

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE **R.PONGIAPPAN**

C.R.P.NPD.No.3724 of 2011
& M.P.No.1 of 2011

The Land Acquisition Officer
-cum-Special Tahsildar,
Adi Dravidar Welfare,
Dindivanam

.... Petitioner

Vs

Meeradevi

.... Respondent

PRAYER: Civil Revision Petition is filed under Section 13 of Tamil Nadu Acquisition of Land for ADW Schemes Act r/w Section 115 of C.P.C., to set aside the order and decreetal order dated 30.06.2009 made in C.M.A.No.8 of 2000 on the file of the Principal Subordinate Court, Dindivanam, modifying the award No.5/1999-2000, dated 16.09.1999 passed by the Special Tahsildar (ADW)/Land Acquisition Officer, Dindivanam.

For Petitioner : Mr.N.Manikandan
Government Advocate

For Respondent : Ms.J.Prithivi
For Mr.S.Kaithamalaikumaran

ORDER

Aggrieved over the order dated dated 30.06.2009 made in C.M.A.No.8 of 2000 on the file of the Principal Subordinate Court,

Dindivanam, modifying the award No.5/1999-2000, dated 16.09.1999 passed by the Special Tahsildar (ADW)/Land Acquisition Officer, Dindivanam, the petitioner, who is the respondent in the above referred appeal, filed this Civil Revision Petition.

2. Originally, the petitioner herein on 16.09.1999 passed an award in O.No.5/1999-2000 for the land acquired in Survey No.95/3B ad-measuring 0.72.0 hectares, under the Harijan Welfare Scheme. At the time of passing the said award, the petitioner has deposited a sum of Rs.48,841/- towards compensation, for the land acquired. Challenging the said compensation, the respondent herein preferred a Civil Miscellaneous Appeal in C.M.A.No.8 of 2000 before the Principal Subordinate Court, Dindivanam. After elaborate enquiry, the learned Principal Subordinate Judge, Dindivanam, allowed the appeal filed by the respondent and also enhanced the compensation amount. Aggrieved over the same, the petitioner is before this Court with the present Civil Revision Petition.

3. Before deciding this revision petition, it is necessary and useful to see the Section 13 of Acquisition of Land for Harijan Welfare Schemes, which reads as follows :-

"13. Subject to the provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908) applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, a second appeal shall lie to the High Court from any decision of the Court under this Act, if the amount as determined by the prescribed authority exceeds such sum as may be prescribed."

According to the said Section, the petitioner herein ought to have filed a Second Appeal and not to file this Civil Revision Petition. However, instead of filing the Second Appeal, the petitioner filed this Civil Revision Petition in the year 2011, and the same is kept pending till date.

4. Today, when this petition is taken up for hearing, the learned Government Advocate appearing for the petitioner is present and made a submission that liberty may be given for filing an appeal. In this regard, he has made an endorsement for withdrawing this Civil Revision Petition with liberty to file an appeal.

5. Now on considering the prayer sought out in this revision petition, it is true that the petitioner has filed this petition on behalf of

the Government and the enhanced compensation amount has to be born by the Government from the funds collected from the public. Hence it is necessary to challenge the enhanced compensation amount in order to correct the order passed in C.M.A.No.8 of 2000. In this connection, considering the fact that the amount involved in this case is the money of tax payers, I am inclined to grant an order of liberty to file an appeal.

6. In the light of the above discussions, this Civil Revision Petition is dismissed with liberty to file an appeal, within a period of one month from the date of the receipt of a copy of this Order. Consequently connected miscellaneous petition is closed. No costs.

12.11.2019

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

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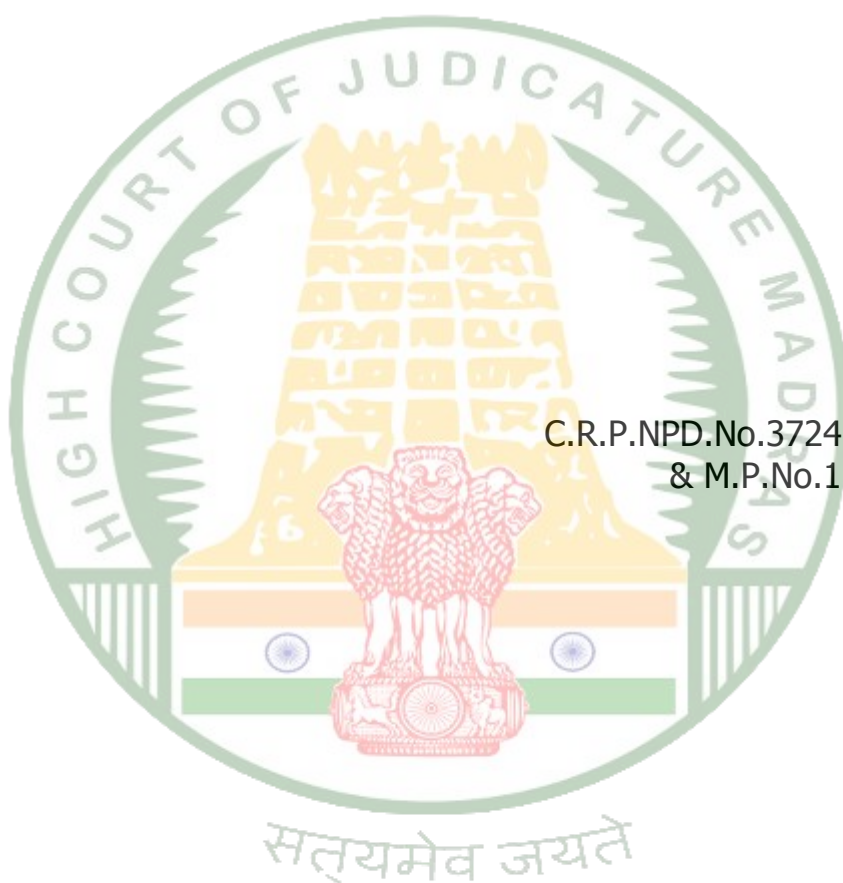
To

The Principal Subordinate Court,
Dindivanam.

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R.PONGIAPPAN, J.

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