



W.P.(MD)Nos.7827 of 2020 & 5282 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **10.03.2025**

Delivered on : **14.03.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)Nos.7827 of 2020 & 5282 of 2023

and

W.M.P.(MD)Nos.7305, 7306 of 2020 & 4961 & 1963 of 2023

W.P.(MD)No.7827 of 2020

Ulaganatha Pillai at K.U.Nathan,

... Petitioner

/Vs./

1. The Competent Authority Cum

District Revenue Officer, (LANH)

NH47 and 47B, Observatory Street,

Opp. to PWDs Travelers Bungalow, Nagercoil,

Agastheeswaram Taluk, Kanyakumari District.

2. The Special Tahsildar

Special District Revenue Officer Office,

Land Acquisition For National Highway,

Tirunelveli at Nagercoil.

3. The Executive Officer

Ozhuginasery Vellalar Samuthaya Aadimoola

Vinayagar Trust, Ozhuginasery,



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Behind of Idartheertha Perumal Thirukovil,

Vadiveeswaram, Nagercoil, Kottar Post,

Agastheeswaram Taluk,

Kanyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the 1st respondent herein in his proceedings in Na.Ka.J3/2136/2017 dated 17.02.2020 and quash the same as illegal and further direct the respondents 1 and 2 herein to determine and disburse the compensation amount at the ratio of 3/4th to the cultivating tenant and 1/4th to the landlord in respect of land measuring 2000 square meter out of total 50 ares in Resurvey No.37/6 in Therekalputhooor Village Agastheeswaram Taluk, Kanyakumari District, within a time stipulated by this Court.

For Petitioner : Mr.D.Nallathambi

For Respondents : Mrs.S.Jeyapriya
Government Advocate for R1 & 2
: Mr.H.Arumugam for R3

W.P.(MD)No.5282 of 2023

Idol Arulmigu Adhi Moola Vinayagar,

Rep by its Executive Officer,

Ozhuginasery, Vadiveeswaram, Nagercoil,

Kottar Post, Agastheeswaram Taluk,

Kanyakumari.

... Petitioner



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/Vs./

1. The Special District Revenue Officer,
(National Highways - Land Acquisition),
Nagercoil.
2. The Project Director
National Highway Authority of India,
Kattayanvilai, Nagercoil.
3. The Special Tahsildar
(Land Acquisition - NH 47),
Nagercoil.
4. Ulaganatha Pillai @ K.U.Nathan ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 3rd respondent in Ni.A.Thae.Ne.482/2022 dated 21.12.2022 and quash the same and direct the 1st respondent to disburse the entire compensation amount as per the Award No.02/2018 dated 19.02.2018 for acquisition of land in S.No.37/6B at Therkalputhoo Village, Agastheeswaram Taluk, Kanyakumari District, to the petitioner.

For Petitioner : Mr.H.Arumugam

For Respondents : Mrs.S.Jeyapriya
Government Advocate for R1&3
: Mr.P.Karthick for R2
: Mr.D.Nallathambi for R4



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COMMON ORDER

The petitioner in W.P.(MD)No.7827 of 2020 challenges the impugned order passed by the first respondent in proceedings in Na.Ka.J3/2136/2017 dated 17.02.2020 and to consequently direct the respondents 1 and 2 to determine and disburse the compensation amount at the ratio of 3/4th to the cultivating tenant and 1/4th to the landlord in respect of the land measuring 2000 square meters out of total 50 ares in Resurvey No.37/6 in Therekalputhoo Village, Agastheeswaram Taluk, Kanyakumari District.

2. The petitioner in W.P.(MD)No.5282 of 2023 challenges the impugned order of the third respondent in Ni.A.Thae.Ne.482/2022 dated 21.12.2022 and to consequently direct the 1st respondent to disburse the entire compensation amount as per the Award No.02/2018 dated 19.02.2018 for acquisition of land in S.No.37/6B at Therkalputhoo Village, Agastheeswaram Taluk, Kanyakumari District, to the petitioner.



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3. Both the writ petitions in W.P.(MD)No.7827 of 2020 as well as W.P.(MD)No.5282 of 2023 have been clubbed together by orders of the Hon'ble Administrative Judge, the writ petitions are heard together and disposed of by way of this common order.

4. I have heard Mr.D.Nallathambi, learned counsel for the petitioner in W.P.(MD)No.7827 of 2020 and fourth respondent in W.P.(MD)No. 5282 of 2023, Mr.H.Arumugam, learned counsel for the third respondent in W.P.(MD)No.7827 of 2020 and petitioner in W.P.(MD)No. 5282 of 2023 and Mrs.S.Jeyapriya, learned Government Advocate for the official respondents in both the writ petitions.

5. The sum and substance of the dispute in both these writ petitions is as to the entitlement to compensation under land acquisition proceedings.

6. The petitioner in W.P.(MD)No.7827 of 2020 is a cultivating tenant and the petitioner in W.P.(MD)No.5282 of 2023 is the land lord. Both the writ petitioners have claimed compensation, in respect of the



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land acquisition proceedings initiated against the property under the occupation of the cultivating tenant and belonging to the temple / landlord.

7. The case of the landlord is that the entire compensation amount is payable only to the landlord and nothing is payable to the cultivating tenant. However, on the contrary, the case of the cultivating tenant is that 3/4th of the compensation is payable to him and only 1/4th of the compensation is payable to the landlord / temple.

8. The impugned order passed by the first respondent in W.P.(MD) No.7827 of 2020, directing the parties to approach the competent civil Court and get the rights declared before claiming compensation, is being challenged by the cultivating tenant, on the ground that the petitioner / cultivating tenant has been in continuous possession and enjoyment of the subject lands for more than 4 ½ decades and also claims that the Hon'ble Supreme Court has already settled the legal position in matters like, this in a judgment reported in **1996-8-SCC-664 (Mangat Ram & Ors. V. State of Haryana & Ors.)** and therefore, the impugned order



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directing the parties to approach the civil Court is clearly erroneous and perverse.

9. Per contra, the learned counsel for the landlord, viz., petitioner in W.P.(MD)No.5282 of 2023, Mr.H.Arumugam, would contend that the provisions of the National Highways Act 1956 the cultivating tenant only to 10% of the compensation determined, clearly entitled as per Section 3G (1) of the National Highways Act and the remaining compensation has to be paid only to the landlord, viz., the petitioner in W.P.(MD)No.5282 of 2023. The very same order is under challenge in both the writ petitions.

10. It is contended on behalf of the second respondent that only because of the issue between the writ petitioners, the compensation amount has not been disbursed and further stated that the first respondent has already kept compensation in a joint account as per the provisions of the National Highways Act 1956. The writ petition is therefore sought to be dismissed, as nothing survives in view of the deposit already made by the first respondent, as early as February 2018.



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11. I have considered the submissions advanced by the learned counsel on both sides. I have also perused the records that have been produced by the learned counsel for the parties, including the impugned order, which is challenge not only by the landlord / temple, but also by the cultivating tenant.

12. The learned counsel for the cultivating tenant has placed reliance on the decision of the Hon'ble Supreme Court reported in **1997-3-LW-181 (Union of India through Secretary V. A.Ajit Singh)**, where the Hon'ble Supreme Court discussing the compensation payable to the tenant in respect of land leased by the Government on a long term basis, held that the tenant entitled to 60% of the compensation amount. He also relied on the decision of the Hon'ble Supreme Court **Mangat Ram's** case, where the Hon'ble Supreme Court, awarded an apportionment of 75% to the tenant and 25% to the landlord. In **Union of India's** case, the leasee had the benefit of lease for the period of 30 years with a right to renewal up to a maximum period of 99 years. Therefore, the Hon'ble Supreme Court in such circumstances, directed



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the apportionment of 60% to the tenant and 40% to the landlord, even in *Mangat Ram's* case, the apportionment of 75% to the tenant and 25% to the landlord was only on the basis that the dispute was with the Wakf Board and in view of the decision of the Hon'ble Supreme Court in *Col.Sir Harinder Singh Brar Bans Bahadur V. Bihari Lal* reported in *1994-4-SCC-523* and another decision of the Hon'ble Supreme Court in the case of *Inder Parshad V. Union of India* reported in *1994-5-SCC-239*, the Hon'ble Supreme Court followed the said decisions and awarded 3/4th compensation to the tenant and 1/4th to the Wakf Board.

13. The learned counsel for the petitioner / tenant relied on the decision of the Hon'ble Supreme Court in *Haryana Waks Board V. State of Haryana* reported in *2019-13-SCC-382*, where the Hon'ble Supreme Court examining the earlier decisions in *Col.Sir Harinder Singh Brar Bans Bahadur* as well as *Mangat Ram's* case, held that the Hon'ble Supreme Court in those decisions did not examine whether lease of Wakf Board acquired any right and therefore, the said decisions cannot be authority with regard to the entitlement of tenant. The Hon'ble Supreme Court in *Haryana Waks Board's* case went on to hold that the nature of



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interest which the land owners possessed in the lands at the time of acquisition was material and to be taken into account, including whether consideration of any right was confirmed upon the temple. The right of the tenant, who purchase the property under Section 18 of the Tenancy Act 1953, was considered before awarding suitable apportionment. However, the position was clarified in *Haryana Waks Board's* case, holding that the entitlement of the tenant would depend upon the facts and circumstances of each case and nature of rights.

14. Coming to the factual aspects of the case, admittedly, the cultivating tenant has not been able to establish by producing satisfactory prima facie evidence to show that the cultivating tenant has been cultivating the lands, especially, in the light of the specific allegation that the allegation of the landlord that the cultivating tenant has not carried on any cultivation and the lands remains “Tharisu” for more than a decade, cultivation in the said lands. The specific allegation of the landlord is that the petitioner is an arrears of more than Twelve Lakhs to the petitioners. Further, there is no right restored on to the cultivating tenant to purchase the subject land from the landlord / temple.



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15. Considering all these factors and also keeping in mind Section 3G of the National Highways Act, it would be fit and proper to award 75% of the compensation to the landlord / temple and 25% of the compensation to the cultivating tenant. The said apportionment would be fair just equitable, considering the admitted position, which has been discussed hereinabove. There is no serious specific cause to both the writ petitioners and equiting will also stand by such apportionment balance.

16. In fine, these writ petitions are disposed of, in the manner following:

(i) The writ petitioner in W.P.(MD)No.7827 of 2020, being the cultivating tenant is entitled to 25% of the compensation amount and the writ petitioner in W.P.(MD)No.5282 of 2023, being the landlord /temple is entitled to 75% of the compensation amount.

(ii) The first respondent shall disburse the compensation amount in terms of clause (i) herein supra, within a period of eight weeks from the date of receipt of copy of this order.



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(iii) There shall be no order as to costs. Consequently, connected

Miscellaneous Petitions are closed.

Index : Yes / No
NCC : Yes / No
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14.03.2025

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P.B. BALAJI, J.

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Pre- delivery Orders made in
W.P.(MD)Nos.7827 of 2020 &
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Dated:
14.03.2025