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C.R.P.No.13 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2022

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THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

C.R.P.No.13 of 2020

and

C.M.P.No.96 of 2020

1. The Special Revenue Divisional Officer,
N.Hai 68 having 3/B-8,
Ram Nagar Road, Swarnapuri 2nd Gate,
Salem – 634 004.
2. The Special Tahsildar
N.HAI 68 having 3/B-8,
Ram Nagar Road, Swarnapuri 2nd Gate,
Salem – 634 004.
3. The District Collector,
Salem having his office at Salem Collectorate,
Cherry Road,
Salem – 636 001.
4. The Tahsildar,
Salem having his Office at
Taluk Office, in SCCB Premises,
Opposite to State Bank of Hyderabad,
Salem – 636 001.
5. The Village Administrative Officer,
Dhadagapatty, Salem.

... Petitioners

Vs.

S.Vijayalakshmi

... Respondent



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Prayer: This Civil Revision Petition had been filed under Article 227 of the Constitution of India, to set aside Fair Order and Decretal order dated 15.10.2019 passed by the Principal District Munsif Court, Salem in I.A.No.327 of 2018 in O.S.No.689 of 2012.

For petitioners	: Mr.S.R.Rajagopal Assisted by Mr.N.Manikandan, Government Advocate.
For Respondent	: Mr.P.B.Sampath Kumar

ORDER

This Civil Revision Petition had been filed to set aside the fair and decretal order dated 15.10.2019 passed by the Principal District Munsif Court, Salem in I.A.No.327 of 2018 in O.S.No.689 of 2012.

2. The learned Government Advocate appearing for the Revision Petitioner stated that this Civil Revision Petition had been filed against the order of the learned Principal District Munsif, Salem dismissing the petition to reopen the defendant's evidence in I.A.No.327 of 2018.

3. It is the submission of the learned Government Advocate that the Land Acquisition proceedings had been completed in the year 2010 itself and compensation has also been deposited and communication was also sent



C.R.P.No.13 of 2020

to the Plaintiff in O.S.No.689 of 2012. Therefore, the suit itself is not maintainable. Aggrieved by the order of dismissal in I.A.No.327 of 2018, Revision Petition has been filed before this court. The further submission of the learned Counsel for the Petitioner is that the delay is due to the communication between the National Highways Authority, New Delhi and the Special Revenue Divisional Officer, National Highways Authority. Therefore, he seeks for allowing this Civil Revision Petition by setting aside the order in I.A.No.327 of 2018 in O.S.No.689 of 2012 with a direction to the learned Principal District Munsif, Salem, to dispose of the case within a reasonable period.

4. The learned Counsel for the Respondent/Plaintiff in O.S.No.689 of 2012 submitted that in the written statement, the Petitioner herein as Defendant in the suit, had denied the title of the Plaintiff in the suit property stating that it is a poromboke land. Therefore, the Respondent herein as Plaintiff, had approached the learned Principal District Munsif, Salem with the suit seeking for declaration of title to the suit property. It is the further submission of the learned Counsel for the Respondent/Plaintiff that the written statement of the Defendant clearly disputes the title of the Plaintiff



C.R.P.No.13 of 2020

and the question of compensation. Further, he would submit that as per the Land Acquisition proceedings, the procedures were not adopted in this case.

No notice was given and no enquiry conducted. Therefore, the suit has to be taken to the logical conclusion.

5. The contents of the written statement filed by the Third Defendant in O.S.No.689 of 2012 are extracted hereunder:-

“3. The allegations made in para 3 of the plaint are partly true and partly incorrect. The Proper notice was issued to the concerned owner of the property whose name in the revenue records and more over the acquired property in the land of the department and more over all the required formalities comply by the department before ever the acquisition proceedings are started and the plaintiff has not objected for the acquisition and even there is any objection it cannot be valid in eye of law.



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C.R.P.No.13 of 2020

4. The exercise of law full authority cannot be prevented by means of filing this vexatious suit and the suit itself not maintainable and absolutely false that no oral instructions given to the plaintiff has alleged and the plaintiff is not entitled any declaration as sought for the allegation mentioned in the plaint are hereby denied and no relief is granted and the objections are meaningless and it should be rejected.

5. There is no cause of action for the suit arose on and the suit is not properly valid for the purpose of court fees and jurisdiction and entire acquisition proceedings is over and suit itself is liable to be dismissed and this defendant reserve his right to file additional written statement if any necessary.”

6. In the light of the rival submission, the Petitioner herein as Defendant in the suit, has to consider the payment of solatium, additional



C.R.P.No.13 of 2020

compensation and interest for the belated payment at 9% for the first year and 15% for the subsequent years.

7. With the above observations, this Civil Revision Petition is allowed with a direction to the learned District Munsif, Salem to consider the marking of documents by the Petitioner herein during trial. The Respondent/Defendant shall co-operate before the trial Court for early disposal of the case. The submission of the learned Counsel for the Respondent/Plaintiff is accepted by this Court, with a direction to the Petitioner herein to consider the submission of the learned Counsel for the Respondent/Plaintiff. The learned Principal District Munsif, Salem is also directed to consider the submission made in the Civil Revision Petition by the learned Counsel for the Plaintiff. No costs. Consequently, connected miscellaneous petition is closed.

24.08.2022

Index : Yes / No
Internet : Yes / No
Speaking Order/Non-Speaking Order
kmm



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SATHI KUMAR SUKUMARA KURUP, J.

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