

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)Nos.4442 to 4449 of 2011
and M.P.Nos.1 to 1 of 2011

C.R.P.No.4442/2011

The Managing Director
Tamil Nadu Housing Board
Chennai 600 035.

.. Petitioner

Vs.

1.M.Dhananjayan

2.The Special Tahsildar,
Land Acquisition Unit III,
Tamil Nadu Housing Board,
Nandanam,
Chennai 600 035.

.. Respondents

PRAYER in C.R.P.No.4442/2011: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 17.09.2010 made in I.A.No.11216 of 2010 in L.A.O.P.No.1 of 1996 on the file of the VI Assistant City Civil Court, Chennai.

For Petitioner : Mr.R.Jayaseelan
(in all C.R.Ps)

For R1 : Mr.M.S.Subramanian
(in C.R.P.Nos.4442,4443,
4445 to 4447 & 4449/2011)

For R1 : Died
(in C.R.P.Nos.4444 & 4448/2011)

For R2 : No appearance
(in all C.R.Ps)

For R3 & R4 : Mr.M.S.Subramanian
(in C.R.PNos.4444 & 4448/2011)

COMMON ORDER

C.R.P.No.4442/2011 is filed to set aside the fair and decretal order dated 17.09.2010 made in I.A.No.11216 of 2010 in L.A.O.P.No.1 of 1996 on the file of the VI Assistant City Civil Court, Chennai.

2.The issues involved and the petitioner in all the Civil Revision Petitions are one and the same and therefore, they are disposed of by this common order.

3.The petitioner is second respondent, first respondent in all the Civil Revision Petitions are the claimants and second respondent is the first respondent in L.A.O.P.Nos.1 and 2 of 1996 filed for enhancement of compensation. The first respondent in all the Civil Revision Petitions filed I.A.Nos.11216 to 11219 of 2010 in

L.A.O.P.No.1 of 1996 to order payment-out by issue of a cheque for a sum of Rs.44,868/- and I.A.Nos.11220 to 11224 of 2010 in L.A.O.P.No.2 of 1996 to order payment-out by issue of a cheque for a sum of Rs.9,27,865/- in favour of first respondents respectively in all the Civil Revision Petitions.

4.According to the first respondent in all the Civil Revision Petitions, the land belonging to him and others were acquired for the benefit of the petitioner and compensation was awarded. Not being satisfied with the quantum of compensation awarded, at the request of the first respondent and others, reference was made and the same has been numbered as L.A.O.P.Nos.1 and 2 of 1996. The VI Assistant City Civil Court, Chennai enhanced the compensation from Rs.1,00,000/- to Rs.3,00,000/- per ground. The second respondent filed appeals A.S.S.R.Nos.78066 and 78068 of 2005 along with M.P.Nos.1 and 1 of 2006 to condone the delay of 363 days in filing the appeals. This Court directed the second respondent to deposit 50% of the enhanced compensation to the credit of L.A.O.Ps on the file of the VI Assistant City Civil Court, Chennai. The second respondent deposited Rs.3,58,943/- in L.A.O.P.No.1 of 1996

and Rs.74,22,924/- in L.A.O.P.No.2 of 1996. This Court on the applications filed by the first respondent in M.P.No.1 of 2007 in A.S.No.877 of 2006 and M.P.No.1 of 2007 in A.S.No.878 of 2006, permitted the first respondent to withdraw 50% of the amount deposited into Court, directed the Court to invest balance 50% in the Nationalised Bank and permitted the first respondent to withdraw the interest once in three months.

5.The first respondent in all the Civil Revision Petitions withdrew a sum of Rs.44,858/- Rs.4,63,932/- each being their ½ share in the amount deposited. This Court disposed the First Appeals by judgment dated 08.02.2010, whereby the value of the land was reduced to Rs.2,70,000 per ground from Rs.3,00,000/- per ground as fixed in L.A.O.Ps. In view of the disposal of the First Appeals, the first respondent filed I.A.Nos.6265 and 6266 of 2010 respectively to recall the entire amount of Rs.1,79,471/- and Rs.37,11,464/- invested in the bank and the said petitions were ordered on 25.03.2010.

6.The first respondent filed present applications for payment out. The petitioner filed separate counter affidavits and contended that this Court fixed the value of the land at Rs.2,70,000/- reducing it from Rs.3,00,000/- per ground. As per the reduced amount, a sum of Rs.22,37,865/- and Rs.1,08,211/- have to be refunded to the petitioner. The petitioner has filed working sheet and prayed for suitable orders.

7.The learned Judge considering the averments in the affidavits, counter affidavits, materials available on record and judgments relied on by both the parties, allowed all the applications.

8.Against the said orders dated 17.09.2010 made in I.A.Nos.11216 to 11219 of 2010 in L.A.O.P.No.1 of 1996 and I.A.Nos.11220 to 11223 of 2010 in L.A.O.P.No.2 of 1996, the petitioner has come out with the present eight Civil Revision Petitions.

9.The learned counsel for the petitioner contended that the entire enhanced amount as ordered by the Trial Court at the rate of

Rs.3,00,000/- per ground was deposited into Court to the credit of L.A.O.P.Nos.1 and 2 of 1996. This Court fixed the value of the land at Rs.2,70,000/- per ground instead of Rs.3,00,000/- and therefore, the petitioner is entitled to withdraw 50% of the amount deposited. The learned Judge without considering G.O.Ms.No.70 dated 30.01.2003, allowed all the applications contrary to the established principles of law and prayed for allowing the Civil Revision Petitions.

10.Per contra, the learned counsel for the first respondent in all the Civil Revision Petitions contended that the memo of calculation filed by the petitioner is not correct. The first respondent is entitled to balance 50% of the amount from the Court deposit. The learned Judge has given valid reason for allowing the applications and also submitted that to recover the balance amount, they have also filed E.Ps.

11.Heard the learned counsel for the petitioner, first respondent in C.R.P.Nos.4442,4443, 4445 to 4447 & 4449/2011 as well as respondents 3 and 4 in C.R.PNos.4444 & 4448/2011 and perused the materials available on record.

12. According to the learned counsel for the petitioner, the petitioner has deposited entire compensation amount awarded by the Trial Court at the rate of Rs.3,00,000/- per ground. In view of the judgment of this Court reducing the land value from Rs.3,00,000/- to Rs.2,70,000/- per ground, the petitioner is entitled to refund of Rs.22,37,865/- and Rs.1,08,211/-. The learned Judge has not considered the contention of the petitioner that this Court fixed the value of the land at Rs.2,70,000/- per ground. The petitioner is entitled to refund of the amount mentioned in the affidavit. The petitioner contends that the entire amount of compensation at the enhanced rate of Rs.3,00,000/- was deposited. The learned Judge has not decided whether sum of Rs.3,58,943/- deposited in L.A.O.P.No.1 of 1996 and Rs.74,22,924/- deposited in L.A.O.P.No.2 of 1996 are the entire compensation calculated at the rate of Rs.3,00,000/- per ground or whether it is only 50% of the amount calculated at the rate of Rs.3,00,000/- per ground.

13. In view of the above reason, the impugned orders of the learned Judge are set aside and the I.A.Nos.11216 to 11219 of

2010 in L.A.O.P.No.1 of 1996 and I.A.Nos.11220 to 11223 of 2010 in L.A.O.P.No.2 of 1996 are remitted back to the learned Judge for fresh consideration. Both the parties are entitled to file a memo of calculation. The learned Judge is directed to pass appropriate orders afresh, after considering the memo of calculation filed by the petitioner and after giving opportunity to the parties concerned within a period of three months from the date of receipt of a copy of this order.

14.The learned counsel for the first respondent in all Civil Revision Petitions submitted that already he has withdrawn the entire amount as per the order. If petitioner succeeds in these applications, it is open to the petitioner to recover that amount.

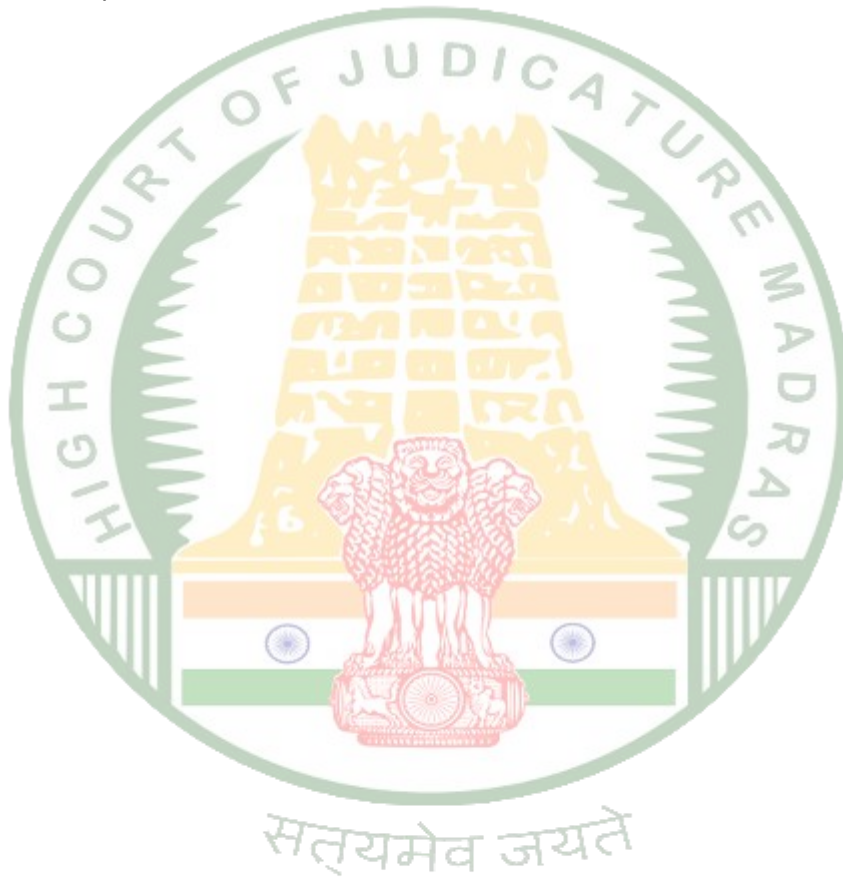
15.In the result, all the Civil Revision Petitions are allowed with above directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

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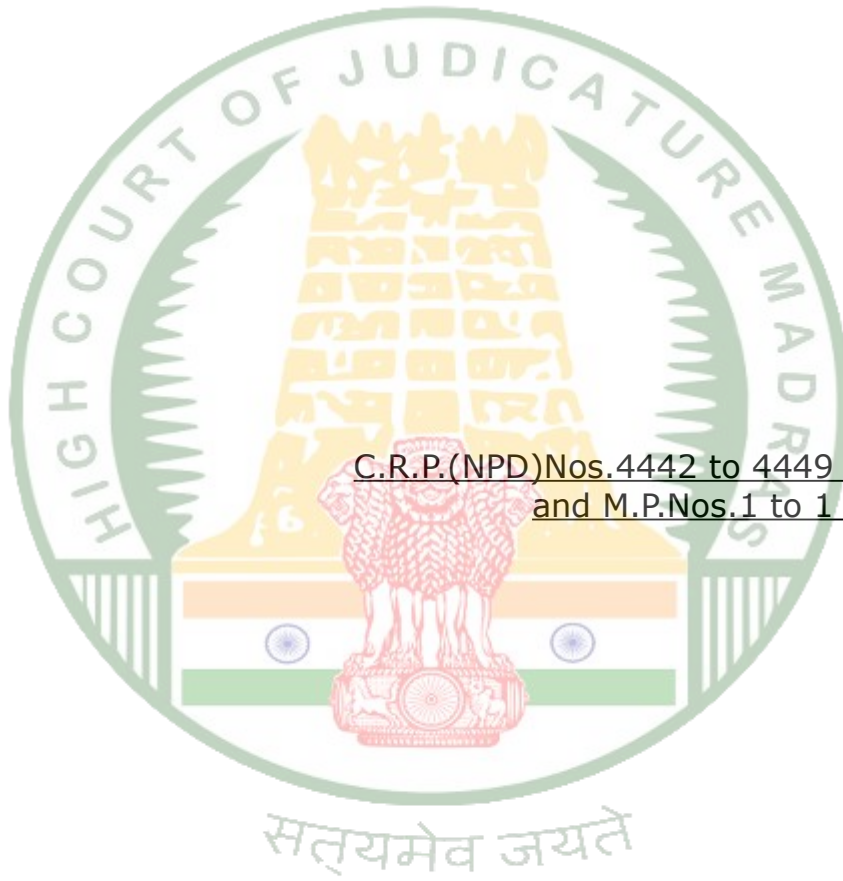
The VI Assistant Judge,
City Civil Court,
Chennai.



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V.M.VELUMANI, J.

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