

W.A(MD)No.1254 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.06.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A(MD)No.1254 of 2025
and
C.M.P(MD)No.7719 of 2025**

1.The Competent Authority
(Land Acquisition – NH)
cum Special Tahsildar,
Srivilliputhur,
Virudhunagar District.

2.The Tahsildar,
Srivilliputhur Taluk,
Srivilliputhur,
Virudhunagar District.

... Appellants /
Respondents

Vs.

R.Subbulakshmi

... Respondent /
Writ Petitioner

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 03.10.2024 in W.P(MD)No.20539 of 2024 on the file of this Court and allow the Writ Appeal.



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For Appellants : Mr.M.Ajmal Khan
Additional Advocate General
Assisted by
Mr.A.Kannan
Additional Government Pleader

For Respondent : Mr.M.Mahaboob Athiff

JUDGMENT

(By G.R.Swaminathan J.)

Heard both sides.

2.The petition-mentioned land was acquired under the provisions of the National Highways Act, 1956. The land as per the revenue record stood in the name of Muthiah Thevar S/o.Muthu. The stand of the writ petitioner is that she is the daughter of the said Muthiah Thevar. Since the appellants did not disburse the compensation amount to her, she filed W.P(MD)No.20539 of 2024. The learned single Judge vide order dated 03.10.2024 allowed the Writ Petition and directed payment of compensation to the writ petitioner. Challenging the same, this Writ Appeal has been filed.

3.The notification was not issued in the name of the writ petitioner. It was issued in the name of one Muthiah Thevar, S/o.Muthu. It is the claim of



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the writ petitioner that the said Muthiah Thevar is her father. But as of now, there is no supporting evidence in the form of civil court's decree declaring her to be his legal heir. Patta is not in her name. That is why, the competent authority did not pay the compensation to her.

4.The question that calls for consideration is whether in these circumstances, reference to the civil court under Section 3-H(4) of the National Highways Act,1956 can be made. The learned counsel for the writ petitioner would contend that since there is no rival claim and there is no dispute as to apportionment, the said provision is not applicable. The learned Additional Advocate General, on the other hand, would want us to construe the said provision a little expansively. According to him, if the authority entertains a genuine doubt as to whom the compensation is payable, then, in the very nature of things, reference has to be made to the civil Court.

5.Section 3-H of the National Highways Act, 1956 is 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.



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(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.....”**

Section 3-H(3) of the Act mandates that 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. It has been held by one of us (G.R.S, J.) in WP(MD)No.17023 of 2019 dated 01.07.2022 (*P. Jayachandran vs The Competent Authority*) that [Sections 3H\(3\)](#) and [3H\(4\)](#) of the Act apparently overlap each other. If among the several persons who claim to be interested in the amount deposited under sub-section (1) dispute arises, the competent



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authority shall not make any determination but refer the dispute to the decision

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of the concerned Principal Civil Court of original jurisdiction as per [Section](#)

[3H\(4\)](#) of the Act. In other words, only if there is no dispute among the several

persons who claim to be interested in the amount deposited under sub-section

(1), the competent authority can determine who will take how much as per

Section 3-H(3). Such a determination can also be made by the competent

authority to weed out utterly baseless claims. If a person, without even an iota

of title or interest, makes a claim and wants to stop the competent authority

from paying the compensation to a claimant having title, the competent

authority can make a determination and it is not necessary that he must refer the

matter to the civil court. Section 3-H(3) has to be understood and applied in

this sense. But where there is a serious dispute, the competent authority should

not take it upon himself the function of adjudication. He must necessarily refer

the matter under Section 3-H(4).

6.The Hon'ble Supreme Court in *Vinod Kumar v. District Magistrate, Mau (2023) 19 SCC 126* has held as follows :

“36.....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, then, the competent authority shall refer the dispute to the decision of the Principal Civil



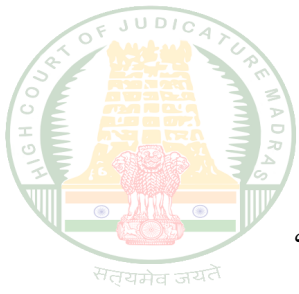
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Court of Original Jurisdiction within the limits of whose jurisdiction the land is situated. The competent authority possesses certain powers of the civil court, but in the event of a dispute of the above nature, the summary power, vesting in the competent authority of rendering an opinion in terms of sub-section (3) of Section 3-H, will not serve the purpose. The dispute being of the nature triable by the civil court that the law steps in to provide for that to be referred to the decision of the Principal Civil Court of Original Jurisdiction. The dispute regarding apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, would then have to be decided by that court.”

7. In the case on hand, there is no rival claim. But, the competent authority is having a serious doubt as to the very entitlement of the writ petitioner to receive the compensation. Section 3-H(4) is silent on this aspect. Is it a case of casus omissus ? Courts should not readily infer casus omissus if through proper interpretation, the apparent gap can be bridged. Construing a similar provision in Section 30 of the Land Acquisition Act, 1894, Justice Ananthanarayanan in *The State of Madras vs. Subramania Iyer* ((1962) 75 LW 151 : (1962) 1 Mad LJ 372 : AIR 1962 Mad 313) held as follows :



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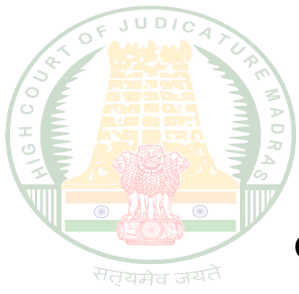
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“...Actually in the matter before me, there appears to have been ample justification for the officer to make a reference under S. 30, though admittedly there was only one claimant in the case (B.V. Subramania Aiyar). The officer seems to have made the reference because he thought that the title of the claimant was not clearly established by the documentary evidence before him, and that he could not decide, upon that evidence whether the claimant was the true and only person entitled to the compensation amount....

...

...In Sanjiva Rao's Land Acquisition and Compensation, 4th Edn. (by Singhal) the learned author observes at page 527, that in the context of a reference under S. 30 “the Government is neither interested, nor is it a proper party to an apportionment proceeding, but only the contesting *documents* are.” ...

The learned Counsel for the respondent (claimant) urges that the reference itself was incompetent, because there was really no “dispute” within the meaning of S. 30; the claimant alone made the actual claim, and not the other benamidars. I do not think that this view is at all sustainable. The word “dispute” is used in the context of that section in a wide and not a literal sense, and implies any controversy as to title, whether as between the actual claimants, or as appearing from the documents made available by the Government. It is obvious that, when the Government exercises its powers of eminent domain and acquires property, public funds have to be utilised for the payment of compensation to the true owner and not merely to any claimant who cares to appear on the scene. The



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Government have a special responsibility in this regard, and cannot later take refuge behind the pretext that the compensation was paid to the claimant who actually appeared, while others did not appear.
...”

The questions that arose in that case was whether the Government could have been shown as a respondent and whether costs could have been awarded against the Government. The learned Judge held that costs could not have been awarded against the Government and that it has to be borne by the party receiving the compensation.

8. We are of the view that the very same reasoning will apply to Section 3-H(4) of the National Highways Act also. The competent authority is obliged to make a reference when there is only one claimant but there is serious doubt as to his or her entitlement to receive the compensation. By holding so, we are not re-writing the text of 3-H(4) of the Act. We are only following the footsteps of our forbearer. Section 3-H(2) categorically states that after the compensation amount has been deposited, the competent authority shall pay the amount to the person or persons entitled thereto. If it is held that Section 3-H(4) will apply only in case of inter se disputes, the competent authority can neither pay the amount to the claimant since there is serious doubt as to his/her entitlement nor make a reference. It would result in a deadlock. Such a situation would not

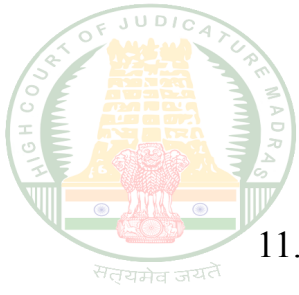


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have been envisaged by the legislature. It is well settled that any provision in a statute cannot be read in isolation. A statute has to be read as a whole. Section 3-H(4) cannot be divorced or delinked from 3-H(2). They have to be read together. Only if Section 3-H(4) is understood in the manner indicated above, the competent authority can discharge the statutory duty cast on him or her.

9. In this view of the matter, respectfully following the ratio laid down in ***B.V.Subramania Iyer***, we direct the competent authority to make a reference under Section 3-H (4) of the National Highways Act within a period of three weeks from the date of receipt of copy of this order. Once such reference is made, the civil court shall number the same and take it on file. We request the learned trial Judge to dispose of the reference within a period of six months thereafter. Based on the outcome of the reference, compensation shall be disbursed.

10. We direct the appellants to deposit the entire compensation amount to the credit of the reference OP. The said amount shall be deposited by the trial Court in an interest bearing account in a nationalised bank. We make it clear that we have not gone into the merits of the matter. The order of the learned Single Judge is set aside.



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11.This Writ Appeal is allowed accordingly. There shall be no order as to

costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [K.R.S., J.]
20.06.2025

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
MGA/skm

To

1.The Competent Authority
(Land Acquisition – NH)
cum Special Tahsildar,
Srivilliputhur,
Virudhunagar District.

2.The Tahsildar,
Srivilliputhur Taluk,
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G.R.SWAMINATHAN, J

and

K.RAJASEKAR, J.

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