

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

THURSDAY, THE 13TH DAY OF AUGUST 2015/22ND SRAVANA, 1937

CRP.No. 851 of 2007 ()

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AGAINST THE ORDER IN E.P. 211/1997 IN LAR 59/1989 of PRL.SUB COURT, KOTTAYAM
DATED 10-02-2006**

REVISION PETITIONER(S)/JUDGMENT DEBTOR 1::

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STATE OF KERALA.**

BY GOVERNMENT PLEADER SMT. LILLY LESLIE

RESPONDENT(S)/DECREE HOLDERS & JUDGMENT DEBTOR 2 TO 4::

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- 1. OUSEPH, S/O. DEVASSIA (DIED).**
 - 2. JOSEPH, S/O. OUSEPH,
PANAMTHANATHU HOUSE, MANNANAMKARA
ATHIRAMPUZHA VILLAGE. (DIED) (LR'S OF R2 IMPLEADED)**
 - 3. MARIAMMA JOSEPH, D/O. JOSEPH,
PANAMTHANATHU HOUSE, KADAPPURU KARA
KANAKKARY VILLAGE.**
 - 4. ALICE JOSEPH, D/O. JOSEPH,
PANAMTHANATHU HOUSE, KADAPPURU KARA
KANAKKARY VILLAGE.**
 - 5. THRESIA JOSEPH, D/O. JOSEPH,
PANAMTHANATHU HOUSE, KADAPPURU KARA
KANAKKARY VILLAGE.**
 - 6. ANIAMMA JOSEPH, D/O. JOSEPH,
PANAMTHANATHU HOUSE, KADAPPURU KARA
KANAKKARY VILLAGE.**
 - 7. THE REGISTRAR,
M.G. UNIVERSITY, ATHIRAMPUZHA.**
 - 8. DEVASSIA, S/O. JOSEPH,
PANAMTHANATHU HOUSE, NALPATHIMALA
ATHIRAMPUZHA VILLAGE, KOTTAYAM TALUK
NOW RESIDING AT NJONGINIYIL HOUSE
ATHIRAMPUZHA VILLAGE. (LEFT WITH NO LR'S)**

**9. SUNNY, S/O. GEORGE,
THEKKUMKATTIL, ATHIRAMPUZHA.**

**ADDL.R10. ANNAKKUTTY JOSEPH, AGED 72 YEARS,
W/O. LATE JOSEPH, PANANTHANATH VEEDU, PATTITHANAM P.O.
KANAKKARYI.**

**ADDL.R11. JOMISH, S/O. LATE JOSEPH, AGED 35 YEARS,
PANANTHANATH VEEDU, PATTITHANAM P.O.,
KANAKKARI.**

**ADDL.R12. SEBASTIAN JOSEPH, S/O. LATE JOSEPH,
PANANTHANATH VEEDU, PATTITHANAM P.O.,
KANAKKARI.**

**(ADDL. R10 TO R12 IMPEADED AS LRS OF DECEASED R2 VIDE ORDER DATED
9.3.2011 IN I.A. 608/2011 IN CRP. 851/2007)**

**(IT IS RECORDED THAT THE 8TH RESPONDENT DIED AND HE HAS LEFT WITH NO
LEGAL HEIRS AS PER ORDER DT. 26.08.2014 IN MEMO DT. 14.08.2014 (CF 2986/2014)
IN CRP. 851/07)**

**R7 BY ADV. SRI. T.A. SHAJI, SC, M.G.UNIVERSITY
R3 TO R6 BY ADV. SRI.MATHEW JOHN (K)
R3 TO R6 BY ADV. SRI.AJEESH K.SASI
R3 TO R6 BY ADV. SRI.ROYEE CHIRAYIL
R7 BY ADV. SRI.VARUGHESE M.EASO, SC, M.G. UNIVERSITY
R7 BY ADV. SRI.VIVEK VARGHESE P.J., SC, M.G. UNIVERSITY**

**THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON
13-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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P.BHAVADASAN, J.

C.R.P. No. 851 of 2007

Dated this the 13th day of August, 2015

ORDER

This revision is filed by the State against the order dated 10.02.2006 in E.P.No.211/1997 in LAR No. 59/1989 whereby, the State has been directed to deposit an amount of ₹93,899/- rounded off ₹93,900/- to wipe off the decree debt.

2. Shorn of unnecessary details, it appears that there was a land acquisition proceedings in which an award was passed and dissatisfied with that award, the claimant had taken the matter before the appropriate court. Section 4(1) notification was dated 21.05.1985 and as per the award passed, the land value fixed as ₹12,693.05/- for 6.85 Ares and ₹ 15,287.25/- for 8.25 Ares. Aggrieved by the said award made by the Land Acquisition Officer, the land owners took up the matter before the Sub Court which enhanced the land value by ₹4,322/- per Are.

3. It is seen from the records that according to the State, the decree holder filed execution petition as E.P.No. 211/1997 and also filed a statement showing that there is a balance amount of ₹2,15,604/- due to the claimant. The State filed objections before the execution court showing the impropriety in the calculation and they also filed a separate statement. The grievance of the State is that even though the entire debt was wiped out by depositing the amount by the State, i.e. an amount of ₹ 2,35,720/- on 31.12.2002, the court below, according to the State, has erroneously come to the conclusion that an additional sum of ₹ 93,900/- is due to the claimant. It is the said order that is challenged in revision.

4. From the order, it is virtually impossible to ascertain as to how the balance amount of ₹93,900/- has been arrived at. All that is stated is that both sides have filed statement before the court below. It is not even stated which of the statements is accepted and what are the

infirmities in the statement which is rejected. The mode of appropriation made mention of in the order does not also appear to be correct and in accordance with the decision reported in **Gurpreet Singh v. Union of India** [2006 (8) SCC 457]. The order does not indicate as to how the statement filed by the State is incorrect and what is the infirmity in that statement. The State asserts that the entire decree amount has been paid and no further amount is due while the claimant says otherwise.

5. The court below ought to have given its reason as to why it chose to accept the statement of the claimant if it is so and how it arrived at a figure of ₹93,900/- .

6. That exercise is not seen to have been undertaken by the court below. At any rate, there are no reasons in that regard in the order impugned before this Court.

7. For the above reasons, this revision petition is allowed. The impugned order is set aside and the matter is remanded to the execution court for fresh disposal in

accordance with law, after given reasons for the order and also after applying the principles laid down in the decision reported in **Gurpreet Singh v. Union of India** [2006 (8) SCC 457] towards the appropriation of the amount deposited by the State.

The parties shall appear before the execution court on **22.09.2015**. The execution court may make every endeavour to dispose of the matter as expeditiously as possible, at any rate, within a period of six months from the date of appearance of the parties.

Sd/-
P.BHAVADASAN
JUDGE

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P.A. to Judge