

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND

THE HONOURABLE MR. JUSTICE C.SARAVANAN

O.S.A. No. 373 of 2018

S.Annapoorana

...Appellant

Vs.

1.C.M.Dhinakaran

2.Chennai Metro Rail Ltd.,

Admn. Building,

CMRL Depot,

Poonamalle High Road,

Koyambedu,

Chennai - 600 017.

3.The Special Thasildhar,

Land Acquisition Chennai Unit -2,

Chennai Metro Rail Ltd.,

Koyambedu,

Chennai - 600 017.

...Respondents

Prayer: Appeals under Order XXXVI Rule 1 of O.S. Rules and Clause 15 of Letters Patent against common order 20.07.2018 made in Application No. 4283 of 2018 in Application No. 1168 of 2012 in C.S. No. 422 of 2001, filed to direct the respondents to deposit the enhanced award amount in respect of Plat No.327/5, Poonga Apartments 2nd Avenue, Anna Nagar West, Chennai-40, in Survey No.216 Part 223, Part new No.37/2 (shown as item "A" in the Schedule to the Plant in C.S.No.422/2001) standing on the name of C.M.Dhinakaran to the credit of the above Suit.

For Appellant : Mr.L.N.Prakasam
for Mr.T.S.Baskaran

For Respondents : Mr.D.Krishnan for R1

JUDGMENT

(Delivered by M.M.SUNDRESH, J.)

This appeal is preferred against the order of the learned Single Judge, who, while declining to direct the respondents to

deposit enhanced award amount, was pleased to pass the following order:-

"3. In the pursuant of the order dated 18.07.2018 passed by this Court, the respondent has produced two bond Certificates in Sl.No.285139 for Rs.4,00,000/- dated 28.02.2018 and in Sl.No.285144 for Rs.11,00,000/- dated 28.02.2018 deposited in the Rural Electrification Corporation Ltd. and the same will be matured on 28.02.2021. The enhanced compensation with regard to the property is subject matter of the suit.

4. This Registry is directed to keep the bonds into safe custody till the disposal of the suit and the Rural Electrification Corporation Limited hereby is directed that the deposited amount shall not be disposed to the respondent on its maturity and also prior to the maturity dated 28.02.2021. The amount shall be deposited before this Court to the credit of the suit. In the event of disposal of the suit, prior to maturity date, the above amount shall be disbursed subject to the result of decree and Judgment.

5. With regard to the remaining amount Rs.15 lakhs, the respondent would state that he has spent that amount towards medical expenses and other things. According to him, the respondent has no money at present.

6. Having regard to the fact, this Court of the view is that the remaining amount of Rs.15 lakhs shall be adjusted towards shares allotted to the parties. The amount of Rs.15 lakhs deposited in the Capital Gain shall be taken into consideration while disposing of the suit."

2. Learned counsel appearing for the appellant would submit that the respondents committed an act of fraud in not bringing to the notice of the statutory authority, who paid the enhanced compensation amount, about the deposit of the original compensation amount made earlier in pursuance of the order of the Court.

3. Learned counsel appearing for the respondents would submit that the order of the learned Single Judge takes care of the interest of the appellant, and, therefore no interference is required.

4. The suit is of the year 2001. The suit is for partition on the premise that the settlement deed executed by her was made out of force and coercion. A sum of Rs.30 lakhs was received by way of enhanced compensation claiming title to the suit property in pursuance of the settlement deed executed. This is done by depositing a sum of Rs.15 lakhs in the Rural Electrification Corporation Limited by way of two bond certificates. The remaining Rs.15 lakhs has been stated to be spent by the respondents.

5. The learned Single Judge, in our considered view, has rightly done a balancing act. Even assuming the suit is decreed, notwithstanding settlement deed, the appellant would be entitled to the respective share alone. The interim order passed by the learned Single Judge takes care of the interest of the appellant. The entitlement, if any, beyond that would be subject to the decree to be passed. In such view of the matter, we do not find any error in the order passed by the learned Single Judge. Accordingly, we are not inclined to interfere with the order of the learned Single Judge.

6. As observed above, the suit is of the year 2001 and, therefore, it would be appropriate to dispose of the suit at an earlier point of time. In such view of the matter, we request the learned Single Judge dealing with the final hearing of the suit to expedite hearing and make an endeavour to dispose of the suit within a period of six months from the date of receipt of a copy of the order. Furthermore, the appellant's interest was already protected by the earlier order which would enure to her benefit in the event of decree being obtained.

The appeal is dismissed with the above said observations. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssm
To
The Sub Assistant Registrar
Original Side, High Court, Madras.

+lcc to Mr.T.S.Baskaran, Advocate Sr.9446

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