



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2019

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

C.R.P(MD)No.1825 of 2017 (NPD)
and

CMP(MD).No.9682 of 2017

The Special Tahsildar,
Land Acquisition,
Nagercoil,
Kanyakumari District.

.. Petitioner/
Petitioner / Respondent

Vs.

Shanmugasundaram

.. Respondent/
Respondent / Petitioner

PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C. against the fair and decreetal order, dated 12.09.2017, passed in I.A.No.125 of 2014 in L.A.O.P.No.84 of 1994 by the I-Additional Subordinate Court, Nagercoil.

For petitioner : Mr.J.Gunaseelan Muthaiah,
Addl. Government Pleader

For respondent : No appearance

ORDER

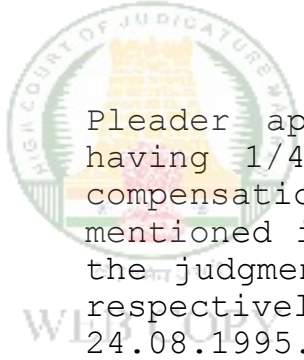
This revision petition has been filed against the order dated 12.09.2017 in I.A.No.125 of 2014 in L.A.O.P.No.84 of 1994, whereby and whereunder the Court below has dismissed the petition filed by the petitioner seeking to carry out the correction in the decree, dated 22.12.2000.

2. It is seen that the petitioner has acquired the land of the respondent and awarded compensation. Aggrieved by the same, the respondent herein filed L.A.O.P.No.84 of 1994 and the Court below has enhanced the award amount. Subsequently, the respondent filed E.P.No.113 of 2005. During the pendency of the same, the petitioner filed I.A.No.125 of 2014 seeking to carry out correction in the decree. The Court below has dismissed the same holding that the correction sought to be carried out by the petitioner would be against the order passed in L.A.O.P. and the petitioner has been dragging on the matter by filing petition after petition. Aggrieved by the same, the petitioner has filed this petition.

3. Heard the learned Additional Government Pleader for the petitioner and perused the records carefully.

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4. The main contention of the learned Additional Government



Pleader appearing for the petitioner is that the respondent is having 1/4 share over the acquired property and the quantum of compensation amount for 1/4 share is Rs.64,664/-, which is also mentioned in the judgment and decree. But, there is a direction in the judgment and decree to pay interest at the rate of 9% and 15% respectively on the entire compensation ie., Rs.1,55,401/- from 24.08.1995. The Court below, without deducting the amount already deposited by the petitioner on 21.02.2007 and 28.11.2013, has erroneously passed the decree and the same is to be corrected.

5. It is seen that the Court below had directed the petitioner to pay the entire compensation of Rs.1,55,401/- with interest at the rate of 9% for a period of one year and thereafter, with interest at the rate of 15% till the date of realisation and the same has been followed in the decree. The petitioner himself admitted that there is a correction in the award also. When that be so, the petitioner ought to have sought clarification of the same. Without doing so, he has filed application seeking to correct the decree. As rightly stated by the Court below, the decree cannot be corrected against the award. The Court below has further held that similar petition filed by the Tamil Nadu Housing Board has been dismissed and now the petitioner has filed this petition for the same relief and the intention of the petitioner is to drag on the matter. This Court does not find any reason to interfere with the said finding of the Court below.

6. In view of the above, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The I-Additional Subordinate Judge,
Nagercoil.

2.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

+1 CC to M/s.SPL GP (SR-72549[F] dated 01/07/2019)

C.R.P (MD) No.1825 of 2017 (NPD)

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