

(2013) 11 MAD CK 0049
In the Madras High Court
Case No : Writ Petition No. 30561 of 2013

M. Thiagarajan

APPELLANT

Vs

The Collector, Vellore District, The Special District Revenue Officer, Land Acquisition National Highways, The Special Tahsildar, Land Acquisition National Highways and The Project Director, National Highways Authority of India

RESPONDENT

Date of Decision : 26-11-2013

Acts Referred:

Citation : (2013) 11 MAD CK 0049

Hon'ble Judges : S. Manikumar, J

Bench : Single Bench

Advocate : M.R. Sakunthala, for the Appellant; R. Vijayakumar, AGP for R1 to R3 and Mr. S. Prasanna for P. Willson Associates for R4, for the Respondent

Final Decision : Disposed Off

Judgement

S. Manikumar, J.—The petitioner/Mr. M. Thiagarajan and one Mr. M. Balakrishnan are brothers. Lands, measuring an extent of 900 sq.

mtrs. in Survey No. 222/1, 1150 sq. mtrs. in Survey No. 223/1A, 400 sq. mtrs. in Survey No. 366/1B and 1500 sq. mtrs. in Survey No. 367/2,

situated at Vannivedu Village, Walajah Taluk, Vellore District, have been acquired for four laning of National Highways-46 between Krishnagiri

and Ranipet Section (K.M. 127/450 to K.M. 139/950). After issuing notices to the land owners, an award in reference No. RC. G5/20354/2002,

dated 27.11.2012, has been passed covering the above said lands also. As per the award, the abovesaid lands have been registered in the name

of Mr. M. Balakrishnan and Mr. M. Thiagarajan/writ petitioner, sons of Manicka Naicker, in joint patta No. 1007. In the above said lands, there

is also a well. As per the version of the petitioner, the Special Tahsildar, Land Acquisition-National Highways, Vellore/third respondent herein,

after determining the compensation u/s 3G(1) of the National Highways Act, 1956, has fixed the compensation of lands, as hereunder:

Survey No.	Extent of land (sq. mtrs)	Amount (Rs.)
------------	---------------------------	--------------

222/1	900	14004
-------	-----	-------

223/1A	1150	10958
--------	------	-------

366/1B	400	4871
--------	-----	------

367/2	1500	18265
-------	------	-------

Total	48098	
-------	-------	--

A total compensation of Rs. 1,96,361/- has been fixed, including the well and shed, by the third respondent.

It is the case of the petitioner that both the land owners are entitled to equal compensation. But, however, 50% of the amount stated supra has not

been disbursed to the petitioner. When an application under the Right to Information Act, 2005, was made for not disbursing the compensation

payable, the third respondent has informed the petitioner that his brother Mr. M. Balakrishnan has filed a suit in O.S. No. 94 of 1999 on the file of

the District Munsiff Court, Wallajah, and therefore, it was decided to deposit the amount in Court. However, the said amount has not been

deposited so far. Since the reason for not disbursing the compensation amount was due to institution of a suit by his brother M. Balakrishnan, the

petitioner made enquiries, whereby, he came to know that the suit in O.S. No. 94 of 1999 has been dismissed for default by order dated

05.02.2010 and it has not been restored even today. Thereafter, the petitioner has made continuous representations. Though the petitioner has

appeared in person and produced all the documents, establishing that he has half share in the properties acquired by the respondents and

requested the third respondent to disburse 50% of the compensation amount together with interest at 21% per annum from the date of acquisition

of lands till the date of payment, there was no response. Hence, the petitioner is constrained to file the present writ petitioner seeking for a direction

to the respondents to pay 50% of the compensation amount awarded for acquisition of lands, comprised in Survey Nos. 366/1B, 367/2 (with well

and shed), 222/1 and 223/1A of Vannivedu Village, Walajah Taluk, Vellore District, to him, together with interest at the rate of 18% per annum,

from the date of acquisition, till the date of payment.

2. As the matter pertains to non-payment of compensation by the respondents 2 and 3, when the matter came for hearing on 13.11.2013, the

petitioner was permitted to file an application for impleading the National Highways Authority of India (NHAI), Vellore. Accordingly, the said

authority was impleaded, by order dated 21.11.2013, passed in M.P. No. 1 of 2013 in W.P. No. 30561 of 2013. Thereafter, on instructions, Mr.

R. Vijayakumar, learned Additional Government Pleader, submitted that, during the award enquiry, one Mr. M. Balakrishnan, brother of writ

petitioner, has deposed that he has filed a suit in O.S. No. 94 of 1999 on the file of the District Munsiff Court, Wallajah, and requested the

authorities not to disburse the compensation either to him or to his brother/writ petitioner herein and hence, it was decided to withhold the payment

of compensation amount. Learned Additional Government Pleader further submitted that, subsequently, the writ petitioner submitted a petition

dated 29.03.2010 stating that the suit in O.S. No. 94 of 1999 on the file of District Munsiff Court, Wallajah, has been dismissed for default on

05.02.2010 and requested to disburse the compensation amount in equal share to him and to his brother-M. Balakrishnan.

3. Learned Additional Government Pleader further submitted that on receipt of a copy of the judgment, a memo. was sent in proceedings No. Rc.

G5/20354/2002, dated 25.10.2012, to both the writ petitioner and his brother-M. Balakrishnan. Though the said memo. was served to both

brothers, through Village Administrative Officer, Vannivedu, the petitioner alone attended the enquiry and his brother-M. Balakrishnan did not

attend enquiry. In the above said circumstances, award proceedings, in reference No. RC. G5/20354/2002, dated 27.11.2012, has been passed

by the District Revenue Officer, Vellore, determining the eligibility of the petitioner to receive half share of the total compensation i.e. Rs. 9,0619/-.

Though the abovesaid authority has passed an award determining entitlement of writ petitioner and his brother in equal proportion, the said amount

has not been paid so far.

4. When the matter came up for hearing on 22.11.2013, Mr. S. Prasanna, learned

counsel representing for the fourth respondent, submitted that certain clarifications have been sought for from the Special District Revenue Officer, Vellore, over the quantum of compensation determined by him u/s 3G(1) of National Highways Act, 1956, and that it is yet to be received from the latter. According to him, the quantum of compensation determined in the above said proceedings dated 27.11.2012, was excessive, than the one passed earlier. Mr. R. Vijayakumar, learned Additional Government Pleader, submitted that whatever the clarifications sought for by the fourth respondent-NHAI, the same have been sent. However, both learned counsel for respondents submitted that inter-se dispute regarding the determination of the quantum of compensation payable to the land owners would be settled and taking note of both the writ petitioner and his brother-M. Balakrishnan, equal compensation amount would be paid. Learned counsel for the fourth respondent submitted that, after considering the clarifications, which is yet to be received from the respondents 2 and 3, the matter would be examined and after final determination of quantum of compensation, disbursement would be made within two months.

5. Learned counsel for the petitioner reiterated that even as on today, the status of dismissal of the suit dated 05.02.2010 is the same and therefore, there is no impediment in disbursement of compensation of Rs. 1,81,239/-, already determined u/s 3G(1) of the National Highways Act.

It is pertinent to note that the said Balakrishnan, brother of the writ petitioner, has not been impleaded as a party respondent in this writ petition.

However, from the award, it could be seen that though he was served with a memo. in Rc. No. G5/20354/02, dated 25.10.2012, with a direction to appear before the competent authority on 29.10.2012, he has failed to appear and therefore, based on the joint patta No. 1007, the Competent Authority has determined the compensation amount of Rs. 1,81,239/- to be disbursed in equal share to the writ petitioner and his brother-M. Balakrishnan. In the light of the above submissions, there shall be a direction to the respondents 2 and 4 to disburse the compensation due and payable to the petitioner within a period of two months from the date of receipt of a copy of this order. On the aspect of payment of interest at the rate of 18% per annum from the date of acquisition till the date of payment, objection has been raised by the learned counsel for fourth

respondent-NHAI, contending that there is no provision for payment of interest under the National Highways Act, 1956. However, the petitioner

is permitted to raise the said issue before the Special District Revenue Officer, Land Acquisition-National Highways, Vellore/Competent Authority,

and to the fourth respondent. The respondents are directed to complete the said exercise within a period of two months from the date of receipt of

a copy of this order.

In the above terms, the writ petition is disposed of. No Costs.