

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Friday, the Fifth day of July Two Thousand Nineteen

PRESENT

THE HON`BLE MR JUSTICE N.KIRUBAKARAN

AND

THE HON`BLE MR JUSTICE ABDUL QUDDHOSE

AS NO.294 OF 2016

AND CROS.OBJ.NO.11 OF 2019

THE SPECIAL TAHSILDAR (LA) [PETITIONER IN AS.294/16 AND
HIGHWAYS, I.R.R.SCHEME, RESPONDENT IN CROS.OBJ.NO.11/19]
MAMBALAM GUINDY TK @ COLLECTORATE,
CHENNAI-1.

Vs

1 CHANDRAMATHI MUTHAIAH (DIED) [1 & 2 RESPONDENTS IN AS.294/16 AND
W/O.DR.MUTHIAH, 45A, TRIVANDRUM ROAD, 1 & 2 PETITIONER IN
PALAYAMKOTTAI, TIRUNELVELI - 620 002. CROS.OBJ.NO.11/19]

2 SAMUEL DEVAMAINDAN MUTHIAH
S/O. LATE. DR. MUTHIAH 45A TRIVANDRAM ROAD
PALAYAMKOTTAI
TIRUNELVELI - 627 002.

(2ND RESPONDENT ARE BROUGHT ON
RECORD AS LRS OF THE DECEASED SOLE
RESPONDENT VIDE ORDER OF THIS COURT DATED
28/04/2018 BY KKSJ & RSMJ) [IN AS.294/16]

[2ND RESPONDENT IMPEADED [IN CROS.OBJ.NO.11/19]
AS PER ORDERS PASSED IN CMP.8259/18 DT.28.4.18)

Appeal Under Section 54 of the Land Acquisition Act against the
Judgment and Decree of the City Appeal to this Honourable Court
against the Judgment and Decree of the City Civil Court VI Asst.Court
Chennai in LAOP.No.89 of 2013 dated 28.03.2014 (in AS.No.294/16) and;

(ii) Cross Appeal Under Order 41 Rule 22 of CPC r/w Section 54 of the Land Acquisition to prefer this Memorandum of Grounds of Cross appeal before this Honourable Court enhancement of compensation by enhancing the award amount from Rs.600/- per sq.ft. To Rs.2000/- per sq.ft. As against the Judgment and Decree dated 28.03.2014 passed in L.A.O.P.No.89 No.89 of 2013 on the file of the VI Assist.Judge, City Civil Court, Chennai (in CROS.OBJ.NO.11/19) respectively.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.T.BALA GOPAL GOVERNMENT PELADER, for the PETITIONER IN AS.294/16 ANDRESPONDENT IN CROS.OBJ.NO.11/19 and M/S.M.VALLINAYAGAM Standing Counsel for M/S.B.VIJAY Advocate for the 1 & 2 RESPONDENTS IN AS.294/16 AND1 & 2 PETITIONER IN CROS.OBJ.NO.11/19 the court made the following order:-

(Order of the Court was made by **N.Kirubakaran, J**)

The appeal has been preferred against the decree and Judgment of the Civil Court passed in a claim petition filed under Section 20 (1) of the Tamil Nadu Highways Act, 2001.

2.Various properties of the respondent/claimant have been acquired for the purpose of formation of Southern Sector Inner Ring Road, Velachery, Phase - II. The Land Acquisition officer passed various awards fixing the quantum of compensation. Not satisfied with the fixing, the land loser filed claim petition for enhancement before the Civil Court under Section 20 (1) of the Tamil Nadu Highways Act, 2001. The said Land Acquisition Original Petition was disposed of by the impugned Judgment of the Civil Court enhancing the land value from Rs.102/- to Rs.600/- per sq.ft. The said decree and Judgment passed by the Civil Court is being challenged before this Court by way of appeal by the Government.

3.Some of the claimants have also filed cross objections against the fixing of the value by the City Civil Court from Rs.600/- to Rs.2000/- in some cases.

4.When the matter is called today, Mr.J.Balagopal, learned Special Government Pleader produced the Judgment of this Court in "**N.Ponnusamy and another Vs. The Special Tahsildar, Land Acquisition, Tamil Nadu Road Sector Project, Tiruvannamalai**" dated 30.01.2019, in which the Division Bench of this Court has categorically held that against the order passed under Section 20 (1) of the Tamil Nadu Highways Act, 2001, only revision under Article 227 of the Constitution of India is maintainable and not an appeal under Section 54 of the Land Acquisition Act. The relevant Paragraph No.17 of the Judgment is extracted as follows:

"17. Therefore, before parting with, we make it clear that as against the proceedings under Section 20 of the Tamil Nadu Highways Act, 2001, an Appeal under Section 54 of the Land Acquisition Act is not maintainable and if at all only a Civil Revision Petition under Article 227 of the Constitution of India is not maintainable. Therefore, if any such appeal (s) is/are pending or any appeal is filed in future, the Registry shall convert it into a Civil Revision Petition under Article 227 of the Constitution of India and post it before the concerned Portfolio Judge dealing with Civil Revision Petitions under Article 227 of the Constitution of India."

5. When a categorical decision has already been taken holding that appeal is not maintainable and only revision is maintainable, the registry should not have numbered the proceedings as appeal and should have numbered it as revision and should have posted before the portfolio Judge who deals with petitions filed under Article 227 of the Constitution of India. However, erroneously or by mistake, the Registry numbered the proceedings as appeal.

6. In view of the above reasoning, the appeal suit is directed to be converted as Revision under Article 227 of the Constitution of India and posted before the portfolio Court concerned.

7. Since the appeal suit is not maintainable and the appeal suit is directed to be converted as revision, only fixed court-fee has to be paid by the parties. In this case, the respondent/land loser/claimant has paid a huge court-fee of Rs.4,57,400/-. For a revision under Article 227 of the Constitution of India, Rs. 500/- alone is enough. Therefore, balance amount is directed to be refunded to the respondent/land loser/claimant under Section 70 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 within a period of two weeks from the date of receipt of the copy of this order.

8. Registry is directed to post the matter before the concerned Port folio Judge and the time to return the additional Court-fee paid is granted till 22.07.2019.

-sd/-

05/07/2019

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

THE REGISTRAR,
CITY CIVIL COURT, CHENNAI.

C.C. to GOVERNMENT PELADER Advocate on payment of necessary charges

The Government Advocate, High Court, Madras - 104.

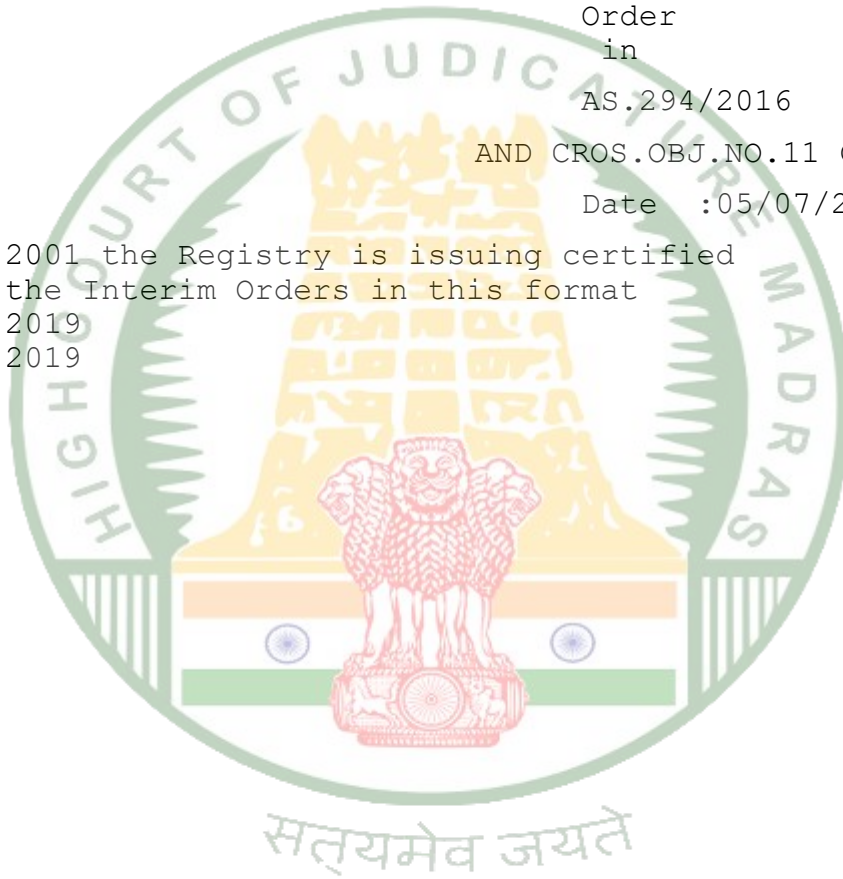
Order
in

AS.294/2016

AND CROS.OBJ.NO.11 OF 2019

Date :05/07/2019

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
SDR 25.06.2019
SDR 12.07.2019



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