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C.M.P.Nos.14475 & 14479 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

C.M.P.No.14475 of 2020 in Cros. Obj.No.48 of 2010

and

C.M.P.No.14479 of 2020 in A.S.No.960 of 2008

1.P.Mariammal (Died)

2.P.Sengodan

3.P.Palaniappan

4.S.Rajesh

... Petitioners/ Cross Objectors 2, 3,
5 in Cross Objn No.48 of 2010
and A.S.No.960 of 2008

5.AthayeeAmmal

... Petitioner/ 6th Cross Objector in
Cross Objn No.48 of 2010

Vs.

1.The Land Acquisition (Spl) Tahsildar,
Salem Karur Broad Gauge – Railway Project,
Salem – 636 001.

2.The Deputy Chief Engineer (Construction),
Salem Karur Broad Gauge – Railway Project,
Southern Railway, Salem – 636 005.

...Respondents/ Respondents in
Cross Objn No.48 of 2010

1.The Land Acquisition (Spl) Tahsildar,



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Salem Karur Broad Gauge – Railway Project,
Salem – 636 001.

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... Respondent/ Appellant in AS.960/08

2.The Deputy Chief Engineer (Construction),
Salem Karur Broad Gauge – Railway Project,
Southern Railway, Salem – 636 005.

... Respondent/ 6th Respondent in AS.960/08

3.S.Venkatesh

... Respondent/ 4th Respondent in AS.960/08

Common Prayer: Civil Miscellaneous Petitions filed under Section 152 of the Code of Civil Procedure to amend the decree by incorporating in the Common Decree passed in A.S.No.960 of 2008 and Cross Objection No.48 of 2010 dated 15.09.2011, the 15% interest payable as per Section 28 of the Land Acquisition Act.

For Petitioners : Mr.T.R.Rajaraman

For Respondents : Mr.T.Chandrasekaran,
Special Government Pleader for R1

Mr.P.T.Ramkumar for R2



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COMMON ORDER

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(Order of the Court was made by **R.SUBRAMANIAN, J.**)

The petitioner seeks amendment of the decree in A.S.No.960 of 2008 and Cross Objection No.48 of 2010.

2. While disposing of the appeal and cross objection filed under the Land Acquisition Act, a Division Bench of this Court in the operative portion of the judgment has concluded as follows:-

In the result, A.S.No.960 of 2008 stands dismissed and Cross Objection No.48 of 2010 is partly allowed and the market value is enhanced to Rs.120/- per sq.ft with statutory benefits. However, interest at 9% is payable only from 23.10.2000. The Special Government Pleader shall be entitled to claim separate fees of Rs.2000/- (Rupees two thousand only) in the appeals and cross objections. No costs.

3. While drafting the decree, the date of commencement of interest at 9% has been given as 23.10.2000. However, the provision for payment of 15% interest after one year has been omitted. Under Section 34



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of the Land Acquisition Act, the land owner is entitled to 9% interest for a period of 1 year from the date of taking possession and 15% thereafter. This is a statutory entitlement which cannot be refused. Therefore, there is an error in drafting of the decree. Hence, these petitions are allowed and clause (2) of the decree will be amended as follows:-

(2) That the enhanced compensation shall carry interest at 9% for a period of 1 year from 23.10.2000 and at 15% thereafter till the date of payment.

4. The Registry is directed to issue amended decree copy by 12.01.2023.

(R.S.M., J.) (S.S.K., J.)
19.12.2022

dsa
Internet :No
Index :Yes
Speaking order



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To

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R.SUBRAMANIAN, J.
and
SATHI KUMAR SUKUMARA KURUP, J.

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