

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2020

CORAM:

THE HONOURABLE MR.G.K.ILANTHIRAIYAN

Cont.P.No. 2871 of 2013

V.Subramani

..Petitioner

Vs.

M.Gajendran
The Special Thasildhar,
Land Acquisition Officer,
Adi Dravidar Welfare,
Gudiyatham, Vellore District.

..Respondents

Prayer: Contempt Petition filed under section 11 of the contempt of Courts Act 1971 filed to punish the respondent who wilfully disobeyed the order dated 21.09.2012 in S.A.No. 224 of 2006 and S.A.No. 947 of 2006 passed by the Hon'ble High Court.

For Petitioner : Mr.S.T.S.Murthy,
Additional Advocate General assisted
by Mr.S.Jaganathan, Government Advocate

For Respondent : Mr.M.Venugopal,
Special Government Pleader (CS)

J U D G M E N T

This petition has been filed to punish the respondent for the disobedience of the order passed by this Court dated 21.09.2012 in S.A.No.224 of 2006 and S.A.No.947 of 2006.

2. The learned counsel appearing for the petitioner submitted that he was the owner of the land for the extent of 2.07 acres situated at Kallampet Village, Gudiyattam Taluk, Vellore District, which was acquired under the land acquisition act for Harijan Welfare Scheme and fixed compensation for a sum of Rs.1,71,951/- by the award dated 25.03.1998 by the respondent. Aggrieved by the same, the petitioner preferred an appeal in L.A.C.M.A.No. 5 of 2002 before the Sub-Court, Vellore for enhancement. The first Appellate Court enhanced the award amount to Rs. 3,47,300/-. As against the said award, the respondent preferred an appeal before this Court in S.A.No.224 of 2006. At the same time, the petitioner also filed a second appeal in S.A.No. 947 of 2006 for further enhancement of the compensation. Both the appeals clubbed together and this Court passed common judgment and decree dated 21.09.2012 and this Court determined compensation at Rs.1,250/- per cent and calculated as Rs.2,90,088/- along with 6% interest

on the said compensation for a period from 16.03.1998, till the date of decree namely, 21.09.2012. He further submitted that whereas the respondent have not complied the same and as such they disobeyed the order wilfully and wantonly. Hence, prayed to punish the respondent for the wilfull disobedience of the order passed by this Court dated 21.09.2012 in S.A.No. 224 of 2006 and S.A.No. 949 of 2006.

3. The respondent filed counter and submitted that an extent of 2.07 acres of land comprised in Survey No. 388/2, 392/1A and 392/1B situated Kallampet Village in Gudiyatham Taluk were acquired from the petitioner for free house site pattas to Adhi Dravidars and Harijans under the Tamilnadu Land Acquisition for Harijan Welfare Schemes Act 1978. On the acquisition, the respondent passed an award by fixing value at Rs.742.65 per cent and 250 per tree along with 15% of Solotium. In total, the respondent awarded compensation at Rs.1,71,951/- by an award dated 25.03.1998. On the appeal filed by the petitioner, the first Appellate Court enhanced the award and fixing at Rs.1,500/- per cent and awarded compensation a sum of Rs.3,47,300/-.

4. Aggrieved by the same, the respondent preferred an appeal before this Court in S.A.No.224 of 2006. While pending the second appeal, the petitioner also preferred an appeal for enhancement of compensation in S.A.No. 947 of 2006 and both appeals clubbed together and this Court allowed the second appeal filed by the respondent and fixed the rate at Rs.1,250/- per cent and in total a sum of Rs.2,90,088/- as compensation. In fact, immediately after the award passed by the respondent dated 25.03.1998, the respondent deposited an award amount, a sum of Rs.1,71,951/- on 31.03.1998 before the treasury, within a period of 5 days from the date of award passed by the respondent. Subsequently, the award amount was enhanced by this Court to the tune of Rs.2,90,088/- and after deducting the deposit amount it comes at to Rs.1,18,137/- for which the interest calculated at a rate of 6% per annum as awarded by this Court comes to Rs.1,05,022/-. Therefore, total due is Rs.2,23,159/-. In the meanwhile, the petitioner also preferred an Execution Petition in E.P.No.41 of 2007 before the Sub-Court, Vellore. Immediately, the respondent deposited a sum of Rs.2,99,900/- by way of cheque bearing No.2674 dated 21.01.2010 for a sum of Rs.2,99,900/- from the Sub-Treasury, Kudiyatham in the Sub-Court, Vellore on 31.01.2010. After the award passed by this

Court, the amount due payable by the respondent calculated as Rs.2,23,159/-. But instead of that, the respondent deposited a sum of Rs.2,99,900/- and as such the petitioner, land owner has to repay the excess amount of Rs. 76,741/- to the respondent. Therefore, the respondent duly complied the order passed by this Court and never disobeyed the order and sought for dismissal of the contempt petition.

5. Heard Mr.S.T.S.Murthy, learned Additional Advocate General assisted by Mr.S.Jaganathan, Government Advocate and Mr.M.Venugopal, Special Government Pleader (CS) for the sole respondent.

6. The land belonged to the petitioner to an extent of 2.01 acres comprised in Survey No.338/7, 392/1A, 392/1D situated Kallampet Village, Nagapattinam Taluk. It was acquired by the respondent to provide free housing Pattas to Arundhathiyars under Tamilnadu Acquisition of Land for Harijan Welfare Schemes, 1978. After acquisition, the respondent passed an award No.07/1997, 1998 dated 25.03.1998 and fixed a sum of Rs.743.65/- per cent in total Rs.1,49,273/-. Further, a sum of Rs.250/- was fixed for each Palm tree situated in the said land along with 15% solotium for entire amount. Therefore, the total compensation awarded by the respondents comes to Rs.1,71,951/- by the award dated 25.03.1998. Immediately on

31.03.1998, the said amount was deposited by the respondent in the Sub-Treasury of Gudiyatham.

7. Aggrieved by the said award, the petitioner preferred an appeal and the first Appellate Court enhanced the award amount at Rs.3,47,300/-. Aggrieved by the same, the respondent preferred second appeal in S.A.No. 224 of 2006 and also the petitioner preferred second appeal before this Court for enhancement of award amount in S.A.No.947/2006. This Court clubbed both the second appeals together and passed an award and determined the value at Rs.1,250/- per cent and fixed a sum of Rs.1,000/- per Palmtree. In total, Rs.2,90,088/- was awarded by this Court along with an interest at the rate of 6% per month. The respondent immediately, after passing the award dated 25.03.1998, the award amount namely a sum of Rs.1,71,951/- was deposited in the Sub-Treasury of Gudiyatham in the account, which is in the name of the petitioner herein. In the appeal, this Court determined the total compensation of RS.2,90,088/-. After deducting the amount deposited by the respondent, it comes to a sum of Rs.1,18,137/-. As directed by this Court, it shall be paid along with interest at the rate of 6% and calculated a sum of Rs.1,05,022/- till the deposit namely, 21.09.2012. Totally, it comes to a sum of Rs.2,23,159/-. In the mean time,

the petitioner filed execution petition in E.P.No.41 of 2007 on the file of the Sub-Court, Vellore in which the respondent deposited a sum of Rs.2,99,900/- as per the order passed by this Court on 31.01.2010 by way of cheque bearing No. 2674 dated 31.01.2010 issued by the Sub-Treasury in favour of the petitioner. As per the award passed by the respondent dated 25.03.1998, a sum of Rs.1,71,951/- was deposited before the Sub-Treasury, Gudiyatham. Further, the respondent also deposited a sum of Rs.2,99,900/- in the execution proceedings before the Sub-Court, Gudiyatham in E.P.No.41 of 2007. Therefore, the respondent excessively paid a sum of Rs.76,741/- to the petitioner. The learned counsel appearing for the petitioner, in respect of his contention cited the judgment of this Court reported in **2011 (5) CTC 11 in K.G.Krishnamoorthi and others Vs. The Sub-Collector**, had held as follows:-

“9. Now, the only question remains to be answered is whether the Court below is right in ordering to deduct the amount deposited by the Government towards enhanced compensation first towards principal amount and thereafter ordering to adjust the balance amount towards interest.

18. This decision of the Division Bench cannot be made applicable especially when the Division Bench rendered its decision before the Constitutional Bench of the Hon'ble Supreme Court decided the issue. The Division Bench of this

Court has therefore no occasion to refer to the Constitution Bench of the Hon'ble Supreme Court and therefore, the decision relied on by the learned Government Advocate cannot be made applicable to this case.

19.The only argument required to be considered now is whether the deposit made by the respondents as per the directions of this Court would entitle them to adjust the principal amount and thereafter the balance amount shall be given credit to payment towards Interest. A perusal of the Order passed by this Court in CRP (NPD) No. 1006 of 2006 dated 25.11.2006 would indicate that there is no specific direction issued regarding the manner in which the amount, which was directed to be deposited, shall be adjusted. Therefore, the interpretation given by the Court below to adjust the principal amount first is contrary to the Constitutional Bench decision of the Hon'ble Supreme Court mentioned above. This aspect of the matter was clarified in Para-52 of the judgment of the constitutional bench of the Hon'ble Supreme Court extracted supra. In para-52, it was specifically held that if, while passing the Interim Order, the Court had indicated as to how the deposited amount is to be appropriated, that direction will prevail and the appropriation could only be done on the basis of that direction. In the absence of any such direction and if amount is deposited into the Court, then, on the basis of the outcome of the Appeal in favour of the claimants/ Revision petitioners

herein, the amount has to be apportioned only towards principal first and thereafter towards Interest. Thus, the issue involved in this case is governed by the Constitutional bench decision of the Honourable Supreme Court and in such event, the interpretation given by the Court below, especially towards adjusting the amount deposited by the respondents, is not sustainable.”

8. This Court held that while depositing the amount, the interest was adjusted and only after the principal amount to be apportioned. In the case on hand, the respondent passed an award on 25.03.1998 and immediately on 31.03.1998, the said amount was deposited to the credit of the land acquisition award before the Sub-Treasury, Gudiyatham. After enhancement of the award amount by this Court, the balance amount has been deposited along with the interest at the rate of 6% in execution petition proceedings.

9. In view of the above discussion, the respondent deposited a sum of Rs. 1,71,951/- on 31.03.1998 before the Sub-Treasury, Gudiyatham to the credit of land acquisition award passed in favour of the petitioner. Thereafter, on 31.01.2010, a sum of Rs.2,99,900/- was deposited by way of cheque issued by the Sub-Treasury, Gudiyatham in E.P.No. 41 of 2007 in

pursuant to the award passed by this Court. Therefore, totally the respondent have deposited a sum of Rs.4,71,851. Hence, the respondent deposited a sum of Rs.76,741/- excessively. Therefore, this Court finds no contempt is made out as against the respondent and as such the contempt petition defeated on the merits and accordingly dismissed. It is open to the respondent to take appropriate action to recover the excess amount deposited from the petitioner in accordance with law.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

kkn

//Certified to be true copy//

Dated at Madras this the day of 2020.

COURT OFFICER(O.S.)

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SMI/03.09.2020

To:-

The Special Thasildhar,
Land Acquisition Officer,
Adi Dravidar Welfare,
Gudiyatham, Vellore District.