

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.NPD.No.297 of 2021

K.Shanmugam(died)

1.Pangairselvi

2.S.Brindha

3.S.Giriprasath

..Petitioners

Vs.

The Special Tahsildar,
Adi Dravida Welfare Department,
Land Acquisition Officer, Pollachi
since Tiruppur District has been
Bifurcated from Coimbatore District
Now represented by
The Special Tahsildar,
Adi Dravida Welfare Department,
Land Acquisition Officer, Kangeyam

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India praying to direct the learned Sub Judge, Udumalpet to number the execution petition in EPR.SR.No.134 of 2020 in CMA.No.12 of 2008 on the file of the Sub Court Udumalpet without insisting the Successions Certificate from the petitioners by allowing this Civil Revision Petition.

For Petitioners : Mr.D.R.Arun Kumar

For Respondent : Dr.Devnarendran Anand,
Government Advocate

ORDER

This Civil Revision Petition is directed as against the order of return of execution petition in EPR.SR.No.134 of 2020 in CMA No.12 of 2008 on the file of the Sub Court, Udumalpet.

2. The petitioners are the legal heirs of one, late K.Shanmugam. While the said K.Shanmugam was alive, challenged the acquisition proceedings in CMA No.12 of 2008 for enhancement of compensation and the same was decreed by the judgment and decree dated 01.02.2010. Thereafter, he died and as such the legal heirs of the deceased K.Shanmugam, i.e. the petitioner's herein filed petition for execution of the decree. The court below returned the execution petition and directed the petitioners to produce succession certificate.

3. The learned counsel for the petitioners would submit that the compensation awarded under Land Acquisition Act is not a debt as contemplated under Section 214 of Indian Succession Act. Therefore, the petitioners are not required to furnish succession certificate to execute decree of compensation awarded in the land acquisition proceedings. He

also relied upon the judgment in the case of ***Ramkali Vs. State of UP through Collector*** reported in ***AIR 2007 AII 8***, wherein it is held as follows:

7. *In Smt. Rukhsana and Ors. v. Smt. Nazrunnisha and Ors.* 2001(92)RD 386, the Supreme Court held that the Succession Certificate as envisaged under the *Indian Succession Act* was only granted in respect of "debts" or "securities" to which the deceased was entitled. The compensation awarded under the *Motor Vehicles Act* was not a debt nor a succession certificate was required to be obtained in order to claim the compensation awarded under the *Motor Vehicles Act*.

8. *In Resilikutty Chacko and Ors. v. State of Kerala* AIR 1999 Kerala 56, the Court held that a succession certificate was not required to be filed by the heirs of the claimant towards compensation under the *Land Acquisition Act*.

9. In view of the aforesaid, it can clearly be held that the compensation awarded under the *Land Acquisition Act* is not a debt as contemplated under *Section 214* of the *Indian Succession Act* and therefore, the claimants are not required to furnish a succession certificate. Consequently, the direction of the Court by its order dated 17.5.2006 cannot be sustained and is quashed. The writ petition is allowed.

10. The court below will decide as to who are the legal representatives of the original claimant on the basis of the

evidence led by the parties and if the court below is satisfied that the petitioners are the legal representatives of the deceased claimant, in that event, their names would be substituted.

4. Admittedly, the petitioners are the legal heirs of said late K.Shanmugam who filed appeal for enhancement of compensation as against the award passed by the Land Acquisition Officer before the Sub Court, Udumalpet. The compensation was enhanced and decreed by the judgment and decree dated 01.02.2010. Thereafter, the said K.Shanmugam died and his legal heirs filed execution petition for execution of the decree dated 01.02.2010. Further as rightly pointed by the learned counsel for the petitioners, the petitioners are claiming the compensation as awarded under the Land Acquisition Act in CMA.No.12 of 2008 on the file of the Sub Court, Udumalpet.

5. Further, the succession certificate as envisaged under the Indian Succession Act was only granted in respect of debts or securities to which the deceased was entitled. The compensation award under the Land Acquisition Act is not a debt under Section 214 of Indian Succession Act. Therefore, the legal heir certificate produced by the legal heirs can be accepted and proceeded with the execution petition.

6. Accordingly, this Civil Revision Petition is allowed and the petitioners are directed to re-present the execution petition within a period of one week from the date of receipt of copy of this order and on receipt of the same, the learned Sub Court, Udumalpet is directed to number the execution petition and pass orders on merits and in accordance with law. No order as to costs.

The Registry is directed to return the original papers filed in respect of EPR.SR.No.134 of 2020 in CMA No.12 of 2008 on the file of the Sub Court, Udumalpet to the petitioners forthwith after getting necessary endorsement.

22.02.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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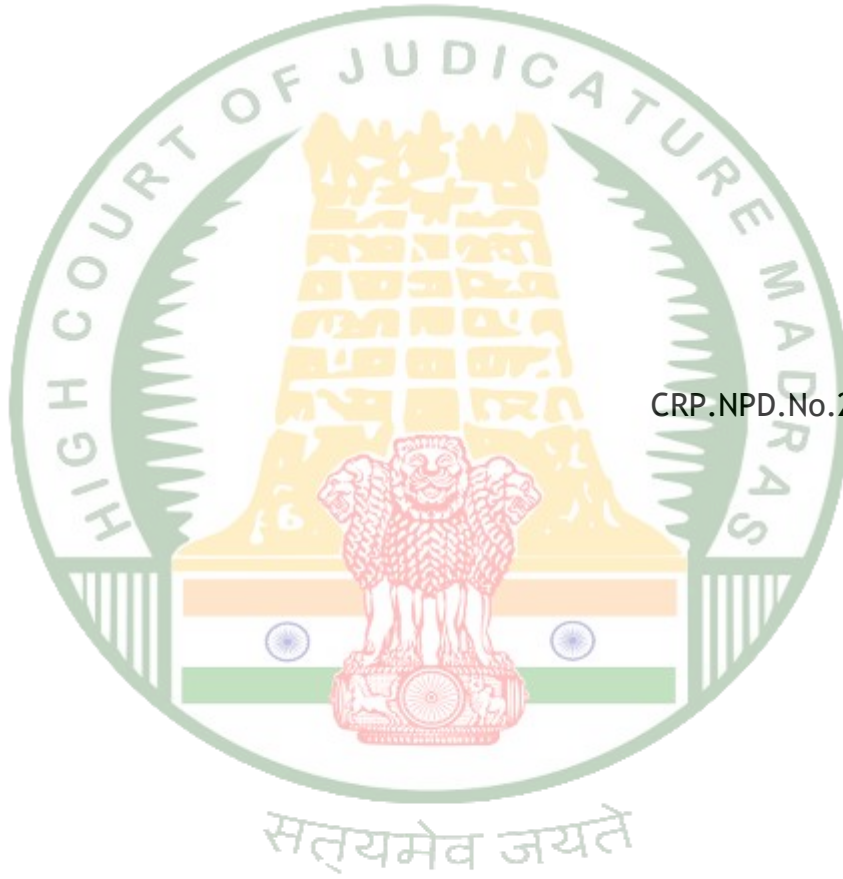
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G.K.ILANTHIRAIYAN,J.

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To

The learned Sub Judge,
Udumalpet



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