

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2020

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Civil Revision Petition (NPD) No.475 of 2011 and
M.P.No.1 of 2011

The Special Tahsildar,
Land Acquisition,
Dharapuram,
Now under the control of Revenue
Divisional Officer,
Dharapuram.

... Petitioner

Vs

1. Nachammal (deceased)
(cause title accepted vide order of Court
dated 21.12.2010 made in M.P.No.1/2010
in CRPSR.47675/2010)

2. Executive Engineer,
Housing Board Scheme
Erode.(Now formerly
Executive Engineer, Erode
having office at Periyar Nagar,
Erode Town, Erode.

3. Ravichandran
4.Chellammal
5.Saraswathi
6.Gandhimathi
7.Ponnusamy
8.N.Palanisamy Gounder
9.P.Thirumalaichamy
10.N.Magudeeswari
11.Kathiresan

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12.Minor Kirubashini ... Respondents
(R8 to R12 brought on record as LR's of the deceased
1st respondent viz., Nachammal vide court order dated
14/07/2017 made in M.P.Nos. 1 to 3/2013 in
CRP. No.475/2011)

Prayer: Civil Revision Petition filed under Section 115 of Civil Procedure Code against the order in E.A.No.266/2009 in E.P.No.48/2003 in L.A.O.P.No.11 of 1991 dated 4.12.2009 passed by the Subordinate Judge, Dharapuram, in allowing the above E.A.No.266 of 2009 filed by the first respondent herein to amend the schedule of property in E.P.No.48 of 2004 for the purpose of attachment and bringing the property into auction sale.

For Petitioner : Mr.Y.T.Arvind Ghosh
Additional Government Pleader (CS)

For Respondents : Mr.R.Ashokan (R3 to R7)

ORDER

This Civil Revision Petition has been filed against the order in E.A.No.266/2009 in E.P.No.48/2003 in L.A.O.P.No.11 of 1991 dated 4.12.2009 passed by the learned Subordinate Judge, Dharapuram, in allowing the above E.A.No.266 of 2009 filed by the first respondent herein to amend the schedule of property in E.P.No.48 of 2004 for the purpose of attachment and bringing the property into auction sale.

2. The petitioner is the land acquisition officer. The respondents property was acquired by the petitioner initially they have also deposited the award amount. Subsequently the respondents filed the petition for enhancement of compensation before the Subordinate Court, Dharapuram in L.A.O.P.No.11 of 1991 and that was allowed vide order dated 27.08.1993. Subsequently the deceased first respondent filed Execution Petition in E.P.No.48 of 2003 for claiming enhanced compensation. Pending disposal of the same, the first respondent filed amendment application in E.A.No.266 of 2009 to amend the schedule of property in E.P.No.48 of 2003, to the extent of bringing office of the Revenue Divisional Office for court auction by attachment and that was allowed by Execution Court vide order dated 04.11.2009. Challenging the same the petitioner is before this Court.

3. The learned standing counsel for the petitioner would submit that the property was acquired only for the Housing Board and even the award amount was deposited and subsequently the deceased first respondent filed L.A.O.P.No.11 of 1991 for enhancement of the award amount and the same was allowed. He would further submit that for realising the enhancement amount the deceased first respondent filed E.P.No. 48/2003. Subsequently, she filed the application in E.A.No.266 of 2009 to amend the schedule of

property shown in the E.P. to bring the office and residence of Revenue Divisional Officer for court auction by attachment. The learned counsel for the petitioner would submit that said office itself has been abolished and only housing board is liable to pay money. Therefore, if at all the petitioner wants to attach the property for non deposit of the enhanced compensation, the respondents has to seek attachment of the property belonging by the housing board not the petitioner's property. Hence, the Impugned Order is liable to be set aside.

4. The learned counsel for the respondents would submit that the petitioner is also a Government Officer and they are liable to pay amount.

5. Heard both sides. Perused the materials available on record.

6. Though the respondents lands were acquired by the petitioner, initial compensation was deposited before the Court, the respondents filed LA.O.P. No.11 of 2009 for enhancement of compensation and that was allowed and for realising the said enhanced compensation, the deceased first respondent filed petition to execute the decree in E.P.No.48/2003 and subsequently the first respondent also filed application in E.A.No.266 of 2009 to amend the

schedule of property mentioned in the Execution Petition and that was allowed. During the pendency of the E.P., the first respondent filed application to amend the property in E.A.No.266 of 2009 and that was allowed. Challenging the same, the petitioner is before this Court. As it is submitted by the learned counsel for the petitioner that their office was abolished and properties were handed over to the second respondent Housing Board the second respondent/ Housing board is liable to pay the compensation.

6. Today, there is no representation for the second respondent/housing board.

7. There is no dispute that the land was acquired for Housing Board and the Housing Board also taken over the possession. Under these circumstances the Second Respondent/Housing Board has to deposit the enhanced compensation.

8. In view of the same, this Court directs the Second respondent/Housing Board to deposit the enhanced compensation within a period of thirty days from today, failing which the furnitures and computers

P.VELMURUGAN,J.

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placed in the office of the second respondent shall be attached. If the Second Respondent/Housing Board failed to deposit the enhanced compensation the Executing Court is directed to proceed with the Execution Petition by attaching all the furnitures and computers placed in the office of the second respondent.

With the above direction this Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

24.08.2020

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Index: Yes/No.

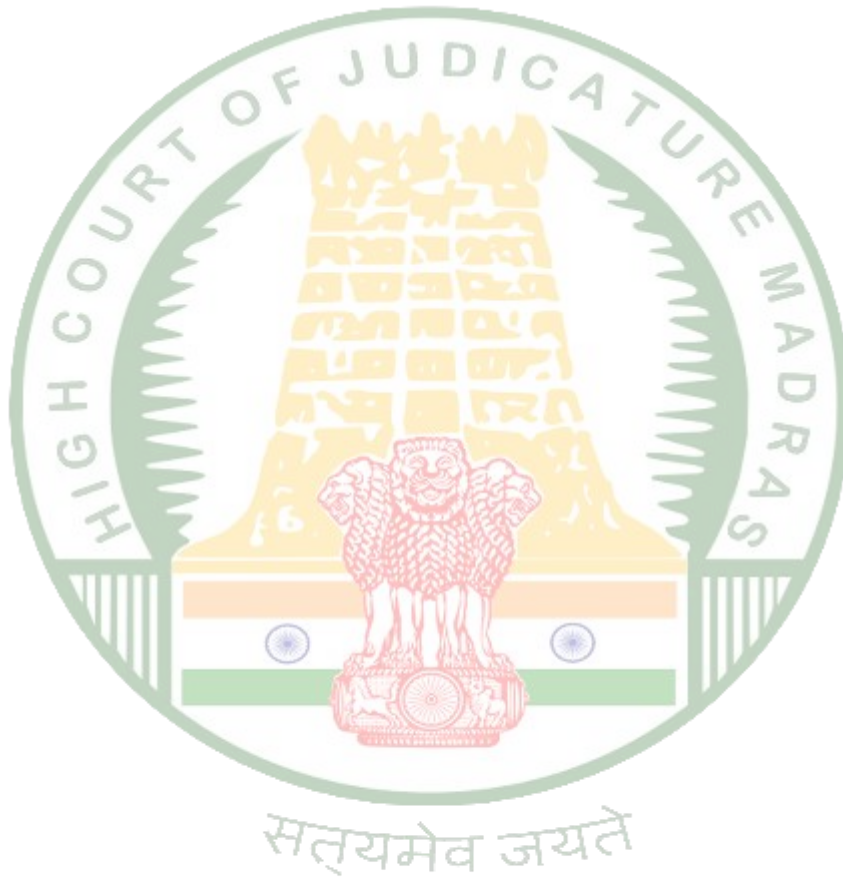
Internet: Yes

To

1. The Subordinate Judge, Dharapuram,
2. The Section Officer, V.R. Section, High Court, Madras

C.R.P.(NPD).No.475 of 2011

C.R.P.(NPD).No.475 of 2011



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