

(2015) 12 MAD CK 0051

In the Madras High Court

Case No : W.A.(MD) Nos. 1528 to 1531 of 2011 and M.P.(MD) No. 1 of 2011 in
W.A.(MD) Nos. 1530 and 1531 of 2015

C. Gopinath and Others

APPELLANT

Vs

The District Collector, Collectorate Office, Dindigul and Others

RESPONDENT

Date of Decision : 14-12-2015

Acts Referred:

National Highways Act, 1956 — Section 3-G, 3-H, 3-H(4)

Citation : (2015) 12 MAD CK 0051

Hon'ble Judges : V. Ramasubramanian and N. Kirubakaran, JJ.

Bench : Division Bench

Advocate : S.J. Chakravarthy, for the Appellant; B. Pugalendhi, Special Govt.
Pleader, for the Respondent

Final Decision : Allowed

Judgement

V. Ramasubramanian, J.—Certain lands in S. No. 935/6 in Ayyaloor village, Vedachandoor Taluk, Dindigul District, were acquired, for the purpose of expansion of National Highways-45. The land was classified as Natham in the village record, but it had a superstructure.

2. The acquisition process commenced on 07.10.2008 and eventually, the Competent Authority and the District Revenue Officer passed an award fixing the compensation payable for the property as Rs. 12,15,853/- (Rupees Twelve Lakhs Fifteen Thousand Eight Hundred and Fifty Three only).

3. A person by name Mani, son of Muthunarayanasamy, laid an exclusive claim for payment of the compensation. But his two sisters by names, Saraswathi and Annapooranam objected to the disbursement of the compensation in entirety in favour of their brother namely Mani.

4. One Gopinath, son of another sister of Mani, by name, Saroja also objected to the disbursement of the compensation in entirety to Mani.

5. Thereafter Annapooranam filed a writ petition in W.P(MD)No. 12189 of 2010, seeking a Mandamus to forbear the Competent Authority from disbursing the compensation to her brother Mani. The writ petition was disposed of by a learned Judge of this Court by an order dated 27.09.2010, directing the Competent Authority to consider the representation of Annapooranam and to pass orders.

6. Similarly Saraswathi filed a writ petition in W.P(MD)No.13365 of 2010, praying for a similar relief and the same was also disposed of on 03.11.2010.

7. Pursuant to those orders, the Competent Authority and the District Revenue Officer passed an order dated 12.12.2010 rejecting the claim of Annapooranam on the ground that there were no records to show that she was entitled to a share in the property. The claim of Saraswathi was also rejected, by a separate order dated 12.01.2011.

8. Challenging the orders dated 12.12.2010 and 12.01.2011, Annapooranam and Saraswathi filed two writ petitions in W.P(MD)Nos. 1808 and 1807 of 2011 respectively. Gopinath came up with a writ petition in W.P(MD)No.1300 of 2011, merely seeking a Mandamus as he had not made a representation and he had not made a previous writ petition and consequently did not suffer an order against him.

9. In the meantime, the person in whose favour the compensation was ordered to be paid namely Mani came up with an independent writ petition in W.P(MD)No.80 of 2011 seeking a Mandamus to direct the respondents to consider his representation for the disbursement of the entire amount.

10. All the four writ petitions were taken up together for disposal by a learned Judge.

11. By a judgment dated 08.11.2011, the learned Judge held that Section 3-H(4) of the National Highways Act, 1956, is only an enabling provision and that once the Competent Authority is satisfied, it is open to him to disburse the amount to the person staking the claim. The learned Judge held that the other legal heirs can independently approach the civil Court and establish their right to get a share in the amount even after the amounts were disbursed.

12. As a consequence of these findings, the learned Judge allowed the writ petition in W.P(MD)No.80 of 2011 filed by Mani. However in order to enable the other legal heirs to obtain interim protective orders from the civil Court, the learned Judge directed Mani to keep a portion of the amount disbursed to him, in Fixed Deposit for a period of one year from the date of the judgment so as to enable the rival claimants to approach the civil Court and obtain some interim protective orders.

13. As against the said common order passed by the learned Judge, three unsuccessful writ petitioners namely, Gopinath, Saraswathi and Annapooranam have come up with three writ appeals in W.A.(MD)Nos. 1528, 1529 and 1531 of 2011. Saraswathi has come up with an additional writ appeal in W.A.

(MD)No.1530 of 2011, challenging the order passed in W.P(MD)No.80 of 2011 filed by her brother, Mani. This is by way of abundant caution so as to avoid any technical objection.

14. We have heard Mr. S.J. Chakaravarthy, learned Counsel for the appellants in all the appeals, Mr. C. Arul Vadivel @ Sekar, learned Counsel for the National Highways Authority, Mr. C. Thirupathi, learned Counsel for the contesting respondent, namely, Mani and Mr. B. Pugalendhi, learned Special Government Pleader for the Government.

15. The short point that arises for consideration in these appeals is as to whether the learned Judge was right in directing the parties to go to the civil Court without directing the Competent Authority to follow the provisions of Section 3-H(4) of the National Highways Act, 1956, or not?

16. Section 3-G of the National Highways Act, 1956 contains an elaborate procedure for the determination of the compensation payable to the owners of the land, which is acquired by the Competent Authority under the National Highways Act, 1956. After the determination of the amount under Section 3-G, the Central Government is obliged under Section 3-H to deposit the amount so determined in a manner as prescribed by Rules with the Competent Authority. Sub-section (2) of Section 3-H obliges the Competent Authority to pay the amount immediately after it is so deposited under sub-section (1). What happens when several persons stake a claim for disbursement of the compensation, is prescribed under sub-section (3) of Section 3-H. When the claims so made by several persons lead to a dispute, the same has to be resolved in terms of the provisions of sub-section (4) of Section 3-H. Since the determination of the question raised in these appeals revolves around subsections (3) and (4) of Section 3-H, they are extracted as follows:

"3-H. Deposit and payment of amount. -

(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."

17. A careful reading of sub-sections (3) and (4) of Section 3-H would show that the statute uses the expression "claim" in sub-section (3) and the expression "dispute" in sub-section (4). Therefore the Competent Authority is not entitled to adjudicate upon the disputes. If the claims are made by several persons, without any inter se dispute among themselves, the Competent Authority is entitled to

disburse the amount under subsection (3). The entitlement of the Competent Authority to determine the persons under sub-section (3), is of a limited nature, but whenever a dispute arises, the Competent Authority is obliged to refer the dispute to the decision of the Principal Court of civil jurisdiction. If such an interpretation is not given, the Competent Authority may arrogate to himself the powers of the civil Court to adjudicate upon civil disputes. Therefore we are of the considered view that the learned Judge was not right in thinking that sub-section (4) of Section 3-H is merely an enabling provision and that the parties could go to the civil Court independently. Such a view would confer powers which are not available and which should not be made available to the Competent Authority to adjudicate civil disputes relating to disbursement of compensation.

18. Therefore all the appeals are allowed. The order of the learned Judge is set aside and the Competent Authority is directed to refer the dispute to the appropriate civil Court, as per sub-section (4) of Section 3-H within a period of four weeks from the date of receipt of a copy of this judgment. The competent Court shall issue notice to all the parties and adjudicate upon the dispute after adequate opportunities possibly within a period of six months thereafter. The Competent Authority appears to have drawn a cheque in favour of Mani, but did not hand it over to him. The Competent Authority shall deposit the money to the credit of the civil Court to which a reference is made. Along with the request for reference to be made by the Competent Authority, he shall deposit the money into that Court and the Court concerned shall keep the money in a Fixed Deposit until the disposal of the dispute. No costs. Consequently, the connected miscellaneous petitions are closed.