

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2021

CORAM :

THE HON'BLE MR.JUSTICE **C.V. KARTHIKEYAN**

C.R.P.(PD) Nos.1500 and 1501 of 2020
and
C.M.P.Nos.9317 and 9319 of 2020

Pachaiappan

.. Petitioner
in C.R.P.(PD) No.1500 of 2020

Krishnamurthy

.. Petitioner
in C.R.P.(PD) No.1501 of 2020

Vs.

The Revenue Divisional Officer,
Thiruvannamalai

.. Respondents
in C.R.P.(PD) Nos.1500
and 1501 of 2020

Prayer in C.R.P.(PD) No.1500 of 2020: Revision Petition filed under Article 227 of Constitution of India to issue a direction to the Subordinate Judge, Thiruvannamalai to number and expeditiously dispose the Interim application for payment out in unnumbered I.A.SR.No.3377 of 2020 in L.A.O.P.No.17 of 2002

Prayer in C.R.P.(PD) No.1501 of 2020: Revision Petition filed under Article 227 of Constitution of India to issue a direction to the Subordinate Judge, Thiruvannamalai to number and expeditiously dispose the Interim application for payment out in unnumbered I.A.SR.No.3378 of 2020 in L.A.O.P.No.17 of 2002

For Petitioners : Mr.R. Rajarajan
For Respondent : Dr. S. Suriya
Government Advocate

COMMON ORDER

The scope of the revision petitions is very narrow. The revision petitioners/claimants in unnumbered I.A.SR. Nos.3377 and 3378 of 2020 in L.A.O.P. No.17 of 2002 have had a truncated journey. During the course of the said original proceedings, the respondent/Revenue Divisional Officer, Tiruvannamalai, had deposited 40% of the award amount into court. The revision petitioners sought permission to withdraw 2/3rd of the said amount. Their rights to withdraw 2/3rd of the amount deposited, which in fact was 40% of the total award, was recognized by this court in an earlier proceedings in C.R.P.Nos.1655 and 1656 of 2018 by order dated 05.03.2019.

2. Mr. R. Rajarajan, learned counsel for the revision petitioners informed the court that the revision petitioners had also withdrawn 2/3rd of the said amount as directed by this court. With respect to the balance 1/3rd amount there was a claim and the status of such

claimants is seriously questioned by the revision petitioners. In the order in C.R.P.Nos.1655 and 1656 of 2018, a learned Single Judge of this Court had granted permission to the said claimants, who claimed 1/3rd share, to file necessary impleading applications before the trial court and after their status is adjudicated, a judicial order can be passed as to whether they are entitled for 1/3rd share of the amount. The court was informed that impleading applications have been filed and they are posted for enquiry.

3. In the meanwhile, the respondent had, owing to some good fortune, deposited the balance 60% of the award amount, to the credit of L.A.O.P No.17 of 2002. This had given rise to one further issue, namely withdrawal of the amount and the ratio thereof.

4. The revision petitioners herein filed an application seeking permission to withdraw 2/3rd of the amount as indicated in the order in C.R.P. Nos 1655 and 1656 of 2018.

5. Those applications came to be rejected even without being taken on file by the learned Subordinate Judge, Thiruvallamalai, who fell back to the earlier order of this court in CRP.Nos.1655 and 1656 of 2018 and directed the revision petitioners to get appropriate directions from this Court.

6. I am not able to comprehend such a direction. The learned Subordinate Judge should take up the responsibility of determining whether the application should be taken on file, and thereafter, pass a judicial order. Merely relegating the parties to go back to another court should not be the approach. I would, therefore, direct the Subordinate Judge, Tiruvannamalai, to take up the applications, if they are otherwise in order, and thereafter, number them and if the learned Subordinate Judge is satisfied about the identity of the parties, apply the very same ratio for payment out, namely $2/3^{\text{rd}}$ to the present revision petitioners, and hold back $1/3^{\text{rd}}$ of the amount deposited, to be given to the claimants who are to be identified on adjudication of the impleading applications which are still pending.

7. Even before this Court, the rival claimants had filed C.M.P.No. 9319 of 2019 in C.R.P.No.1500 of 2020 and C.M.P.No. 9317 of 2020 in C.R.P.No.1501 of 2020. Since the matter is being remitted back to the trial court, no separate orders are required in the said civil miscellaneous petitions and therefore, they are closed.

8. The Civil Revision Petitions are disposed of with the above direction. If the identity is not disputed, then the learned Subordinate

Judge may pass orders with respect to 2/3rd of the amount and may retain back 1/3rd to be determined to whom it shall be given, after adjudicating the impleading application. No costs. Consequently, the connected miscellaneous petitions are closed.

20.07.2021

Index : Yes/No

mrn

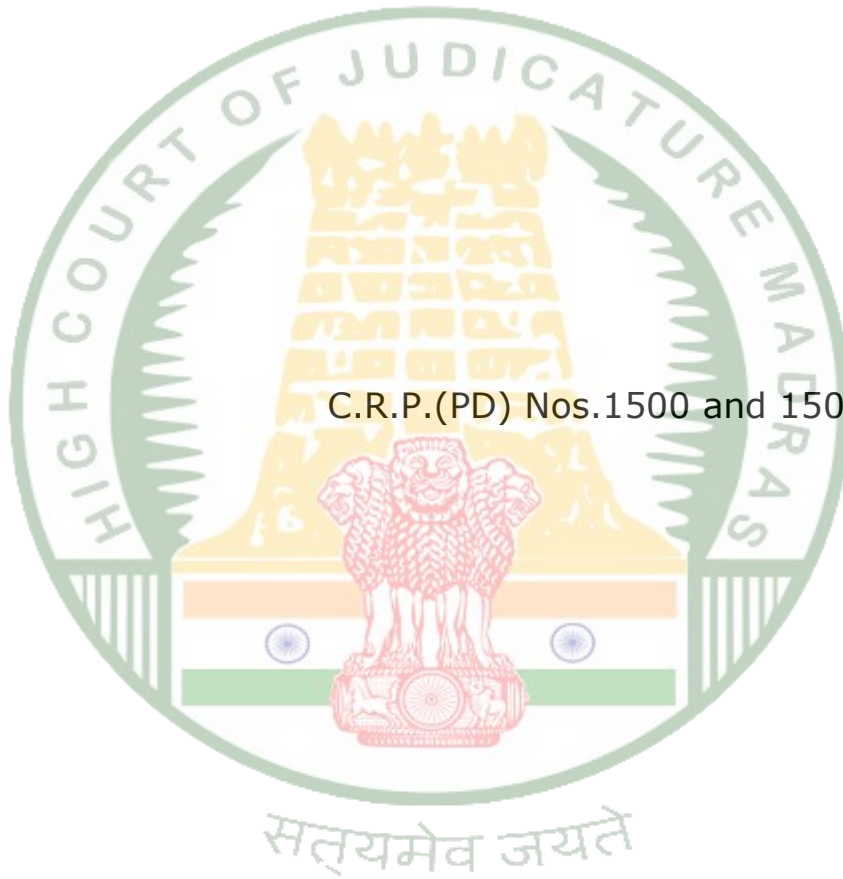
To
The Additional District Court, Hosur.



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C.V. KARTHIKEYAN, J.

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