

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2021

CORAM

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

CRP.NPD.No. 4408 of 2013

and

MP.No.1 of 2013

Ponnusamy (Died)

1. P.Sumathi
2. P.Srinath
3. Minor Prasanth
S/o.Ponnusamy
Rep.by mother P.Sumathi
4. Anandaraj

... Petitioners

Vs.

1. Sub Collector,
Gobichettipalayam,
Erode District.

2. Sankarammal
3. Marakkal
4. Palanisamy
5. Nataraj
6. Rajammal
7. Karivaradharajan
- Sakthi Sugumaran (Died)
- Loganathan (Died)
8. Gandhimathi
9. Chakaravarthi
10. Selva Poongodi

11. Sundaram
12. Palanisamy
13. D.Thangavelu
14. D.Angusamy
- Kalammal (Died)
15. Thangammal
16. Nagaraj
17. Nagarani
18. Selvi
19. Ramathal
20. Ponnusamy
21. Jothi Kannamma
22. M.Vadivel
23. G.Sathiya
24. M.Poongothai
25. M.Shanthi
26. P.D.Natarajan
27. P.D.Damodharan
28. P.D.Lakshmanan
29. Valliammal
30. Kamatchiammal
31. Velammal
32. Karuppammal

33. The Secretary,
Market Committee,
Punjaipuliampatti Village,
Sathyamangalam Taluk,
Erode District.

34. The Superintendent,
Market Committee,
Punjaipuliampatti Village,
Sathyamangalam Taluk,
Erode District.

35. Kannammal

36. L.Saravanan
37. L.Dhanachaiyan
38. Ramesh
39. Sagunthala
40. Mahalakshmi
41. Karthi Kandan

... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order made in D.No.1207 of 2013 dated 10.10.2013 in L.A.O.P.No.51 of 1988 on the file of Subordinate Judge, Gobichettipalayam.

For Petitioners : Mr.R.T.Doraisamy
For Respondents : Mr.S.Jaganathan
Government Advocate (CS)
(for R1)
: Given up
(for R2 to R32, 35 to 41)
: No Appearance
(for R33 & R34)

ORDER

सत्यमेव जयते

This Civil Revision Petition is directed against the order passed in D.No.1207 of 2013 in L.A.O.P.No.51 of 1988 dated 10.10.2013 on the file of the learned Subordinate Judge, Gobichettipalayam, thereby, directing to re-deposit a sum of Rs.9,97,532/- by petitioners 1 to 3 herein and Rs.3,54,598/- by the 4th petitioner.

2. The petitioners are the claimants in L.A.O.P.No.51 of 1988 and L.A.O.P.No.48 of 1988. As far as petitioners 1 to 3 are concerned, the land comprised in S.F.No.329/5 was acquired by the respondent ad-measuring 1.30 acres. The value of the land was determined by this court at a rate of Rs.1,45,000/- per acre. Accordingly they were entitled for the claim of Rs.1,88,500/-. They were also entitled for the interest at the rate of 12% till 31.08.1987. Thereafter, they were entitled for interest at the rate of 9% for one year and till the realisation they were entitled for interest at the rate of 15% per annum. The Court below calculated the award amount + interest as follows:-

"LAOP.No.51/1988

Ponnusamy-S.F.No.329/5

Extent acquired 1.30 Acre

1. Value of the rate of Rs.1,45,000/- per acre : Rs. 1,88,500.00
= 1.30 cents
2. Additional Value at the rate of 12% from 18.05.1983
to 31.08.1987 (4 years 3 months and 13 days) : Rs. 96,952.00
3. Solatium (30% on Rs.1,88,500/-) : Rs. 56,550.00
Total of (1+2+3) : Rs. 3,42,002.00
4. Amount Received under protest (-) : Rs. 42,390.55
Total : Rs. 2,99,611.45
5. Interest on Rs.2,99,611.45 at the rate of 9% : Rs. 26,965.00
for 1 year from 1.9.1987 to 31.8.1988
Total : Rs. 3,26,576.45

6. Interest on Rs.3,26,576.45 at the rate of 15% from 1.9.1988 to 31.7.2002 (13 years 10 months 30 days)	: Rs. 6,81,728.00
Total	: Rs.10,08,304.45
8. Amount received on 1.2.2002 in E.A.40/02 by kalammal Rs.2,56,257/- Amount received on 5.9.2003 in E.A.No.244/2003 by Ponnusamy Rs.3,86,000/-	
	: Rs. 6,42,257.00
Total	Rs.6,42,257/-
Balance	: Rs. 3,66,047.45
8. Interest at the rate of 8.5% on Rs.3,66,047.45/- from 1.8.2002 to 3.9.2003 (1 year 1 months 2 days)	: Rs. 33,880.00
Total	: Rs. 3,99,927.45
9. Amount Received in I.A.54/11 Cheque issue on 7.12.2011	:Rs.13,97,459.00
10. Excess amount Rs.13,97,459.00-Rs.3,99,927.45	: Rs.9,97,531.55
Rounded to	: Rs.9,97,532.00"

3. The Court below rightly calculated the interest till 31.07.2002 and the first respondent was liable to pay a sum of Rs.10,08,304.45. Insofar as L.A.O.P.No.51 of 1988 is concerned, petitioners 1 to 3 are the claimants. The 1st respondent paid a sum of Rs.2,56,257/- on 01.02.2002 and the balance amount to be paid was calculated at Rs.7,52,047.45. Whereas, the Court below, without calculating the interest at the rate of 15% from

02.02.2002 to 03.09.2003, which comes to Rs.1,78,611/-, adjusted the further payment made on 05.09.2003 at Rs.3,86,000/- and comes to the balance amount of Rs.6,42,257/-. Further, the Court below failed to calculate the interest for the balance amount at the rate of 15% from 06.09.2003 to 03.09.2011. Instead of that the Court below calculated the interest at the rate of 8.5% for the balance payment that too, from 01.08.2002 to 03.09.2003. Finally the Court below adjusted the payment made by the respondent in I.A.No.54 of 2011 at Rs.13,97,459/- and concluded that the petitioners received excess amount of Rs.9,97,532/-, after adding the interest at the rate of 15% from 06.09.2003 to 03.09.2011 for the period of 8 years, which comes to Rs.6,53,589/-, and the total amount being Rs.11,98,247/-. After deducting the payment at Rs.13,97,459/- on 07.12.2011, the excess amount received by the petitioner was only Rs.1,99,212/-.

4. Likewise, the 4th petitioner herein is the claimant in L.A.O.P.No.48 of 1988. The same mistake committed by the Court below while calculating the interest for the 4th petitioner herein in L.A.O.P.No.48 of 1988, without adding the interest at the rate of 15% per annum. The land

comprised in S.No.329/5 ad-measuring 66 cents were acquired by the 1st respondent and the award amount comes to Rs.95,700/-. The payment made by the 1st respondent till 31.07.2002 comes to Rs.5,11,918.95. However, the Court below failed to add the interest from 01.09.1988 to 31.07.2002, but deducted the subsequent payment made by the 1st respondent, which comes to Rs.4,38,687/-. After deduction of final payment at Rs.7,93,285/-, the Court below concluded that the 4th petitioner received an excess award amount of Rs.3,54,598/-. Whereas, the interest at the rate of 15% from 01.08.2002 to 17.04.2012 was not added and after adding the said interest at Rs.3,87,858/, the fourth petitioner received an excess amount at Rs.1,53,782.05.

5. While admitting this Civil Revision Petition, this Court stayed the proceedings on condition that the petitioners are directed to deposit a sum of Rs.7,00,000/- in respect of L.A.O.P.No.51 of 1988. They duly complied the said condition and thereafter, this amount is deposited in the Nationalized bank, by the Court below.

6. As per the calculation memo submitted by the petitioners insofar as

the interest portion is concerned, they complied with the condition, as directed by this Court, on 19.12.2013. As per the above calculation, the petitioners are liable to re-deposit a sum of Rs.3,52,994/- as on 07.12.2011. As directed by this Court, the petitioners deposited a sum of Rs.7,00,000/- on 19.12.2013. Therefore, for the interregnum period viz., on 07.12.2011 to 19.12.2013, the 1st respondent is entitled to get interest at the rate of 15% for the excess amount received by the petitioners herein. The petitioners 1 to 3 are liable to pay interest at the rate of 15% for the excess amount received by them at Rs.1,99,212/- from 07.12.2011 to 19.12.2013, which works out to 60,748/-. As far as the fourth petitioner is concerned, he is liable to pay the interest at the rate of 15% for the excess amount received by him at Rs.1,53,782/- from 18.04.2012 to 19.12.2013, which comes to Rs.38,445/-, thus, totally Rs.4,52,187/- including the excess amount. As directed by this Court, the petitioners deposited a sum of Rs.7,00,000/- on 19.12.2013, which was deposited in the Nationalized Bank. Therefore, the 1st respondent is entitled to withdraw the sum of Rs.4,52,187/- from the Court below with accrued interest. The petitioners are also entitled to withdraw the balance amount, after deducting the excess amount received by them with interest at the rate of 15% at Rs.2,47,813/- with accrued

interest.

7. Accordingly, this Civil Revision Petition is ordered with following directions:-

(i) the petitioners are permitted to withdraw the balance amount of Rs.2,47,813/- with accrued interest.

(ii) the 1st respondent is permitted to withdraw the excess amount paid to the petitioners at Rs.4,52,187/- with accrued interest.

(iii) the Court below is directed to disburse the amount accordingly.

Consequently, the connected Miscellaneous Petition is closed. No costs.

08.03.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

kv

सत्यमेव जयते
WEB COPY

G.K.ILANTHIRAIYAN,J.

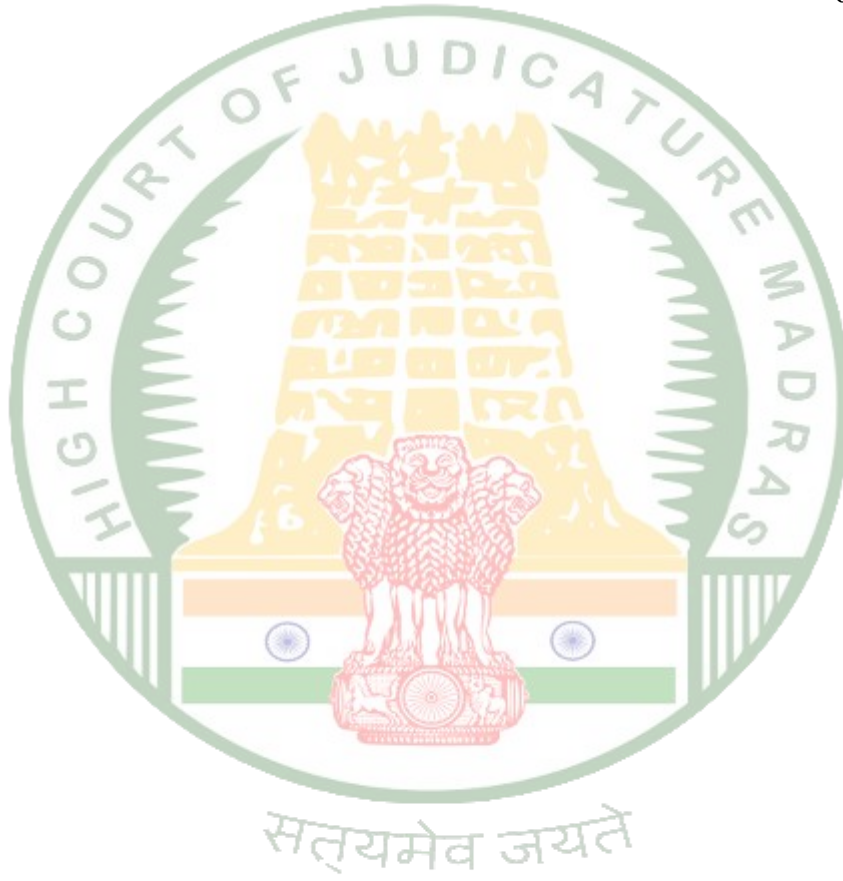
Kv

To

1. The Subordinate Judge, Gobichettipalayam.
2. The Sub Collector,
Gobichettipalayam, Erode District.
3. The Secretary,
Market Committee,
Punjaipuliampatti Village,
Sathyamangalam Taluk,
Erode District.
4. The Superintendent,
Market Committee,
Punjaipuliampatti Village,
Sathyamangalam Taluk, Erode District.

CRP.NPD.No. 4408 of 2013

08.03.2021



WEB COPY