by the first respondent. If the third respondent succeeds in her suit that too for declaration declaring herself as a legally wedded wife of John Baskar, she has to challenge the Will executed in favour of the second respondent. If the Will is set aside, then only the third respondent can seek any claim over the subject property. Therefore, the suits which are pending before the District Munsif Court, Lalgudi are no way connected to the claim made by the petitioner and both the suits are not an impediment for the first respondent to disburse the compensation to the petitioner. That apart, the petitioner was issued notice under the Land Acquisition Act and the petitioner had only attended the enquiry before passing an award. Therefore, the petitioner is entitled for compensation. In view of the above, the impugned order passed by the first respondent, dated 23.08.2018 is liable to be quashed.

4. Accordingly, the impugned order passed by the first respondent, dated 23.08.2018 is quashed. The first respondent is directed to disburse the compensation amount to the petitioner in



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respect of the lands which were acquired from the petitioner comprised in Survey Nos.39/1, 39/5, 39/6 and 39/8 situated at Venkatachalapuram North Village, Lalgudi Taluk, Trichy District, within a period of two weeks from the date of receipt of a copy of this order.

5.With the above directions, this Writ Petition is allowed.

There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

26.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
ps

To

Special Tahsildar (Land Acquisition),
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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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