



## BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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| RESERVED ON  | 18.12.2020 |
| DELIVERED ON | 08/01/21   |

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CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD) No. 242 of 2016 (NPD)

Shanthi ... Petitioner/Petitioner/Claimant/Land Owner/  
Decree Holder

vs.

1. The Special Tahsildar (Land Acquisition),  
Urban Development Scheme,  
Maharaja Nagar, Tirunelveli.
2. The District Collector,  
Tirunelveli District.
3. The Tamil Nadu Housing Board  
represented by Executive Engineer and  
Administrative Officer, Tirunelveli Housing Unit,  
Tirunelveli. ... Respondents/Respondents/Referring Officer

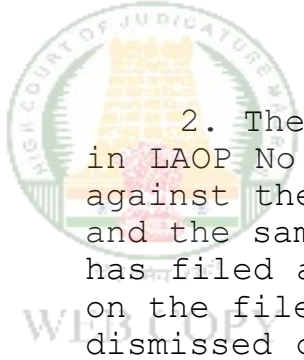
[Respondent Nos.2 & 3 are suo motu impleaded vide Court order, dated 29.02.2016].

**PRAYER:** Petition filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order, dated 12.10.2015 passed in E.P. No. 135 of 2013 in L.A.O.P. No.41 of 1990 on the file of the Principal Sub Court/Land Acquisition Claim Tribunal, Tirunelveli by allowing the Civil Revision Petition.

For Petitioner : Mr.V. Meenakshi Sundaram  
for Mr.D. Nallathambi  
For R-1 & R-2 : Mr.J. Gunaseelan Muthiah  
Additional Government Pleader  
For R-3 : Mr.Athiff,  
Standing Counsel

**ORDER**

The Civil Revision has been filed to set aside the fair and decreetal order, dated 12.10.2015 in E.P. No. 135 of 2013 in L.A.O.P. No.41 of 1990 passed by the learned Principal Sub Judge, (Land Acquisition Claim Tribunal), Tirunelveli.



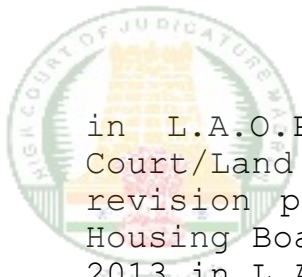
2. The revision petitioner herein is a decree holder/land owner in LAOP No. 41 of 1990 and the same was dismissed on 12.10.2015 and against the said order, the revision petitioner has filed an appeal and the same was partly allowed. Thereafter, the revision petitioner has filed a petition in E.P. No. 135 of 2013 in LAOP No. 41 of 1990 on the file of the Principal Sub Court, Tirunelveli and the same was dismissed on 12.10.2015. Aggrieved over the same, the instant Civil Revision Petition is filed.

3. The learned counsel appearing for the revision petitioner submitted that the Execution Court ought to have exercised its inherent power and suo-motto issued notice to the Tamil Nadu Housing Board and proceeded with the Execution Petition and the present dismissal order for not impleading requisition body is incorrect. He further submitted that when the respondent herein is set ex-parte before the Execution Court, the Execution Court ought to have taken all possible steps to realize the award amount to the claimant/petitioner herein. He further submitted that the order passed in E.P. No.135 of 2013 in LAOP No.41 of 1990 passed by the learned Principal Sub Judge, Tirunelveli is liable to be set aside and the Execution petition has to be restored and the requisition body has to be impleaded by suo-motto power and the Execution petition has to be disposed of in accordance with law.

4. Heard the learned counsel appearing for the revision petitioner and the learned Additional Government Pleader appearing for R-1 & R-2 and the learned standing counsel appearing for the third respondent and perused the material documents available on record.

5. The revision petitioner herein has filed LAOP No.41 of 1990 and award was passed against the Special Tahsildar (Land Acquisition) on the basis of award the revision petitioner had filed a petition in E.P. No.135 of 2013 for attachment of movables of Tamil Nadu Housing Board, Tirunelveli. The E.P. No.135 of 2013 was dismissed as the Tamil Nadu Housing Board was not a party either in LAOP or in E.P. Against the dismissal order, this revision petition has been filed. In this revision, the District Collector, Tirunelveli District and the Tamil Nadu Housing Board, Tirunelveli Housing Unit, Tirunelveli were suo motu impleaded by this Court as Respondent Nos.2 & 3. The respondent Nos.2 & 3 did not file any petition to agitate the suo motto order. Even in appeal in A.S. No. 216 of 2000 the Tamil Nadu Housing Board was added as R-2, no appeal was preferred against the impleading order. Now, the Tamil Nadu Housing Board, Tirunelveli Housing Unit, Tirunelveli was added. The order, dated 12.10.2015 passed in E.P. No.135 of 2013 in LAOP No.41 of 18990 for attachment of movables of Tamil Nadu Housing Board is valid since the land acquisition is only for Tamil Nadu Housing Board.

6. Finally, the Civil Revision Petition is allowed and the fair and decreetal order, dated 12.10.2015 passed in E.P. No. 135 of 2013



in L.A.O.P. No.41 of 1990 on the file of the Principal Sub Court/Land Acquisition Claim Tribunal, Tirunelveli is set aside. The revision petitioner is directed to proceed against R-3/Tamil Nadu Housing Board, Tirunelveli District, Tirunelveli, in E.P. No. 135 of 2013 in L.A.O.P. No.41 of 1990. No costs.

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Sd/-

Assistant Registrar (ADII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1. The Principal Sub Court/Land Acquisition Claim Tribunal,  
Tirunelveli.
2. The District Collector,  
Tirunelveli District.
3. The Administrative Officer, an Executive Engineer  
Tamil Nadu Housing Board  
Tirunelveli Housing Unit,  
Tirunelveli.
4. The Section Officer, V.R.Section, (2Copies)  
Madurai Bench of Madras High Court,  
Madurai.

+1 CC to M/s.D.NALLA THAMBI, Advocate ( SR-782[F] dated 11/01/2021 )

+1 CC to M/s.SPL GP ( SR-790[F] dated 11/01/2021 )

C.R.P. (MD) No.242 of 2016 (NPD)  
08.01.2021

KMV(CO)

KB(27.01.2021) 3P 8C