

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.PONGIAPPAN

Civil Revision Petition (NPD) No.2601 of 2013
and M.P.No.1 of 2013

1. Hemamalini
2. Sobana @ Savithri
3. Seethalakshmi
4. Rajeswari

.. Petitioners

Vs

1. The Revenue Divisional Officer,
Mayiladuturai
Nagapattinam District.

2. Veerammal
3. Dhavamani
4. Jayalakshmi
5. Kanagavalli
6. Maheswari

.. Respondents

[Respondents 2 to 6 are not necessary parties in this Revision and hence given up]

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair order and decree passed in E.A.No.1/2010 in EP No.215 of 2001 in LAOP No.39 of 1991 dated 13.09.2012, on the file of the learned Principal Sub Judge, Mayiladuturai.

For Petitioners : Mr.S.Sounthar

For Respondents : Mr.N.Manikandan (for R1)
Government Advocate

ORDER

Challenging the fair and final order dated 13.09.2012, passed in EA No.1 of 2010 in EP No.215 of 2001 in LAOP No.39 of 1991 on the file of the learned Principal Subordinate Judge, Mayiladuturai, the petitioners 1 to 4, who are the claimants in LAOP No.39 of 1991 are before this Court, with the present Civil Revision Petition.

2. Before the Principal Subordinate Court, Mayiladuturai, in the reference filed under Section 18 of the Land Acquisition Act, an award has been passed in favour of the revision petitioners. As per the enhanced award, the 1st respondent was directed to calculate the compensation as follows:

1. to calculate compensation amount at Rs.20/- per sq.ft and Rs.1,00,000/- towards the values of the trees.
2. To calculate solatium at 30%, with 12% incentive from the date of 4(1) notification.
3. Two months time granted to deposit the compensation amount.
4. To pay costs of Rs.5,009/-.
5. To less the compensation amount already paid
6. to pay interest at the rate of 9% for one year from the date of taking

possession and interest at the rate of 15% per annum till the date of realisation

7. No interest for the period between 08.10.1996 to 01.11.1999.

3. Based on the award passed, the revision petitioners filed Execution petition No.215 of 2001, for realising the enhanced compensation, ordered in the reference petition. They further prayed for an order of attachment and sale of movable properties, as detailed in the execution application, which is now is in the custody of the 1st respondent.

4. During the course of execution proceedings, the 1st respondent herein filed an application in EA No.1 of 2010 under Section 47 of the Code of Civil Procedure, alongwith the calculation memo. In the said application, the 1st respondent herein claimed that he has deposited the entire enhanced compensation amount more than the amount enhanced during the time of passing the award. Challenging the same, petitioners are before this Court with the present Civil Revision Petition.

5. Today, when the Civil Revision Petition came up for hearing, the learned counsel appearing for the revision petitioners as well as the 1st respondent are present.

6. A perusal of the documents would reveal that on 04.11.2019 itself, the 1st respondent herein has filed a Calculation Memo in Na.Ka.No.7159/2001/A2, wherein he has stated that a sum of Rs.31,710/- had been excessively deposited alongwith the amount which is eligible to the revision petitioners.

7. In this regard, the learned counsel appearing for the revision petitioners fairly conceded and admitted that the Calculation Memo dated 04.11.2019, filed by the 1st respondent is found correct and prayed to pass orders, according to the said Calculation Memo.

8. According to the Calculation Memo dated 04.11.2019, filed by the 1st respondent, the total amount deposited on 25.04.2005 is Rs.11,31,887/- in which the petitioners are entitled to Rs.11,00,177/- alone and the 1st respondent is entitled for refund of the excess amount of Rs.31,710/-. The Calculation Memo in Na.Ka.No.7159/2001/A2, dated 14.05.2019, filed by the 1st respondent, is taken on record.

9. Therefore, in the light of the above discussion, the learned Principal Subordinate Judge, Mayiladuturai, is directed to refund

Rs.31,710/- to the 1st respondent and to pay the amount of Rs.11,00,177/- proportionately to the claimants, who are entitled to receive the enhanced compensation in LAOP No.39 of 1991. The Calculation Memo in Na.Ka.No.7159/2001/A2, dated 14.05.2019, filed by the 1st respondent, shall be treated as a part of the order.

10. With the above directions, the Civil Revision Petition is disposed of. No Costs. Consequently, the connected Miscellaneous Petition is closed.

22.11.2019

Speaking/Non-speaking order
Index: Yes/No
Internet: Yes
ars

To

The Principal Subordinate Judge, Mayiladuturai.

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R.PONGIAPPAN, J.,

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