

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)Nos.149 to 163 of 2013

C.R.P.No.149 of 2013

Ganesan @ Kaliannan

.. Petitioner

Vs.

1.The Special Tahsildar (LA)
Salem Karur Broad gauge
Railway Scheme
Namakkal Town, Namakkal Taluk
Namakkal-1.

2.The Deputy Chief Engineer
(Construction)
Southern Railway
Salem Town, Salem Taluk
Salem-636 005.

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 10.08.2011 made in I.A.No.101 of 2010 in L.A.O.P.No.344 of 2001 on the file of the Subordinate Court, Namakkal.

For Petitioner : Mr.P.Jagadeesan
For R1 : M/S.Madhumathi
Addl. G.P. (CS)

For R2 : No appearance

COMMON ORDER

C.R.P.No.149 of 2013 is filed against the fair and decretal order dated 10.08.2011 made in I.A.No.101 of 2010 in L.A.O.P.No.344 of 2001 on the file of the Subordinate Court, Namakkal. C.R.P.Nos.150 to 163 of 2013 are filed against the fair and decretal order dated 09.08.2011 made in I.A.Nos.102 to 106, 108 to 115 and 117 of 2010 in L.A.O.P.Nos.345, 346, 348 to 350, 352 to 355, 357, 362 to 364 and 366 of 2001 on the file of the Subordinate Court, Namakkal.

2. In all the fifteen Civil Revision Petitions, issues are one and the same and therefore, they are disposed of by this common order.

3. All the petitioners are claimants in their respective L.A.O.P.Nos.344 to 346, 348 to 350, 352 to 355, 357, 362 to 364 and 366 of 2001. According to the petitioners, their lands were acquired by the respondents for the purpose of Salem - Karur broad gauge railway scheme. An award was passed granting

compensation. Not being satisfied with the quantum of compensation, on the applications filed by the petitioners, matter was referred to the Subordinate Court, Namakkal, for determination of quantum of compensation under Section 18 of the Land Acquisition Act. The petitioners, after reference, failed to file claim statement within the time limit granted by the Court. On their failure to file claim statement, the Court has closed all the L.A.O.Ps. filed by the petitioners on 27.02.2006. The petitioners filed I.A.Nos.101 to 106, 108 to 115 and 117 of 2010 on 30.10.2010 for reopening their respective L.A.O.Ps.

4. The respondents filed counter affidavit in all the applications and opposed the averments made in the said applications. The respondents also submitted in the counter affidavit that the interest for the award shall be waived for the period from which the reference is closed till it is reopened.

5. The learned Judge considering the averments made in the affidavit, counter affidavit and materials available on record allowed the applications to reopen L.A.O.Ps. and held that interest payable on the compensation award which may be determined, the

petitioners are not entitled to interest from the date of closure of L.A.O.Ps. i.e., from 27.02.2006 till the date of filing of the applications for reopening i.e., on 30.10.2010.

6. Against the said order dated 10.08.2011 made in I.A.No.101 of 2010 in L.A.O.P.No.344 of 2001, the petitioner has filed C.R.P.No.149 of 2013. Against the said order dated 09.08.2011 made in I.A.Nos.102 to 106, 108 to 115 and 117 of 2010 in L.A.O.P.Nos.345, 346, 348 to 350, 352 to 355, 357, 362 to 364 and 366 of 2001, the petitioners filed C.R.P.Nos.150 to 163 of 2013.

7. The learned counsel for the petitioners contended that the similar L.A.O.Ps. filed in respect of other lands covered by the same award are still pending. In respect of certain other cases in Madurpatty Village, the applications for reopening were allowed without imposing any condition. By imposing the condition that the petitioners are not entitled to interest for the period from 27.02.2006 to 30.10.2010, the petitioners will be getting lesser amount than that of the other land owners covered in the same award. In support of his contention, the learned counsel for the petitioners relied on the judgment of the Hon'ble Apex Court

reported in **2002 (3) L.W. 453 (Khazan Singh (dead) by legal heirs v. Union of India)** and contended that the trial Court has no power to dismiss L.A.O.Ps. for default and submitted that the trial Court has no power to close L.A.O.Ps., when the petitioners fail to file claim statement.

8. The learned Additional Government Pleader appearing for first respondent contended that the petitioners only delayed the determination of compensation by the Court. In respect of failure of the petitioners in filing petitions to pursue the matter diligently, they are not entitled to interest on the compensation from the date of closing of L.A.O.Ps. till they filed applications for reopening and prayed for dismissal of the Civil Revision Petitions.

9. Though second respondent entered appearance through counsel, there is no representation on behalf of the second respondent today.

10. Heard the learned counsel for the petitioners as well as the learned Additional Government Pleader appearing for the first respondent and perused the materials available on record.

11. From the impugned order of the learned Judge, it is seen that the trial Court closed the L.A.O.Ps., when the petitioners failed to file claim statements. For reopening L.A.O.Ps., the trial Court imposed a condition that the petitioners will not be entitled to interest on the compensation amount for the period from 27.02.2006 to 30.10.2010. The petitioners have stated that the trial Court has not disposed other L.A.O.Ps. in respect of claim of other land owners in the award passed for the same purpose i.e., Salem - Karur broad gauge railway scheme. In the similar circumstances, in respect of L.A.O.Ps. in Madurpatty Village, the trial Court reopened the L.A.O.Ps. without imposing any conditions. These contentions are not denied by the learned Additional Government Pleader appearing for the first respondent.

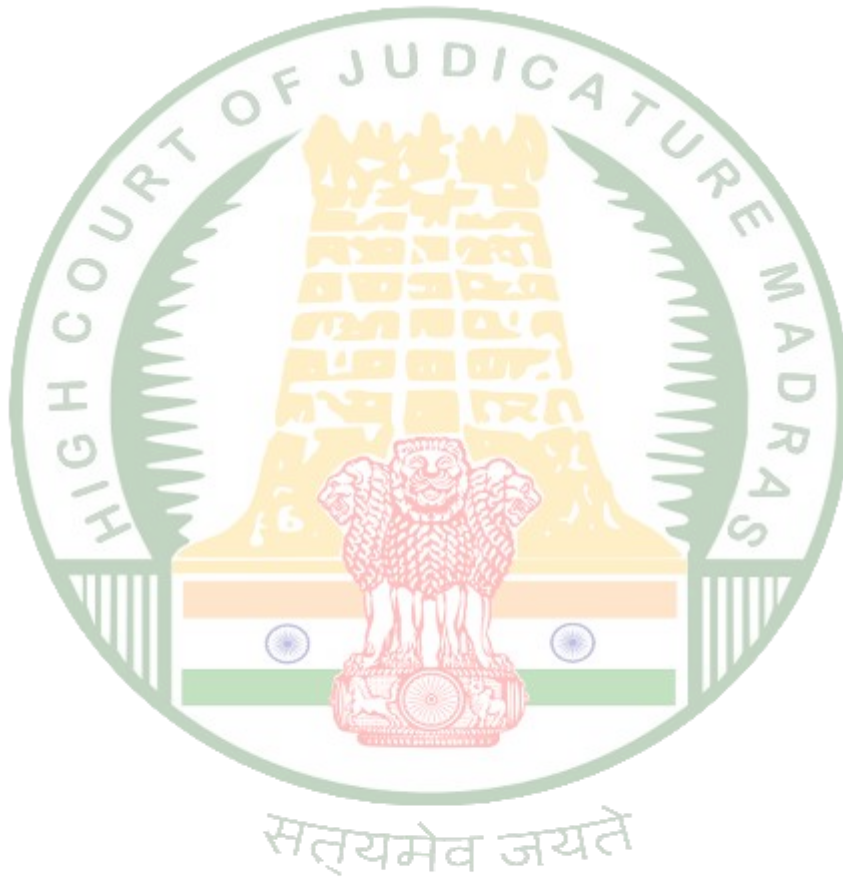
12. In view of the fact that L.A.O.Ps. in respect of the same scheme are pending, these Civil Revision Petitions are allowed setting aside the portion of the impugned order imposing condition that the petitioners are not entitled to interest on the compensation amount for the period from 27.02.2006 to 30.10.2010. No costs.

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Index : Yes/No
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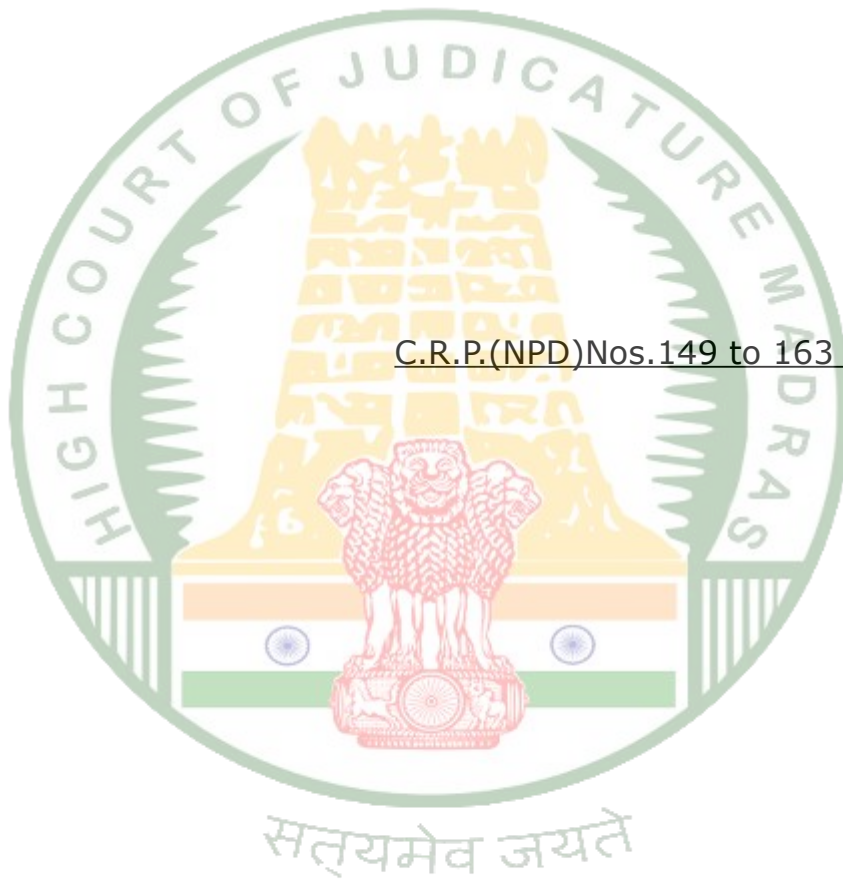
The Subordinate Judge, Namakkal.



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V.M.VELUMANI, J.

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