



CRP.No.4441 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 27.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP.No.4441 of 2024
and C.M.P.No.24725 of 2024

M.Kalimuthu

... Petitioner

Versus

Sundaram (Died)

1.Saraswathi

2.The Special Tahsildar

National Highways Department

Coimbatore

... Respondents

PRAYER : Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 14.03.2024 passed in LAOP.No.4 of 2016 on the file of I Additional Sub Judge at Coimbatore.

For Petitioner : Mr.K.Myilsamy

For Respondent : Mr.V.Anandhamoorthy for R1

Dr.S.Surya for R2

Additional Government Pleader

ORDER

Challenge has been made to the order of the Land Acquisition Tribunal dismissing the reference made by the authorities.



2. An extent of 5500 square meters was acquired for the National Highways.

The matter has reached finality, a compensation of sum of Rs.47 lakhs has been arrived. At this stage, the revision petitioner made a claim to the authorities contending inter alia that as per the will dated 19.05.1978, he is entitled to an extent of 57 sq.mts., According to the him, out of 47 lakhs, he is entitled to Rs.4 lakhs compensation. As the dispute was raised by the revision petitioner, the matter has been referred to the Land Acquisition Tribunal. The Land Acquisition Tribunal dismissed the reference. Hence, this revision.

3. The main contention of the learned counsel for the petitioner is that the reference ought to have been made only to the Principal Court of Original Jurisdiction. According to him, Sub Court is not Principal Court of Original Jurisdiction, the reference ought to have been made before the Principal District Court, Coimbatore, whereas, the reference has been decided by the Land Acquisition Tribunal which has no jurisdiction at all. Hence, seeks for allowing this revision.



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4. The learned counsel for the respondents, on the other hand, submitted that revision petitioner bases his claim only on the basis of will dated 19.05.1978.

According to him that will has not been proved, a declaration suit is filed by the revision petitioner in this regard in O.S.No.872 of 2011 on the file of III Additional District Munsif, Coimbatore which was dismissed on 09.12.2016 on the ground that the will has not been established. The said finding has been confirmed in appeal in A.S.No.8 of 2018 on the file of Principal Sub Court, Coimbatore by decree and judgment dated 13.01.2020. Thus, once the right of the petitioner is already decided in the Civil Court, the very objection before the authorities is not maintainable. Hence, prays for dismissal of this revision.

5. Heard both sides and perused the materials placed on record

6. As per the Section 3H of National Highways Act, 1954. as rightly pointed by the learned counsel for the petitioner, 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



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of whose jurisdiction the land is situated. It is also not in dispute that principal civil court of original jurisdiction means only the Principal District Court of concerned district. Though I am in agreement with the submissions of the learned counsel for the petitioner that reference ought not to have been made before the Sub-Court and ought to have been made before the Principal District Court, the fact remains that the petitioner made objection to claim certain compensation only on the basis of will dated 19.05.1978. It is to be noted that he has not claimed such right on the basis of any other document, he bases his claim only on the basis of the will dated 19.05.1978, that will was the subject matter of the suit in O.S.No.872 of 2011 filed by the revision petitioner himself before the III Additional District Munsif Court, Coimbatore. The will pleaded by the petitioner has been negatived, appeal filed in this regard, in A.S.No.8 of 2017 is also dismissed on 13.01.2020, thereby, confirmed the findings of the learned Trial Court. The above decree and judgment makes it very clear that the will relied upon by the petitioner has not been established before the Court of Law and his right on the will is also negatived.

7. Such view of the matter, the petitioner cannot once again claiming right on the basis of same will which was not established before the competent civil



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court is nothing but an attempt to somehow or other thwart the proceedings before the competent authority. Therefore, this Court is of the view that though reference has made to the Sub Court instead of District Court that will not take away the rights already decided by the competent civil court. Hence, I do not find any merits in this revision.

8. Accordingly, this revision stands dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

27.01.2025

Internet : Yes/No
Index : Yes/No
dhk

To
The I Additional Sub Judge
I Additional Sub Court, Coimbatore

N. SATHISH KUMAR, J.



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