



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2019

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P. (MD) .Nos.1462 and 1463 of 2019

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C.R.P. (MD) .No.1462 of 2019

Mohammed Unus (Died)

Alima Beeva (Died)

1.Kansul Mahariba

2.Sarbunish

3.Nasar Alikhan

4.Saleem Sait

5.Azeeza Banu

6.Anisha

Naina Mohamed

... Petitioners/Petitioners/
/Claimants

Vs.

The Special Tahsildar,

Land Acquisition Adi Diravidar Welfare Office,

Paramakudi,

Ramanathapuram.

... Respondent/
Respondent/RO

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, against the order dated 30.04.2019 passed in Interlocutory Application in I.A.No.95 of 2019 in L.A.O.P.No.11 of 2000 on the file of the Subordinate Judge, Paramakudi.

C.R.P. (MD) .No.1463 of 2019

Mohaboob Sulthan Beevi (Died)

1.Sathik Ali

2.Asraf Ali

3.Yasmin

4.Nazrul

Naina Mohammed

... Petitioners/Petitioners/
/Claimants

Vs.

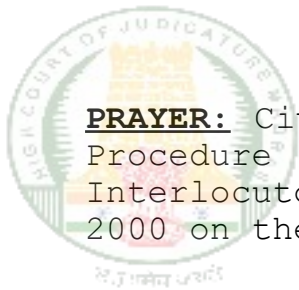
The Special Tahsildar,

Land Acquisition Adi Diravidar Welfare Office,

Paramakudi,

Ramanathapuram.

... Respondent/
Respondent/Respondent



PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, against the order dated 30.04.2019 passed in Interlocutory Application in I.A.No.96 of 2019 in L.A.O.P.No.18 of 2000 on the file of the Subordinate Judge, Paramakudi.

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For Petitioners
in both C.R.Ps : Mr.D.Nallathambi
For Respondent in
both C.R.Ps : Mr.R.Sethuraman
Special Government Pleader

COMMON ORDER

These civil revision petitions have been filed against the order dated 30.04.2019 passed in Interlocutory Application in I.A.Nos.95 and 96 of 2019 in L.A.O.P.Nos.11 and 18 of 2000 by the Subordinate Judge, Paramakudi.

2.The revision petitioners/claimants have filed LAOPs before the sub Court, Paramakudi and the learned Sub Judge has passed a common order directing the respondent to pay compensation to the claimants along with interest at the rate of 12% p.a., from the date of petition till the date of judgment or from the date of taking possession of the acquired land. The revision petitioners had filed I.A.Nos.95 and 96 of 2019 to amend the decree passed in LAOPs. The Court below, after hearing both side, had dismissed the said petitions. Against which, the revision petitioners are before this Court.

3.The learned counsel appearing for the revision petitioners submitted that as per Section 34 of the Land Acquisition Act, when the compensation is not paid or deposited on or before taking possession of the land, the claimants are entitled to get 9% p.a., interest from the date of possession for the period of one year and thereafter, if such compensation is not paid or deposited within a period of one year from the date on which the possession is taken, the interest at the rate of 15% p.a., from the date of expiry of the said period of one year or from the date of judgment. However, the Court below has wrongly mentioned as 12% p.a., in LA.O.P.Nos.11 and 18 of 2000, instead of 15% p.a., as the claimants are legally entitled for interest under Section 34 of the Land Acquisition Act, 1984. Therefore, the claimants have filed the applications in I.A.Nos.95 and 96 of 2019 before the Court below to amend the common order dated 01.04.2008 passed in L.A.O.P.Nos.11 and 18 of 2000 to the extent that the claimants are entitled to get 15% p.a., interest, as per Section 34 of the Land Acquisition Act, 1984, instead of 12% p.a., as wrongly mentioned in the common order. He further contended that while dismissing the said I.As., the Court below observed that the claimants can prefer an appeal, instead of filing the application for rectification.



4.It is relevant to reproduce the Section 34 of the Land Acquisition Act, which reads as follows:

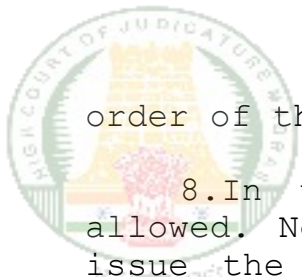
"34.Payment of Interest:- When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of (nine per centum) per annum from the time of so taking possession until it shall have been so paid or deposited.

(Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry".

5.On a perusal of Section 34 of the Land Acquisition Act, it appears that the claimants are entitled for 15% p.a., interest from the date of expiry of one year or from the date of judgment. However, the Court below while passing the order instead of mentioning 15% pa., wrongly mentioned as 12% p.a., in the order dated 01.04.2018. Therefore, it is clearly a patent error on the face of the order passed by the Court below, since as per Section 34 of the Land Acquisition Act, the claimants are entitled to get statutory interest of 15% p.a., is available. If the Court below has passed an order based on the above Act, ought not to have reduced the rate of interest. It is an apparent error on the face of the Court below.

6.The learned counsel appearing for the respondent would fairly submit that as per Section 34 of the Land Acquisition Act, the claimants are entitled to get statutory interest at the rate of 15% p.a., which cannot be reduced by the Court.

7.Considering the facts and circumstances of the case and also considering the facts that as per Section 34 of the Land Acquisition Act, the revision petitioners are entitled to get statutory interest at the rate of 15% p.a., instead of 12% p.a., which is clearly an error apparent on the face of the order passed by the Court below, this Court is inclined to interfere with the order of the Court below and hence, the order of the Court below stands modified to the extent that the claimants are entitled to get 15% p.a., interest as per Section 34 of the Land Acquisition Act, 1984. Accordingly, the order of the Court below stands modified to the extent that the claimants are entitled to get 15% p.a., interest instead of 12% p.a., interest as stated in the decree. In all other aspects, the



order of the Court below stand unaltered.

8.In the result, these civil revision petitions are partly allowed. No costs. The Registry of the Court below is directed to issue the revised order copy by substituting 15% p.a., interest instead of 12% p.a., in the decree of the Court below, dated 01.04.2018. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Subordinate Judge,
Paramakudi.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.D. NALLATHAMBI, Advocate (SR-100263[F] dated 21/11/2019)

C.R.P. (MD) .Nos.1462 and 1463 of 2019

svn(CO)

TR(02.01.2020) 4P 4C