



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 19.03.2018

PRONOUNCED ON: 12.04.2018

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CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
Review Application (MD) No.202 of 2017
in AS(MD)No.228 of 2015

Gubendran

.. Petitioner

Vs

1.The Special Tahsildar, Adi Dravidar Welfare (Land Acquisition)
Periyakulam, Theni

2.Rajayya (died)

3.Seerangammal

4.Rajammal

5.Nagarajan

6.Meena

7.Priya

.. Respondents

(RR4 to 7 are brought on record as LRS of the deceased 2nd
Respondent vide Court order dated 22/2/18 made in CMP(MD)No.402
to 404 /2018 in Rev.Apln (MD).202/17 by CVKJ)

PRAYER:- This Review Application has been filed, against the
judgement and decree, dated 27.06.2017, made in AS(MD)No.228 of
2015 by this Court.

PRAYER IN AS(MD).228/2015:

This Appeal suit filed against the judgment and decree
dated 20.01.2010 made in LAOP.No.16/1998 on the file of the Sub
Court, Periyakulam.

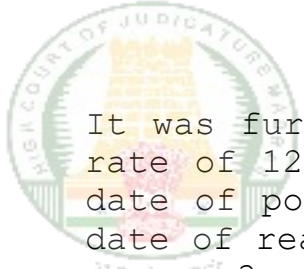
For Petitioner : Mr.A.Sivaji

For Respondents : Mr.Thyagarajan, SGP-R1

ORDER

This review application has been filed by the 2nd Defendant
in AS(MD)No.228 of 2015.

2. The above appeal had been filed, against the judgement
and decree, dated 20.1.2010 made in LAOP.No.16 of 1998 on the file
of the Sub Court, Periyakulam. The appeal was considered by this
Court and by judgement dated 27.6.2017, the judgement and decree
in LAOP.No.16 of 1998 was set aside and the amount of compensation
was fixed at the rate of Rs.2,000/- per cent along 30% solatium.



It was further ordered that the award shall carry interest at the rate of 12% p.a. from the date of the 4(1) notification, till the date of possession and thereafter at the rate of 6% p.a. till the date of realisation.

3. The Appellant in the appeal was the Special Tahsildar, Adi Dravidar Welfare (Land Acquisition), Periyakulam, Theni District. There were three Respondents, who were the claimants in LAOP.No.16 of 1998. The 2nd Respondent alone had filed this review application. Pending the review application, the 1st Respondent died and his legal representatives were brought on record.

4. LAOP.No.16 of 1998 had been filed by the Respondents/ Claimants, since the Government, under 4(1) notification, dated 27.1.1995, had acquired 0.17.5 hectares, namely, 43 cents of land in S.No.2027/1, at Thamaraikulam Village, Periyakulam Taluk, Theni District. The Land Acquisition Officer had fixed Rs.220 per cent. This was challenged in LAOP.No.16 of 1998. The court below, after considering the oral and documentary evidence, finally fixed a sum of Rs.6500/- per cent and granted solatium at the rate of 30% and interest at the rate of 12% p.m. from the date of 4(1) notification, till the date of decree and thereafter, interest at the rate of 9% p.a. till realisation. Challenging this award, the Special Tahsildar, Adi Dravidar Welfare (Land Acquisition), Periyakulam, Theni, had filed the appeal.

5. In the appeal, this Court heard arguments of both sides and thereafter, fixed the value of one cent at Rs.2,000/- along with 30% solatium and awarded interest @ 12% p.a. from the date of 4(1) notification, till the date of possession and thereafter, at the rate of 6% p.a. till the date of realisation.

6. In the grounds, seeking review of the said order, the only substantial ground taken was that the land acquisition proceedings had been initiated under the Central Act (1 of 1894). Had that been taken into consideration, interest at 9% p.a. for the first year and thereafter, at 15% p.a. till the date of payment should have been granted.

7. A perusal of the records reveal that the court below had granted compensation at Rs.6,500/- per cent together with 30% solatium and 12% interest per annum and had further granted 9% interest for the first year and thereafter, 15% till the date of payment. Naturally, the said rate of interest had been granted on the ground that the acquisition proceedings were under the Central Act. In the memorandum of grounds of appeal, in AS(MD)No.228 of 2015, grant of the said interest had not been challenged. Now by way of this review application, that error in the judgement, dated 27.06.2017 had been pointed out.

7. Order 47 Rule 11 of CPC is as follows:-

"1. Application for review of judgement:- (1) Any person considering himself aggrieved-

<https://hcservices.ecourts.gov.in/hcservices/>

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,



(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgement to the Court which passed the decree or made the order."

8. In 2016 13 SCC 135 (Chairman and Managing Director, Central Bank of India and others Vs. Central Bank of India, SC/ST Employees Welfare Association and others), in paragraph 17, it has been held as follows:-

"17. We would be candid in our remarks that once an error is found in the order/judgement, which is apparent on the face of the record and meets the test of review jurisdiction as laid down in Order 47 Rule 1 of the Supreme Court Rules, 2013 read with Order 47 Rule 1 of the Code of Civil Procedure, 1908, there is no reason to feel hesitant in accepting such a mistake and rectify the same. In fact, the reason for such a frank admission is to ensure that this kind of patent error from the record is removed which led to a wrong conclusion and consequently wrong is also remedied. For adopting such a course of action, the Court is guided by the doctrine of ex debito justitiae as well as the fundamental principle of the administration of justice that no one should suffer because of a mistake of the court."

9. In the present case, the court below, even in the land acquisition proceedings, had granted interest in accordance with the provisions of the Central Act. Consequently, this is an error apparent on the face of the record. Consequently, the interest portion in the judgement has to be rectified and accordingly, this review application has to be allowed.

10. In the result, this review application is allowed. No costs. The impugned judgement, dated 27.06.2017, is modified only in respect of the interest portion alone. Accordingly, the value for one cent is fixed at Rs.2,000/- along with 30% solatium and it shall be paid at the rate of 12% p.a. from the date of 4(1) notification till the date of possession and thereafter at the rate of 9% p.a. for the first year and at the rate of 15% p.a.



till the date payment. In all other respects, the impugned judgement dated 27.06.2017 stands confirmed.

Sd/

Assistant Registrar(Crl side)

/True copy/

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Sub Assistant Registrar

To:

1.The Subordinate Judge, Periyakulam.

2.The Special Tahsildar,
(Adi Dravidar Welfare),
(Land Acquisition),
Periyakulam, Theni.

Copy to:

The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.(2 COPIES)

Review Application (MD) No.202 of 2017
in AS(MD)No.228 of 2015
12.04.2018

SRCM

KK/SV MMS/SAR-2/11.06.2018/4P-5C