



WEB COPY

C.R.P.(MD)No.2020 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.08.2020

CORAM

THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

C.R.P. (MD)No.2020 of 2019

and

C.M.P. (MD)No.10402 of 2019

The Special Tahsildar,
Adi Dravidar Welfare and Land Acquisition Department,
Collectorate,
Trichy - 1. : Petitioner/Respondent/Respondent

.. Vs ..

A.Natesan Pillai (Died)

1.Thiyagalingam

2.Paripooranam

3.Nageswari

4.Vasantha

5.Nalini : Respondents/Petitioners/Claimants

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, praying to set aside the order in E.P.No.183 of 2000 dated 23.09.2019 in L.A.O.P.No.1 of 1997 on the file of the first Additional Sub Court, Trichirappalli.

For Petitioner : Mr.G.Arjunan
Government Advocate

For Respondents : Mr.D.Boopal

ORDER

This Civil Revision Petition is directed against the order passed by the First Additional Sub Judge, Trichirappalli, in E.P.No.183 of 2000 in L.A.O.P.No.1 of 1997, dated 23.09.2019. After prolonged litigation, Execution Petition to execute the award in L.A.O.P.No.1 of 1997 was allowed by directing attachment of movables. The execution petition was resisted only on the ground that the decree is satisfied.

<https://hservices.ecourts.gov.in/hcservices/>



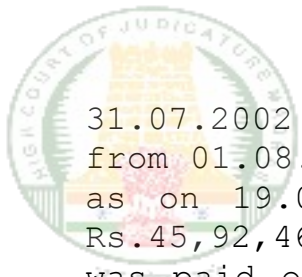
2. Heard the learned Government Advocate appearing for the petitioner as well the learned Counsel appearing for the respondents and perused the materials available on record.

3. Despite this Court adjourned the matter on number of occasions pointing out that there is a serious mistake and omission in the calculation memo filed by the Government Advocate, the Government Advocate is unable to explain how the calculation memo submitted by the revision petitioner can be accepted.

4. The following facts are not in dispute.

4.1. In this case an extent of 1.58 acres equivalent to 1,70,040 square foot was acquired by notification under Section 4(1) of the Land Acquisition Act, dated 24.09.1992. The award was passed on 22.03.1994 fixing market value at the rate of Rs.1,85,250/- per hectare. The total compensation paid by way of market value and the additional compensation under Section 23(1A) was fixed at Rs.4,22,363/-. The compensation was enhanced and fixed at the rate of 17/- per square feet by the reference Court (Sub Court) Trichy. Thereafter, in the appeal preferred by the revision petitioner before this Court, the market value was fixed at the rate of Rs.9/- per square feet. Again the amount was modified by the Hon'ble Supreme Court and as per the judgment of the Hon'ble Supreme Court, the market value was fixed at the rate of Rs.11/- per square feet. In the calculation memo filed by the revision petitioner a sum of Rs.23,48,040/- is arrived at as the amount representing the amount of market value of the property with solatium and additional compensation after deducting the amount of Rs.4,22,363/- paid as per award.

4.2. The petitioner has rightly arrived at a sum of Rs.23,48,040/- as the amount payable towards compensation along with solatium and additional compensation in terms of Section 23(1A) of the Act. However, the subsequent payments, namely, a sum of Rs.16,56,862/- was deducted from the compensation payable for the acquired lands, namely, the principal sum of Rs.27,70,403/-. It is now well settled that the petitioner is liable to pay interest on the sum of Rs.23,48,040/- from the date of taking possession and the rate of interest will be Rs.9% for the first year and 15% thereafter. It is not in dispute that possession was taken on 31.03.1994. Therefore, the petitioner is liable to pay a sum of Rs.2,11,324/- towards interest at the rate of 9% on Rs.23,48,040/- for one year from 31.03.1994. Similarly, the petitioner is also liable to pay interest at the rate of 15% from 31.03.1995 to 31.07.2002. The amount payable by the petitioner upto 31.07.2002 was Rs.51,43,495/-. Only a sum of Rs.16,56,862/- was paid on 31.07.2002. After deducting the said sum, the balance payable as on



31.07.2002 is again Rs.34,86,633/-. The interest at the rate of 15% from 01.08.2002 to 19.09.2005 comes to Rs.11,05,830/- and therefore, as on 19.09.2005, the amount payable by the petitioner would be Rs.45,92,463/-. It is admitted that only a sum of Rs.21,62,587/- was paid on 19.09.2005. After deducting the said sum, the balance amount as on 19.09.2005 is Rs.24,29,876/-. The petitioner is liable to pay interest at the rate of 15% from 19.09.2005 to 22.09.2010 for the amount Rs.23,48,040/- which is Rs.17,64,890/- and the total amount payable by the petitioner as on 22.09.2010 is Rs.41,94,766/-. The petitioner deposited a sum of Rs.3,08,859/- on 22.09.2010. Deducting the amount deposited on 22.09.2010, the balance amount payable as on 22.09.2010 is Rs.38,85,907/-. Calculating interest at the rate of 15% from 23.09.2010 to 31.03.2017 (on the principal sum of Rs.23,48,040/-) the petitioner is liable to pay a further sum of Rs.22,98,506/-. Therefore, the total balance as on 31.03.2017 is Rs.61,84,413/-. On 31.03.2017, a sum of Rs.13,40,420/- was deposited by the petitioner. Giving credit to the said amount, the balance payable as on 01.04.2017 is Rs.48,43,993/-. The petitioner is entitled to further interest from 01.04.2017 to till date. The balance amount payable as on 01.04.2017 is Rs.48,43,993/-. The interest at the rate of 15% from 01.04.2017 to 27.08.2020 = $23,48,040 \times 1245 \times 15/365 \times 100 = 12,01,360.20$. Therefore, the amount payable by the petitioner as on 27.08.2020 is equal to Rs.60,45,353.20. The petitioner is also liable to pay further interest till the date of payment on the principal sum of Rs.23,48,040/-.

5.This Court and the Hon'ble Supreme Court has repeatedly pointed out that the amount deposited towards compensation will be deducted towards interest. If any amount which is paid in excess of the interest payable as on that date, the petitioner is entitled to seek adjustment towards the principal amount of Rs.23,48,040/-. In the present case, though the petitioner deposited a sum of Rs.16,56,862/- on 31.07.2002 and a further sum of Rs.21,62,587/- on 19.09.2005, the amount deposited by them was not even sufficient to meet the interest accrued as on the date of deposits. Even the subsequent amounts deposited by the petitioner could be adjusted only towards interest payable. Despite this Court pointed out the infirmity in the calculation memo by adjusting the deposit towards the principal payable by the petitioner, the learned Government Advocate instead of convincing this Court about how the calculation was sustainable, reiterated that the calculation adopted and submitted before this Court by the petitioner is the one adopted by a Special Tahsildar, Land Acquisition in several cases and that therefore, the respondents are not entitled to more than the amount as indicated in the calculation memo. The petitioner has come with different set of calculation. As per the calculation memo submitted on 03.08.2020, a sum of Rs.3,87,278/- was arrived at by the



petitioner as the amount payable by the petitioner to the respondents. However, in the earlier calculation that was filed in February, 2020, a sum of Rs.9,79,757/- was indicated as the amount payable by the petitioner to the respondents. Both the calculations are contrary to law and ignoring the statutory benefits and interest payable as per the provisions of the Land Acquisition Act and the principles approved by the Hon'ble Supreme Court in the matter of calculating interest. As pointed out earlier, the petitioner is liable to pay a sum of Rs.60,45,353.20 as on 27.08.2020. Further interest is recoverable for the period from 27.08.2020. It is to be noted that the Larger Bench of the Hon'ble Supreme Court in **Prem Nath Kapur's** case reported in **1996 (2) SCC 71** has held that the liability to pay interest is only on the excess amount of compensation determined under Section 23(1) and not on the amount already determined by the Land Acquisition Officer under Section 11 and paid to the party or deposited into the Court. Therefore, the calculation memo submitted by both parties are correct as to the amount payable as on 31.03.1994, that is Rs.23,48,040/-. The Constitutional Bench of the Hon'ble Supreme Court in **Gurpreet Singh** case reported in **2006 (8) SCC 457** has categorically held that the amount deposited by the Land Acquisition Officer pursuant to the enhancement has to be adjusted first towards interest, then towards costs, and thereafter, towards principal. Therefore, the amount deposited by petitioner cannot be adjusted towards the principal amount so as to deprive the respondents from claiming any amount towards interest. By adopting such calculations, the petitioner is now able to protract the proceedings for few decades.

6.The substantial property of the respondents was acquired in the year 1994 and despite passage of 26 years, the petitioner has shown a recalcitrant attitude by preventing the respondents from getting the just compensation with statutory benefits. This Civil Revision Petition is filed unnecessarily to harass the claimants for no purpose. The law of the land should prevail and the petitioner's attitude shows that they are not really to protect the interest of the State but to prolong the misery of the litigants just by being adamant on something which is against the well settled proposition of law.

7.As a result, this Civil Revision Petition is dismissed with cost of Rs.1,50,000/- (Rupee One Lakh fifty thousand only) payable to the respondents within eight weeks from the date of receipt of copy of this order. It is open to the Government to proceed against the Special Tahsildar who was instrumental in sticking to a faulty calculation contrary to statute and pressurise the Government Advocate to stick to it for no plausible or reasonable cause. To avoid attachment of movables, the petitioner shall deposit a sum of Rs.60,45,353/- along with interest at 15% per annum on the sum of



WEB COPY

C.R.P.(MD)No.2020 of 2019

Rs.23,48,040/- for the period from 01.09.2020 within twelve weeks from the date of receipt of this order. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SRM

To

1. The First Additional Sub Court,
Trichirappalli.

2. The Special Tahsildar,
Adi Dravidar Welfare and Land Acquisition Department,
Collectorate, Trichy - 1.

3.The District Collector, Trichy District, Trichy.

COPY TO

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

+1 CC to M/s.D. BOOPAL, Advocate (SR-15196[F] dated 28/08/2020)

+1 CC to M/s.GP (SR-15263[F] dated 28/08/2020)

C.R.P. (MD)No.2020 of 2019

27.08.2020

TR(06.11.2020) 5P 8C