



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
C.R.P. (NPD) (MD) .No.2453 of 2016

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Kulanthaivel Pillai (died)

- 1.Palaniammal
- 2.Kanagaraj
- 3.Subramani
- 4.Krishnaveni

... Petitioners

Vs.

- 1.The Land Acquisition Officer and
Revenue Divisional Officer,
Palani.

- 2.Madurai Marketing Committee,
Through its President,
Madurai.

... Respondents

PRAYER: Petition filed under Section 115 of Civil Procedure Code, to set aside the fair and decreetal order dated 30.10.2015 passed in E.P.No.30 of 2013 in L.A.O.P.No.1 of 1998 on the file of Subordinate Judge, Palani.

For petitioner : Mr.M.P.Senthil

For R1 : Mr.M.Karuppasamy
Government Advocate

For R2 : No appearance

ORDER

The revision petitioners are claimants in L.A.O.P.No.1 of 1998 on the file of the learned Sub Judge, Palani. Since, the award passed in their favour was not complied with, the claimants filed E.P.No.30 of 2013 on the file of the learned Sub Judge, Palani. By 04.09.2008, the dues payable to the claimants mounted to Rs.1,00,04,991/- (Rupees One Crore Four Thousand Nine Hundred and Ninety One only), which represents the principal amount of Rs.29,59,097/- (Rupees Twenty Nine Lakhs Fifty Nine Thousand and Ninety Seven only) and interest amount of Rs.70,45,894/- (Seventy Lakhs Forty Five Thousand Eight Hundred and Ninety Four only). On 04.09.2008, a sum of Rs.15,32,278/- (Rupees Fifteen Lakhs Thirty Two Thousand Two Hundred and Seventy Eight only) was deposited by the respondents in. But the said amount was appropriated not towards the interest but towards the principal.



2.The Hon'ble Supreme Court in the decision reported in 2007 (3) CTC 170 in Gurpreet Singh Vs. Union of India has held that appropriation should first be towards interest and then only towards principal.

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3.Therefore, the order impugned in this Civil Revision Petition is set aside and the matter is remitted to the file of the Executing Court. The parties are at liberty to file a fresh calculation memo. The Court below shall verify if the appropriation is in terms of the principles laid down in the judgment reported in 2007 (3) CTC 170 in Gurpreet Singh Vs. Union of India and pass orders afresh in accordance with law. The Court below shall conclude the proceedings within a period of two months from the date of receipt of a copy of this order.

4.Accordingly, this Civil Revision Petition is allowed. No costs.

Sd/
Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar(CS-III)

To:

1.The Subordinate Judge,
Palani.

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

+1cc to Mr.M.P.SENTHIL, Advocate, SR.No.88787

+1cc to M/s.Special Government Pleader,SR.No. 88865

ORDER MADE IN
C.R.P. (NPD) (MD) .No.2453 of 2016

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KK/RSK/SAR-3/27.11.2018/2P-6C