

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2019

CORAM

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

CRP (NPD) NO.3224 OF 2016

1.Palaniammal (Deceased)

2.S.Balasubramaniam

3.P.Krishnaveni

(Petitioners 2 and 3 brought on record as
LRs of the deceased sole petitioner viz.

Palaniammal vide court order dated

17.11.2017 made in CMP 17982/2017

in CRP 3224/2016)

... Petitioners

VS.

1.The Special Tahsildar

Land Acquisition Neighbourhood Scheme

Erode,

Erode District - 638 001.

2.The Executive Engineer and

Administrative Officer

Erode Housing Unit

Tamil Nadu Housing Board

Erode - 638 009.

3.S.P.Karthikeyan

(R3 impleaded as party respondent

vide order of Court dated 27.04.2017

made in CMP 898/17 in CRP (NPD) No.

3224/2016)

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order passed by the learned I Additional Sub Judge, Erode in I.A.No.638/2013 in LAOP No.5/2005 dated 26.04.2014.

For Petitioners : Mr.V.D.Prashanth
for Mr.V.Kadhirvelu

For Respondents
1 and 2 : Mr.A.Dev Narendiran
Government Advocate

For Respondent 3 : Mr.Mohamed Ismail

ORDER

Originally, the land losers sought for reference under Section 18 of the Land Acquisition Act, for enhancement of compensation. The matter was taken up by the learned First Additional Sub Judge, Erode, a decree came to be passed on 03.02.2006 in LAOP No.5 of 2005. It appears that the claimants 1, 2 and 4 died in the year 2007 and 2009 respectively, after passing of the decree. One Mr.V.Kadhirvelu appeared for the above claimants before the First Additional Sub Court, Erode. However, the name of Mr.S.P.Karthikeyan, who entered appearance for the legal representatives of claimants 1, 2 and 4 at a later point of time was shown as counsel for claimants 1, 2 and 4. Therefore, the said counsel

V.Kadhirvelu, who appeared for the original claimants filed a petition to include his name in the decree, as having appeared for the claimants. However, the Trial Court without applying its mind as to the date of claim, judgment and decree and date of death and appearance of subsequent counsel for the legal representatives, has rejected the petition stating that vakalat was revoked from the said counsel Mr.V.Kadhirvelu and given to the present counsel Mr.S.P.Karthikeyan.

2. The learned counsel appearing for Mr.S.P.Karthikeyan would submit that he has no role in the error committed by the Court. The original claimant died in the year 2007 after receiving the decree passed by the reference court. In that event, Mr.S.P.Karthikeyan would not have entered appearance and he affirms the same before this Court. However, the Trial Court without any specific reference as to the revocation of vakalat, passes a general observation and rejected the petition.

3. The order passed by the Trial Court is *exfacie* illegal and without application of mind. Therefore, the order dated 26.04.2014 passed in I.A.No.683 of 2013 in LAOP No.5 of 2005 is set aside and a

direction is issued to the learned First Additional Sub Judge, Erode, Erode District to correct the decree by including the name of Mr.V.Kadhirvelu, as counsel appearing for the respective claimants in LAOP No.5 of 2005 and issue a fresh decree copy.

4. In so far as the inclusion of the name of Mr.S.P.Karthikeyan is concerned, it is purely an error committed by the concerned court and he has no role in incorporation of his name in the decree. Therefore, there cannot be any fraud or misrepresentation attributed to him.

5. The Civil Revision Petition is allowed with the above observation and direction. No costs.

सत्यमेव जयते

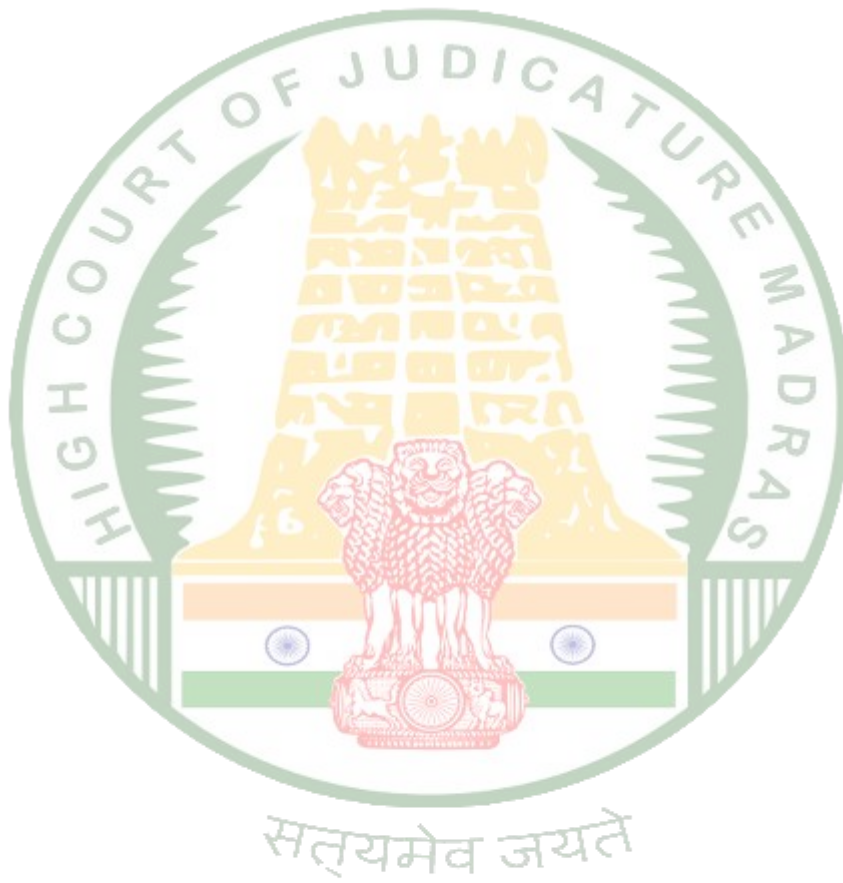
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Index : Yes/No
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To

The First Additional Sub Judge
First Additional Sub Court
Erode,
Erode District.



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M.GOVINDARAJ, J.

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