

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

C.R.P. (NPD) No.3657 of 2019

Cathizabi

rep.by her Power of Attorney

Mohammed Hanif

... Petitioner/Petitioner

-Vs-

1.Union of India

rep.by the Secretary to Government (Revenue)
Puducherry.

2.The Sub Collector (Rev) North-cum-
Land Acquisition Officer,
Puducherry.

... Respondents/Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India against the "Return Docket Order" passed in unnumbered I.A.SR.No.8194 of 2019 in L.A.O.P.No.31 of 2011 dated 14.08.2019 by the learned III Additional District Judge, Pondicherry.

For Petitioner : Mr.B.Balavijayan

ORDER

This revision petition has been filed against the docket order passed in unnumbered I.A.SR.No.8194 of 2019 in L.A.O.P.No.31 of 2011 dated 14.08.2019 by the learned III Additional District Judge, Pondicherry.

2. Before the Court below, L.A.O.P.No.31 of 2011 was filed by the petitioner for enhancement of compensation for the land acquired from the petitioner as per the award. The award amount seems to have been deposited by the respondents in the L.A.O.P., account and the said amount to the extent of Rs.1,23,17,215/- (Rupees One Crore Twenty Three Lakhs Seventeen Thousand Two Hundred and Fifteen only) has to be withdrawn by the petitioner. Hence, the petitioner filed I.A.SR.No.8194/2019 seeking a direction to issue a cheque for the said sum with accrued interest in favour of the petitioner as per the award passed by the said Court. The said I.A., was not numbered and it was

returned on 23.07.2019 on two reasons that, the certified amended copy of the award to be filed and no objection to be obtained from previous counsel on record since it is a petition for withdrawal of award amount. On representation, again the very same reasons were given and on by order dated 14.08.2019, which is impugned herein, the I.A., was returned stating that, the affidavit particulars are not sufficient and that the previous return still stands good. As against the said order dated 14.08.2019 returning the unnumbered I.A., the present revision has been filed.

3. Heard Mr. Balavijayan, learned counsel appearing for the petitioner, who would submit that, a previous counsel was already engaged to conduct the L.A.O.P., for whom the petitioner seems to have paid a hefty sum, as claimed in the affidavit filed in support of the present I.A. Thereafter, once the award is passed in the L.A.O.P., the petitioner wanted to withdraw the said amount and in the meanwhile, the petitioner wanted to engage a different counsel, as according to the petitioner, the erstwhile counsel had not pursued the case as desired by the petitioner and on that ground, the present I.A., had been filed with a new counsel. Only in that circumstances, the No Objection Certificate was required by the Court through the return memo and in this regard, it is the case of the revision petitioner that, even though the case bundle has been handed over to the petitioner by the erstwhile counsel, he has not come forward to give the No Objection Certificate for engaging a new counsel and that is how the controversy arose and that is the only reason now the Court below is not numbering the present I.A.

4. I have considered the said submission made by the learned counsel and I have gone through the materials placed on record.

5. If at all the litigant public wants to engage a counsel, he/she can engage any counsel at his/her choice. In this context, if any fees due is payable by the litigant for a proceedings already concluded in a Court of law, the counsel who conducted the proceedings, is entitled to get the fees, but for that purpose, he cannot hold the brief of the litigant. This position has been very extensively stated and reiterated in number of occasions by the higher Courts of this land. Despite the same, in the present case, the erstwhile counsel of the petitioner seems to have not given the No Objection Certificate for engaging a new counsel. Nevertheless, it is for the petitioner to engage a counsel of his choice and for the said purpose, the Court below cannot insist on the petitioner to get the No Objection Certificate from the erstwhile counsel.

6. Therefore, for the said reason, the I.A., in question need not be detained any further without getting it numbered. In that view of the matter, this Court is inclined to dispose of this Civil Revision Petition with the following direction. The Court below is hereby directed to number the I.A., in I.A.SR.No.8194 of 2019 in L.A.O.P.No.31 of 2011, if it is otherwise in order, without insisting N.O.C from the erstwhile counsel for the petitioner. With the above direction, this Civil Revision Petition is disposed of. No costs. Registry is directed to return the original documents, if any, filed along with this revision, to the revision petitioner, after due acknowledgment.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The III Additional District Judge,
Pondicherry.

Copy To: The Section Officer, V.R.Section,
High Court of Madras, Chennai -104.

+1 cc to M/s.B.Balavijayan, Advocate Sr.No. 94714

AKM/13.12.19/3P-4C /

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