



W.P(MD)No.16256 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16256 of 2020

and

W.M.P.(MD)Nos.13589 and 13591 of 2020

1.N.Raja Mohamed

2.N.Prianmalai

... Petitioners

Vs.

1.The District Revenue Officer,
Sivagangai District.

2.The Project Director,
National Highways Authority of India,
Karaikudi, Sivagangai District.

3.Fathima Kani

4.M.Minbeevi

5.Sumathi

6.The Special District Revenue Officer &
Competent Authority,
Land Acquisition (National Highways – 210),
Collector Office Complex,
Ramanathapuram – 623 503.

... Respondents

*(R6 is impleaded vide order dated 05.01.2024 in
W.M.P.(MD)No.14960 of 2020 in
W.P.(MD)No.16256 of 2020 by GRSJ)*



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 1st respondent in Pa.Mu.P4/25015/2018 dated 05.10.2020 quash the same and consequently forbear the 2nd respondent herein, their subordinates, men and agents from in any manner disbursing the payment of compensation of for acquisition of land in S.No.184/2A1 to any of the respondents 3 to 5 herein.

For Petitioners : Mr.S.Srinivasa Raghavan

For Respondents : Mr.K.S.Selvaganeshan,
Addl. Government Pleader for R1 & R6.
Mr.S.Sankarapandian,
For M/s.C.Arulvedivel Associates for R2.
Ms.H.Jasima Yasmin,
For M/s.Ajmal Associates for R5.

ORDER

Heard the learned counsel for the writ petitioners, the learned Additional Government Pleader for the respondents 1 and 6, the learned counsel for the second respondent and the learned counsel for the fifth respondents.



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2.The land comprised in S.No.184/2A1, Kanankottai Village, Devakottai Taluk was acquired under the provisions of the National Highways Act, 1956. Patta in respect of the said land stood in the name of the fifth respondent. The fifth respondent had purchased the property vide sale deed dated 11.01.2007 from the fourth respondent. The fourth respondent in turn had purchased the property from the third respondent vide sale deed dated 27.01.2005. The revenue record reflected the name of one Sagu Rowther, he was none other than the father of the third respondent.

3.On the other hand, the petitioners herein claim to have inherited the acquired property from their father Nagoor Gani in whose favour a Will was executed on 19.01.1962 by his grandfather Abdullah. Old S.No.184/2 reflected the names of seven persons out of whom Abdullah was one. The first petitioner herein filed W.P.(MD)No.9512 of 2019. The prayer in the said writ petition was as follows:-

“Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus forbearing the 1st respondent from proceeding with the land acquisition proceedings in respect of the



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properties in Survey No.184/2A1, Kannakottai group, Devakottai Taluk, Sivagangai District in view of the patta proceedings pending before the 2nd respondent in Na.Ka.P4-25015-18 dated 01.02.2019 by considering the petitioner's representation dated 10.04.2019.”

4.The fifth respondent herein was shown as the third respondent in the said writ petition. After hearing both parties, the writ petition was disposed of in the following terms:-

“12. In that view of the matter, this Court is inclined to dispose of the writ petition with the following direction:

(i) that the second respondent shall complete the enquiry, which is pending before him in respect of the subject land between the petitioner and the third respondent and pass final orders thereon within a period of six (06) weeks from the date of receipt of a copy of this order;

(ii) Once such an order is passed, depending upon the outcome of the order to be passed by the second respondent, the right of the parties (i.e.) the petitioner as well as the third respondent, in succeeding to get the compensation award amount under the land acquisition proceedings can be decided and based on the same, they can get the benefit thereafter; and

(iii) In order to enable the second respondent/ District Revenue Officer to decide the issue within the time frame stipulated, if the second respondent gives any notice for further enquiry to the parties, (i.e.) petitioner and the third respondent, they shall appear before the second respondent / District Revenue Officer with full cooperation to complete the enquiry within the time frame.



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13. Till such decision is taken by the second respondent/ District Revenue Officer as indicated above, the award amount in respect of the subject land shall not be disbursed by the respondent to any of the parties. With these directions, the Writ Petition is disposed of. No costs. Consequently, connected W.M.P.(MD) No.7493 of 2019 is closed.”

5. Pursuant to the said direction, enquiry was taken up by the District Revenue Officer. Vide order dated 05.10.2020, the request of the petitioner was rejected. Challenging the same, the present writ petition came to be filed.

6.The learned counsel for the petitioners reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.

7.The official respondents have filed counter affidavit and the fifth respondent has also filed counter affidavit. The learned Additional Government Pleader for the official respondents and the learned counsel for the fifth respondent took me through the stand set out in the respective pleadings. They submitted that the case of the petitioner is without any basis and that therefore, the impugned order does not call for interference. They requested this Court to dismiss the writ petition.



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8.I carefully considered the rival contentions and went through the materials on record. In my view, an unnecessary exercise had been undertaken. The dispute between the parties is as regards disbursement of the compensation amount determined under Section 3H of the National Highways Act, 1956. Section 3H (1 to 4) of the National Highways Act, 1956 reads as follows:-

“3H. Deposit and payment of amount.—(1) The amount determined under section 3G shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority before taking possession of the land.

(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.”



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9.Sub Sections 3 and 4 of Section 3H do not appear to go together.

The Hon'ble Division Bench of Bombay High Court in the decision reported in **2017 SCC OnLine Bom 3871 (Arun Vs. State Maharashtra)** claimed to have harmonized the two Sub Sections. It held that when several persons are entitled to claim compensation, the competent authority has power and jurisdiction to record an opinion and determine the persons who are entitled to receive share/s and the provision only enable him to apportion the amount of compensation amongst them, according to the share, they are entitled to. Sub Section 4 contemplates the situation where the dispute is raised as regards the entitlement of the compensation by several persons and the jurisdiction to decide such dispute is conferred upon the Principal Civil Court of original jurisdiction. In other words, whenever there is dispute raised by any person as to the right to receive either the whole or portion of the compensation, the competent authority is obliged to refer the matter to the jurisdictional Civil Court. When Sub Section 4 of Section 3-H specifically requires the dispute as to entitlement to receive compensation determined under Section 3-G of the Act to be referred to and decided by the Principal Civil Court of original jurisdiction, it by implication necessarily excludes jurisdiction of the competent authority which is entitled to merely decide the point of apportionment of the compensation amongst several persons under Sub Section 3 of Section 3-H.



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10. Though the said decision claims to have harmonized the interplay between the two provisions and struck a balance between them, I am of the view that one need not be so polite. The resultant legal position is that Sub Section 4 has been declared to prevail over Sub Section 3. In my view rightly so. A revenue authority who has been designated as the competent authority under the National Highways Act, 1956 cannot be entrusted with the power to adjudicate what is basically a title dispute. Such issues will have to be necessarily resolved only by the jurisdictional Civil Court. The case on hand is a classic instance of a regular title dispute. Such a dispute will have to be necessarily referred by the competent authority for decision of the jurisdictional Civil Court. I also rely on the decision reported in **2013 SCC OnLine Mad 3644 (Abbas T.Vagh Vs. The Competent Authority)**. I direct the sixth respondent to make reference under Section 3H(4) of the National Highways Act, 1956 within a period of four weeks from the date of receipt of a copy of this order. The jurisdictional Civil Court to which reference is made shall issue notice to all the parties concerned and answer the reference within a period of seven months after receipt of reference. I need not go into the correctness of the impugned order. The Civil Court will decide the issue based on the evidence adduced before it. I make it clear that I have not gone into the merits



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of the matter. The interim order granted in this writ petition is made absolute and disbursement of the compensation amount will abide by the outcome of the reference.

11.This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

10.01.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias

Issue order copy on 12.01.2024.

To:-

- 1.The District Revenue Officer,
Sivagangai District.
- 2.The Special District Revenue Officer &
Competent Authority,
Land Acquisition (National Highways – 210),
Collector Office Complex,
Ramanathapuram – 623 503.



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G.R.SWAMINATHAN, J.

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