



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2019

CORAM :

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

C.R.P.(MD)No.377 of 2013

Idol of Arulmighu Subramaniya Swamy  
Thirukoil, Sivanmalai,  
Erode District (Now Tirupur District)  
Represented by its Executive Officer

... Petitioner/Petitioner /  
Petitioner

Vs.

1.Selvam @ Chandhirasekaran  
2.K.Gnanam  
3.The District Collector  
Nungampalayam Water Storage Plan,  
Karvazhi Village,  
Aravakurichi Taluk.

... Respondents/ Respondents /  
Respondents

**Prayer:** The Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decreetal order dated 15.04.2010 in I.A.No.16 of 2010 in L.A.O.P.No.20 of 1985 on the file of Principal Sub Court, Karur.

For Petitioner : Mr.V.R.Shanmuganathan

For Respondents : Mr.D.Nallathambi

for R1 and R2

: Mr.Aayiram K.Selvakumar

Additional Government Pleader

for R3

### **ORDER**

This Civil Revision Petition is preferred as against the fair and decreetal order, dated 15.04.2010 in I.A.No.16 of 2010 in L.A.O.P. No.20 of 1985 on the file of the learned Principal Subordinate Judge, Karur.

2.The facts which are necessary for the disposal of the revision petition are as follows:

2.1.The revision petitioner earlier filed a suit in O.S.No.112 of 1989 on the file of the Sub Court, Karur, claiming the amount which was deposited by the third respondent herein before the Sub Court, Karur, towards compensation for the lands acquired for a public purpose. It is not in dispute that the land acquired belonged to the temple and the respondents 1 and 2 herein, who were rendering service in the temple were in enjoyment in lieu of service. It is not in dispute that the Sub Court, Karur, was pleased to grant decree in favour of the temple and the same was also confirmed in A.S.No.70 of 1997. As per the decree in the civil suit, the entire compensation amount of Rs.57,100.15 was

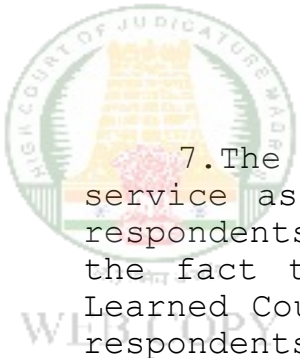
declared as the property of temple.

3.A decree was also granted for permanent injunction, restraining the respondents 1 and 2 herein from receiving any amount, which was awarded by way of compensation for the land acquired. However, the respondents 1 and 2 herein were given liberty to get interest accrued on the entire compensation. At the time of acquisition, respondents 1 and 2 were rendering service in the temple. The right to withdraw interest was only in lieu of services rendered by respondents 1 and 2 in the temple. It was only the said context, respondents 1 and 2 herein were permitted to receive/withdraw interest in lieu of service rendered by them in the temple. It is not in dispute that the respondents 1 and 2 herein did not render any service in the temple after 1999. However, as per the order passed by the reference Court in L.A.O.P.No.20 of 1985, on the file of Sub Court, Karur, the claimants were receiving interest.

4.The revision petitioner, filed I.A.No.502 of 2001 in restraining respondents 1 and 2 herein from receiving any amount from the deposit and to direct respondents 1 and 2 herein to repay the amount which they had received by way of interest. The respondents 1 and 2 herein have admitted that they will not claim interest as they were not rendering service. Recording the undertaking the learned Subordinate Judge, dismissed I.A.No.502 of 2001.

5.The revision petitioner filed an Interlocutory Application in I.A.No.15 of 2010 in L.A.O.P.No.20 of 1985 for withdrawing the entire compensation amount along with accrued interest. The said petition was filed on the basis that the respondents 1 and 2 herein are not rendering any service in the temple and therefore, the amount, which is lying to the credit of the temple should come to the temple. Though the application was not opposed, the same was dismissed by the learned Principal Subordinate Judge on the ground that the temple is not entitled to withdraw any amount as per the decree in O.S.No.112 of 1989. Similarly another application was filed in I.A.No.16 of 2010 for withdrawal of interest on the compensation amount lying in Court deposit. The second application was also dismissed on the ground that the respondents 1 and 2 herein were permitted to withdraw the accrued interest as per earlier orders in L.A.O.P.No.20 of 1985 and the decree in O.S.No.112 of 1989.

6.As against the order dismissing I.A.No.16 of 2010, wherein the revision petitioner sought for permission to withdraw the interest accrued on the total compensation that was lying to the credit of acquisition proceedings the above Civil Revision Petition is filed. The learned Principal Subordinate Judge relied upon the decree that was granted in O.S.No.112 of 1989, wherein the right to withdraw the interest was given to the respondents 1 and 2 in lieu of service rendered by them.



7.The fact that the respondents 1 and 2 are not doing any service as on date is not in dispute. Though it is the case of respondents 1 and 2 that no amount was withdrawn from 2001 onwards, the fact that they are not doing any service is not in dispute. Learned Counsel appearing for respondents 1 and 2 has admitted that respondents 1 and 2 are not doing service any more.

8.The land being a service Inam, it is inalienable. The property is a temple property and it has already been declared that the compensation amount is also the asset of the temple.

9.Once the land is acquired for a public purpose, the compensation deposited in Court will be the property of temple. The corpus will always vest with the temple. The persons, who are deprived of their enjoyment are entitled to receive only the interest accrued on the amount of compensation, till they are doing service in the temple. In a case where the persons who are performing Pooja or service stop doing service in the temple he is not entitled to withdraw interest also. In such circumstances, the order passed by the learned Judge I.A.No.16 of 2010 is not sustainable.

10.The learned counsel for the respondents 1 and 2 submitted that respondents 1 and 2 were rendering service till 2015 and that they are entitled to withdraw interest till they stopped doing service in 2015. This factual contention was not raised before the Lower Court even though they are parties. It is brought to the notice of this Court that the respondents 1 and 2 herein have conceded in earlier proceedings that they are not rendering any service in the temple after 1999 and that they have given an undertaking that they would not claim interest thereafter.

11.Hence, this Civil Revision Petition is allowed and the order dated 15.04.2010 passed by the learned Principal Subordinate Judge, Karur, in I.A.No.16 of 2010 in L.A.O.P.No.20 of 1985 is set aside. I.A.No.16 of 2010 in L.A.O.P.No.20 of 1985 stands allowed. No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

Sub Assistant Registrar(CS)

To

The Principal Sub Judge,  
Principal Sub Court,  
Karur.



Copy to:  
The Section Officer,  
VR Section,  
Madurai Bench of Madras High Court,  
Madurai.(2 copies)

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+1cc to Mr. D.NALLATHAMBI, Advocate, SR.No. 59812  
+1cc to Mr. VR.SHANMUGANATHAN, Advocate, SR.No.59850

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