



C.R.P.No.1657 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2022

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

C.R.P.No.1657 of 2015
and M.P.No.1 of 2015

M.Kuppusamy Chetty

... Petitioner

Vs.

1.The Special Tahsildar,
(Adhidraavidar Welfare Department)
Land Acquisition Officer,
Dharmapuri.

2.The District Collector,
Dharmapuri.

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed in REA No.51/2014 dated 19.01.2015 in REP No.32 of 2012 in LAOP No.1 of 2005 on the file of the Sub- Court, Dharmapuri.

For Petitioner : Mr.C.Munusamy

For Respondents : Mr.M.R.Gokul Krishnan
Additional Government Pleader



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ORDER

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The subject matter of challenge in the present Civil Revision Petition pertains to the fair and decreetal order passed in R.E.A.No.51 of 2014 in R.E.P.No.32 of 2012, dated 19.01.2015, by the Sub Court, Dharmapuri, condoning the delay of 742 days in filing the petition to raise the attachment.

2.The short facts that are necessary to decide this Civil Revision Petition is that the property belonging to the petitioner was acquired through a notification issued under Section 4(1) of the Land Acquisition Act, 1894 (herein after called as "Act").

3.Thereafter, the declaration under Section 6 of the Act was published on 03.02.1999 and the Award enquiry was fixed. Notice was issued to the petitioner and the Land Acquisition Officer through Award dated 10.01.2010 fixed the compensation payable by the respondents at Rs.25,000/- per Hectare. Aggrieved by the same, the petitioner sought for a reference and the Reference Court enhanced the compensation from Rs.25,000/- per Hectare to Rs.11,32,560/- through a Judgment and Decree dated 10.04.2007 made in LAOP No.1 of 2005.



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4. Aggrieved by the same, the 1st respondent filed an appeal before this Court in A.S.No.581 of 2008. The appeal was dismissed by Judgment and Decree dated 28.01.2011 and thereby, the Award amount that was fixed by the Reference Court was confirmed.

5. The Award amount was not paid to the petitioner and hence, E.P.No.32 of 2012 came to be filed before the Sub Court, Dharmapuri. An order of attachment came to be passed on 18.09.2012. The respondents filed R.E.A.No.51 of 2014 to condone the delay of 742 days in filing the petition to raise the attachment.

6. The Court below through fair and decreetal order dated 19.01.2015, condoned the delay mainly on the ground that the entire compensation amount that was payable to the petitioner has been deposited and hence, no prejudice will be caused to the petitioner, if the delay is condoned. Aggrieved by the same, this Civil Revision has been filed by the claimant.

7. Heard Mr.C.Munusamy, learned counsel appearing on behalf of



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the petitioner and Mr.M.R.Gokul Krishnan, learned Additional Government Pleader appearing on behalf of the respondents.

8.When the matter came up for hearing on 08.12.2022, this Court passed the following order:

The Execution Petition was filed for the recovery of the compensation amount of Rs.64,42,139.69. Out of this amount, a sum of Rs.31,59,849/- was already deposited and the balance amount of Rs.33,00,236/- was not deposited and that gave rise to the filing of the Execution Petition. The concerned official filed his sworn affidavit before the Court below to condone the delay in filing the petition to the effect that the balance compensation amount of Rs.33,00,236/- has also been deposited. This stand taken by the Tahsildar, was taken into account by the Court below and the condone delay petition was allowed.

2.The learned counsel for the petitioner shall take instructions as to whether the amount that was deposited by the respondents has already been withdrawn. If the amount has not been deposited as stated in the sworn affidavit, the same shall also be brought to the notice of this Court. The learned Additional Government Pleader shall also take instructions in this regard.



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3.Post this case under the caption 'for passing final orders' next week.

9.When the matter was taken up for hearing today, the learned counsel for the petitioner filed memo of calculation. On carefully going through the memo of calculation, it is seen that the compensation amount has been paid to the petitioner on three occasions. The first time, the compensation was paid at the time of passing the Award to the tune of Rs.61,588/-. The second time, the compensation amount was paid in December 2009, to the tune of Rs.31,59,849/-. The final payment was made during June 2013 to the tune of Rs.33,00,236/- The claim of the respondents is that by virtue of these payments, the entire compensation has been paid to the claimants. However, the learned counsel for the petitioner contended that the interest is payable under Section 34 of the Act from the date when the possession was taken till the date when the entire deposit is made. Keeping this as the basis, the memo of calculation has been filed.

10.As per the memo of calculation, if the final compensation amount as decided by the Reference Court is taken into consideration, as



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per the claimant, the interest amount itself works out to a sum of Rs.58,83,780/- till 12.12.2022. On the alternative, the calculation memo has also been worked out by taking into consideration the compensation that was fixed by the Land Acquisition Officer and if interest is calculated on this amount, according to the petitioner, the total interest amount payable works out Rs.54,36,094.34/-

11.The learned Additional Government Pleader appearing on behalf of the respondents seriously objects to the calculation memo that has been filed by the claimant.

12.In the considered view of this Court, the Court below has merely condoned the delay in filing the petition to raise the order of attachment. This order was passed on the premise that the entire compensation has been deposited/paid by the respondents. It is apparent from the memo of calculation that there is a serious dispute with regard to the payment of the entire compensation with interest. This dispute cannot be gone into in this Civil Revision Petition, since it requires factual determination. Hence, this Court deems it fit and proper to send back the matter to the Court below with a direction to the Court



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below to fix the balance compensation amount payable to the petitioner, if any. This exercise shall be done by the Court below while dealing with the petition filed by the respondent to raise the order of attachment. The Court below shall pass final orders, within a period of eight weeks from the date of receipt of the web copy of this order. The compliance report shall be filed before this Court after the completion of the proceedings.

13.This Civil Revision Petition is disposed of with the above direction. No Costs. Consequently, connected miscellaneous petition is closed.

12.12.2022

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
ssr

To

1.The Sub- Court, Dharmapuri.



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N. ANAND VENKATESH, J.

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