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C.R.P.No.4774 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.03.2024

PRONOUNCED ON: 15.03.2024

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

Civil Revision Petition No.4774 of 2023

and

Civil Miscellaneous Petition No.28328 of 2023

The Project Director
National Highways Authority of India
Project Impementation Unit(NS)
Door No.212-3/D3-1, Sri Nagar Colony,
Narasothipatti, Salem-636 004

...

Petitioner

Vs

1. Ettikan
2. Special Tahsildhar(Land Acquisition)
Namakkal Bypass,
Namakkal.
3. Divisional Engineer,
National Highways, Salem - 5
Respondents

...



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Prayer: Civil Revision Petition has been filed under Section 115 of the Civil Procedure Code to set aside the order dated 08.11.2023 of the Hon'ble Sub-Court, Namakkal made in REP No.61 of 2021 in LAOP No.15 of 1997.

For Petitioners : Mr Su. Srinivasan

For respondents : Mr.N. Subramaniam
for R1

ORDER

Challenging the order made in REP No.61 of 2021 in LAOP No.15 of 1997 on the file of the Additional Subordinate Court, Namakkal, dated 08.11.2023, this Civil Revision has been filed.

2. The first respondent,namely, Ettikan is the petitioner in REP No.61 of 2021 in LAOP No.15 of 1997 on the file of the Additional Subordinate Court, Namakkal and the Revision Petitioner, who is the Project Director, National Highways Authority of India, Project Implementation Unit(NS), Salem, the third respondent .



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3. The fact of the case is that the National Highways Authority of India (NHAI) a Statutory Authority established under the (Act 68 of 1988) National Highways Authority of India Act, 1988, to develop, maintain and manage the National Highways had undertaken several National Highways Projects in the State. For that project, an extent of 44.81.5 Hec. of lands were acquired for formation of Namakkal Bypass Road having a length of 8.4 km. The Bypass is passing through five villages, viz., Vallipuram, Mudalaipatti, Thummankurichi, Ayyampalayam Agraharam and Nallipalayam. An extent of 11.47.0 Hec. of lands were acquired from Vallipuram Village by the Special Tahsildar(Land Acquisition,) Namakkal under the provisions of Land Acquisition Act, 1894(herein after referred as "LA Act 1984"). The above acquisition was made by the Divisional Engineer, (National Highways) Salem/third respondent, functioning under control of the State Government of Tamilnadu. Subsequently, the above work was taken up by NHAI represented by the petitioner herein. The Special Tahsildar(Land Acquisition) Namakkal/2nd respondent herein, after following due procedure prescribed under the LA Act of 1894 passed award in Award No.3/95, dated 29.09.1995 for an extent of



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11.47.0 Hec. of land in Vallipuram Village and had fixed the market value of land at Rs.58,823/- per Hec. for dry lands and Rs.61,475/- per Hec. for irrigated dry land. An extent of 10759.32 sq.ft of land owned by the first respondent/land owner has been acquired by the second respondent/ LAO., for which, a sum of Rs.9,021/- has been paid to the first respondent/ land owner. Not being satisfied with the same, the first respondent/land owner filed a reference under Section 18 of LA Act, 1894 in L.A.O.P.No15/97 before the Sub-Court, Namakkal for enhancement of compensation and the compensation was enhanced and fixed at Rs.100/- per sq.ft. Against which, The respondents 2 and 3 filed an appeal before this Court in A.S.No.726 of 2004, in which, this Court by an order dated 12.07.2004 in CMP No10864 of 2004 directed them to deposit 50% of the decree amount to the credit of the LAOP Nos.11 to 15 of 1997. Accordingly, a sum of Rs.14,04,048/- was deposited in the Sub-Court, Namakkal on 09.10.2004. The said appeal was allowed by this Court vide order dated 06.04.2010, by setting aside the order of the sub-court, Namakkal and remitted back for fresh disposal. Thereafter, the petitioner herein was impleaded as respondent in the LAOP and the Sub-Court, Namakkal vide its order dated 27.04.2012 fixed the compensation at Rs.80/- per sq.ft..



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Challenging the same, the 2nd respondent herein filed an appeal in A.S.No.527 of 2015 before this Court and this vide its order dated 22.03.2018 fixed the land value at the rate of Rs.67/- per sq.ft. In compliance with the above order dated 22.03.2018, the revision petitioner herein got the calculation sheet from the second respondent and deposited a balance amount of R.11,03,228/- before the Sub-Court, Namakkal on 21.01.2021 vide D.D.Nos.1559567, 155958 & 155959. In the said LAOP No.15 of 1997, The first respondent/ land owner filed a petition in REP No.61 of 2021 before the Sub-Court, Namakkal and the same was allowed on 08.11.2023. Aggrieved over the same, the present revision petition has been filed.

4. The learned counsel for the petitioner would contend that the petitioner is liable to pay the further interest on the enhanced amount only up to the date of payment. The petitioner has deposited a sum of Rs.14,04,048/- on 09.10.2004 as per the order of this Court dated 12.07.2004 in respect of LAOP No.15/1997. The learned judge failed to consider the deposited amount of Rs.14,04,048/-, which is more than the enhanced market value of land at Rs.67/- per sq.ft. with 30% solatium and 12% additional amount as per



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Section 23(1A) of LA Act, 1894 for an extent of 10759.32 sq.ft of land acquired from the 1st respondent after deducting the amount of Rs.9021/- awarded by the second respondent herein.

5. He would further contend that the Revenue Department of the Tamil Nadu Government vide its letter dated 558/L1(1)/05-2, dated 11.03.2005 has issued instructions based on the ruling of the Hon'ble Supreme Court in ***Prem N.Kapoor and another /vs/ National Fertilizer Corporation of India and others***, according to which, interim deposit made by the requisitioning body is to be first adjusted towards the amount due to the market value (i.e. Land value,) solatium and then towards the amount payable under Section 23(1A) i.e. Additional market value, of the Land Acquisition Act , 1894 and thereafter interest payable under Section 28 of the Land Acquisition Act, 1894.

6. He would also submit that the learned Judge has also failed to consider the fact that the full amount due to the first respondent/land owner has been deposited by the revision petitioner on 21.01.2021, and erroneously



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ordered the interest amount of Rs.11,30,699.10/- for the period from 23.01.2021 (deposit of full amount by the revision petitioner) till the date of order i.e.08.11.2023, at the rate of 15% per annum. Law is well settled that once the full compensation amount under LA Act, 1894 due to the claimant is deposited in the Court, there shall not be any interest liability on the acquiring body since the land owner will be entitled for the withdrawal of amount with accumulated interest thereon. However, the learned Judge has directed the revision petitioner to deposit a sum of Rs.38,30,765.65/- on or before 08.12.2023, failing which restraint proceedings will be initiated against movable properties of the petitioner. Therefore, pleaded to set aside the impugned order and allow the revision.

7. The learned counsel for the respondent supported the impugned order and further contended that the impugned order is in accordance with the guidelines issued by this Court in the case of ***Prem Nath Kapur and another /vs/ National Fertilizers Corporation of India Ltd., and others*** reported in



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1996 (2) SCC 71 and also in accordance with the case reported in **2006(8) SCC page 457(Gurpreet Singh /vs/ Union of India)**. There is no illegality in the order passed by the Courts below and there is no ground to interfere with the impugned order and thus, pleaded to dismiss the revision.

8. This Court considered the matter in the light of the submissions made by the learned counsel on either side and also perused the materials available on record carefully.

9. For easy understanding the final order passed by this Court in A.S.No.527 of 2015 on 22.03.2018 is reproduced herein: with regard to compensation is as follows :-

“ 1. That the Judgment and decree of the Subordinate Judge, Namakkal made in LAO.P.No.15 of 1997 dated 27.04.2012 be and hereby is modified as the market value of land is redetermined at Rs.67/-(Rupees Sixty Seven Only) per sq.feet.

2. That the appellant/land acquisition officer do pay the



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claimants Rs.67/- (Rupees sixty seven only) per sq. feet being the market value for the land acquired and subsequent usual benefits, i.e. and additional amount under Section 23(1) of land acquisition Act at the rate of 12% per annum on the market value from the date of 4(1) notification till the date of possession or date of award whichever is earlier and solatium at the rate of 30% on the market value together with interest on such compensation at the rate of 9% per annum for the period of one year from the date of possession and thereafter at the rate of 15% per annum till date of deposit.

3. That the appellant/land acquisition officer be and hereby is directed to pay the compensation less the amount already passed to the claimants within a period of two months from the date of receipt of a copy of this judgment.

4. That the special Government pleader for the appellant/land acquisition officer in these appeals be and hereby is entitled to claim separate fee for such appeal.



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5. That there be no costs in this appeal. “

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10. In the above order, this Court fixed the rate of acquired land value at Rs.67/- per sq.ft., and subsequent benefits, such as additional amount under section 23(1) Land Acquisition Act and at the rate of 12% p.a. on the market value from the date of 4(1) notification till the date of possession and the date of award whoever earlier and solatium at the rate of 30% on the market value together with interest on such compensation at the rate of 9% per annum for a period of one year from the date of possession and thereafter, at the rate of 15% per annum till the date of deposit.

11. Admittedly, in this case, the area of land acquired is 10759.32 sq.ft., at the rate of 67% per square feet. Land value comes to Rs.7,20,874.44.



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<i>Sl. No</i>	<i>Details</i>	<i>Amount</i>	<i>Interest</i>
1.	Land Value	7,20,874.44	
2.	30% Solatium	2,16,262.33	
3	12% Additional value for 25.10.1993 to 05.10.1995	1,68,506.87	
4.	Total amouthn 1 +2+3=	11,05,634.64	
5.	Amount Already paid by LAO	9,021.00	
6.	Balance Principal amount 4-5=	10,96,622.64	
7.	9% interest for 1 year 19.10.1995 to 18.10.1996 (366 days)	--	98,750.71
8.	15% interrest from 19.10.1996 to 09.10.2004(2913 days)	--	13,11,902.25
9.	Total amount 7 + 8 =		14,10,652.96
10.	Total amount (i.e. Principal + interest =	25,07,275.60	
11.	50% of amount deposited on 09.10.2004	14,04,048.00	

The above said amount is not disputed by both the parties. Now, the balance amount payable by the petitioner is Rs.11,03,228/- upto this stage and there is no dispute between the parties.

12. Now the issue to be decided is whether the first respondent/landowner is entitled only balance principle amount of Rs.11,03,228/- or together with interest at the rate of 15% from 10.10.2004 till



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the date of deposit before the Court. According to the revision petitioner, the balance amount of Rs.11,03,228/- had been deposited in the Court on 21.01.2021 and hence, according to them, no amount is payable to the first respondent.

13. According to the first respondent/land owner, the balance amount of Rs.11,03,228/- warranted interest at the rate of 15% from 10.10.2004 till 21.01.2021. At this stage, it is noticed that this Court while finally disposing the matter directed to pay the compensation at the rate of 9% per annum for the period of one year from the date of possession and thereafter at the rate of 15% p.a. till the date of deposit. Admittedly, In this case, the total principal amount with interest payable by the revision petitioner is Rs.25,07,275.60. Out of which, the revision petitioner has deposited a sum of Rs.14,04,048/- on 09.10.2004.

14. As per the order of this Court in A.S.No.527 of 2015, dated 22.03.2018, the total compensation amount carries 9% interest for one year and after that it carries 15% interest till the date of deposit. In this case, admittedly, on 09.10.2004, the petitioner deposited Rs.14,04,048/- out of the



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total compensation amount of Rs.25,07,275.60. After deducting the deposited amount of Rs.14,04,048/-, the balance amount is Rs.11,03,228/-, which warranting 15% interest from 10.10.2004 till the date of deposit. Admittedly, the revision petitioner has deposited Rs.11,03,228/-on 22.02.2021, and this amount not carries interest of 15%. The Execution Court calculated 15% interest from the date of 10.10.2004 for the balance amount of Rs.11,03,228/-, which is legal and sustainable one. The Execution Court calculation is as follows:

“ எனவே, மேலே கண்ட அசல் ரூ.10,96,622.64 தொகை மற்றும் ஒரு வருட வட்டி ரூ.98,966.43 மற்றும் 2913 நாட்களுக்கு வட்டி ரூ.13,12,792.50 ஆக மொத்தம் ரூ.25,08,381.57 (ரூ.10,96,622.64 + ரூ.98,966.43 + ரூ.13,12,792.50) ஆகும். இந்நிலையில் மொத்த தொகை ரூ.25,08,381.57 தொகையில் 09.10.2004ம் தேதியில் வைப்பீடு செய்த தொகை ரூ.14,04,048.00 போக கடந்த 10.10.2004ம் தேதி மனுதாரருக்கு கொடுக்கப்படவேண்டிய தொகை ரூ.11,04,333.57 (ரூ.25,08,381.57 -14,04,048.00 = 11,04,333.57) தொகை மனுதாரருக்கு கடந்த 10.10.2004ம் தேதி அன்று கொடுக்கப்படவேண்டியுள்ளது.

இந்நிலையில், ஏதிர்மனுதாரரால் கடந்த 22.01.2021 ம்தேதி தொகை ரூ.11,03,228.00 தொகை இந்நீதிமன்றத்தில் இறுதியாக வைப்பீடு செய்யப்பட்டுள்ளது. எனவே, 10.10.2004 முதல் 21.01.2021 வரை மொத்தம்



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5947 நாட்களுக்கு 15% வட்டி கணக்கிடும் பொழுது, ரூ.11,04,333.57 X 15% X 5947 / 365 = ரூ.26,98,960.98 தொகை வருகிறது. எனவே, கடந்த 10.10.2004 அன்று கொடுபடவேண்டிய தொகை ரூ.11,04,333.57 தொகையுடன் 5947 நாட்கள் வட்டி தொகையினை கூட்டும் பொழுது மொத்தம் தொகை ரூ.38,03,294.55 (ரூ.11,04,333.57 + 26,98,960.98 = 38,03,294.55) ஆகும். இந்நிலையில், 22.01.2021 ம் தேதி வைப்பீடு செய்த தொகையினை மொத்த தொகையிலிருந்து கழிக்கும் பொழுது அதாவது ரூ.38,03,294.55 லிருந்து வைப்பீடு செய்த தொகை ரூ.11,03,228.00 தொகையினை கழிக்கும் பொழுது ரூ.27,00,066.55 (ரூ.38,03,294.55 - 11,03,228.00 = ரூ.27,00,066.55) ஆகும். மேலும் 23.01.2021 தேதி முதல் உத்தரவு நாளான 08.11.2023 வரை 1019 நாட்களுக்கு 15% வட்டி கணக்கிடும் பொழுது ரூ.27,00,066.55 X 15 % X 1019 / 365 = ரூ.11,30,699.10 ஆகும். எனவே, மனுதாரருக்கு இறுதியாக கொடுபடவேண்டிய தொகை ரூ.27,00,066.55 தொகையுடன் ரூ.11,30,699.10 தொகையினை கூட்டும் பொழுது ரூ.38,30,765.65 (ரூ.27,00,066.55 + ரூ.11,30,699.10 = ரூ.38,30,765.65) தொகை வருகிறது. எனவே, மேலே கண்ட கணக்கீட்டின்படி உத்தரவு நாளான 08.11.2023 தேதி வரை மனுதாரருக்கு கொடுக்கப்படவேண்டிய தொகை ரூ.38,30,765.65 ஆகும்.”

15. In view of the above, the Trial Court rightly calculated the amount due payable to the first respondent. Hence, I find no infirmity in the impugned order and there is no ground for interference and I find no merit in this revision the same is liable to be dismissed.



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16. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

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Index: yes/no
Internet:yes/no
mrp

To

1. Additional Subordinate Judge,
Additional Subordinate Court,
Namakkal

V. SIVAGNANAM, J.

mrp



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