

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P. (NPD) No.3214 of 2018

S. Sivananthanam

.. Petitioner

Vs.

1. The Special Tahsildhar
Land Acquisition, TNHB,
Housing Scheme, Kundu Salai,
Semmandalam, Cuddalore.

2. Executive Engineer,
Tamilnadu Housing Board,
Villupuram Housing Scheme
Section, Villupuram.

3. The District Collector
Villupuram District,
Villupuram.

.. Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, praying to direct the Principal Subordinate Judge, Villupuam to take on record the E.P.Sr.No.10226 of 2018 in L.A.O.P. No.95/2007 and dispose off the same.

For Petitioners : Mr. Prahaladbhat
For M/s. R.Parthasarathy

For Respondents : Mr.Y.T.Aravind Gosh
Govt. Advocate RR1 & 3
Mr.M.R.Sivakumar for R2

ORDER

This matter is taken up for hearing through Video-Conferencing.

The petitioner aggrieved by an order returning an Execution Petition filed by him seeking execution of an award made in LAOP No.95 of 2007, has come up with this Civil Revision Petition.

2. The Execution Petition was returned by the Executing Court on the ground that the decree is not clear. Thereafter, the petitioner sought for amendment of the decree and the decree was amended subsequently on

24.07.2018. Amended copy of the decree was also issued. When the Execution Petition was represented along with the amended copy of the decree, the learned Subordinate Judge again made an endorsement, which reads as follows:

“Decree portion 3 and 4 not clear to execute.

Date of taking possession of the land to be furnished.

Period of interest and amount has not been properly calculated.”

Aggrieved the petitioner has come up with the Civil Revision Petition

3. I have heard Mr.Prahalad Bhat, learned counsel appearing for Mr.R.Parthasarathi, for the petitioner, Mr.Y.T.Arvind Gosh, learned Government Advocate appearing for the respondents 1 and 3 and Mr.M.R.Sivakumar, learned Counsel for the second respondent.

4. I find that the returns made by the learned Subordinate Judge are because of total non-application of mind or that the learned Subordinate Judge is not acquainted with the procedure under the provisions of the Land

Acquisition Act, relating to payment of interest. The decree holder has calculated the interest and it is for the respondent judgment debtor to object the same.

5. The Court cannot keep on returning an Execution Petition forever on flimsy grounds. The order dated 09.08.2018 made by the Subordinate Judge returning the Execution Petition is therefore set aside, the Civil Revision Petition is allowed. No costs.

6. The learned Subordinate Judge is directed to number the Execution Petition and issue notice to the parties concerned. The question of calculation of interest and other things will depend on the objections made by the respondents.

06.08.2020

jv

Index: Yes/No

Internet: Yes/No

Speaking order/ Non speaking order

R.SUBRAMANIAN, J.

To

The Principal Subordinate Judge,
Villupuam



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