

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2017

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P(NPD).Nos.2431 to 2433 of 2016
and C.M.P.Nos.12561 to 12563 of 2016

The Special Tahsildar (LA-II)
Tamilnadu Housing Board,
Madras.

.. Petitioner in
all the CRPs.

Vs.

S.Prathapchand Baid	.. Respondent in CRP NPD No.2431 of 2016
Sumermull Baid	.. Respondent in CRP NPD No.2432 of 2016
Sasikala	.. Respondent in CRP NPD No.2433 of 2016

Prayer:- Civil Revision Petitions are filed under Section 115 of Civil Procedure Code against the fair and decreetal order dated 18.09.2015 made in E.P.Nos.189, 190 and 192 of 1993 respectively in L.A.O.P.Nos.151, 152 and 154 of 1985 respectively on the file of the Sub Court, Poonamallee.

For Petitioner : Mr.M.Venugopal
Special Government Pleader (CS)

COMMON ORDER

These Civil Revision Petitions are filed under Section 115 of Civil Procedure Code against the fair and decreetal order dated 18.09.2015 made in E.P.Nos.189, 190 and 192 of 1993 respectively in L.A.O.P.Nos.151, 152 and 154 of 1985 respectively on the file of Sub Court, Poonamallee.

2.It is seen from the records that the Land Acquisition Officer and Special Tahsildar, Tamil Nadu Housing Board, has passed award on 30.11.1982. The claimants/respondents herein have preferred L.A.O.P.Nos.151, 152 and 154 of 1985 stating that the amount fixed by the Government is on the lower side and that they prayed for enhancement. As per the decree and judgment dated 25.11.1987, the amount has been enhanced. Against the same, the Government has preferred A.S.Nos.946, 947 and 949 of 1989 and the same were dismissed. Thereafter, the claimants filed E.P.Nos.189, 190 and 192 of 1993, in which, the Executing Court directed the judgment debtor/Government to deposit the award amount with future interest till date, within one month, failing which, attachment will be ordered. Challenging the same, the present revisions have

been preferred by the Government.

3.The learned Special Government Pleader (CS) would submit that the respondents' property have been acquired by the Tamil Nadu Electricity Board. The Government has already deposited the entire award and enhanced compensation amount before the Sub-Court, Poonamallee. He would further submit that they had also paid excess award amount and so they need not deposit any amount further. Therefore, the attachment order passed by the Executing Court is illegal. Therefore, he prays for allowing the revisions.

4.At the time of admission, argument of the learned Special Government Pleader (CS) for the petitioner/Government is heard in length and perused the typed set of papers.

5.On 30.11.1982, the Special Tahsildar, Land Acquisition has passed an award and that has been challenged by the claimants/respondents herein stating that the compensation awarded is on the lower side. It was referred under Section 18 of the Land Acquisition Act, the same has been decided on 25.11.1987 and that the compensation is enhanced. Aggrieved over the same,

the Government has preferred appeals in A.S.Nos.946, 947 and 949 of 1989 before this Court and by judgment dated 22.12.1997, this Court dismissed the appeals preferred by both the Government and the claimants by holding that all the land owners are entitled to compensation at the rate of Rs.3,000/- per cent. Then claimants have filed execution petitions for recovery of amount and attachment.

6. It is to be noted that even though the Government has now stated that they paid excess amount, they had not filed any scrap of paper before the Executing Court. Furthermore, on 18.09.2015, the Executing Court has passed the following order on the basis of the memo filed by the counsel:

“Memo filed stating that on receipt of order the same has to proceed to deposit the amount which would take six months seeking adjournment. Already execution petition pending from 1993 and conditional order has been passed. Hence, finally to deposit the amount, failing which, attachment will be ordered on 04.11.2015”.

7.It is not the case of the Government before the Executing Court that they paid excess amount. Now only they raised the above ground as a new plea, which does not support by any scrap of papers. So it is clear that the petitioner/Government without paying enhanced award amount to the land owners, have followed the delay in tactics. Therefore, I do not find any merits in the revisions and accordingly, the Civil Revision Petitions stand dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

25.01.2017

kj

Index:Yes/No

To

The Sub Court, Poonamallee.

R.MALA,J

kj

C.R.P(NPD).Nos.2431 to 2433 of 2016
and C.M.P.Nos.12561 to 12563 of 2016

25.01.2017