

**IN THE HIGH COURT OF JUDICATURE AT MADRAS****DATED:22.11.2022****CORAM:****THE HONOURABLE Mr. JUSTICE S.SOUNTHAR**

C.R.P.No.3128 of 2022
and C.M.P.No.16800 of 2022

Executive Engineer and ADO,
Tamil Nau Housing Board,
Villupuram Housing Unit,
Villupuram.

...Petitioner

Versus

1.R.Jayabal
2.The Special Tahsildar,
Land Acquisition,
Cuddalore..

...Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, praying to set aside the Docket Order dated 01.07.2022 passed in E.P.No.150 of 2012 in LAOP.No.115 of 1996, passed by the learned Principal Subordinate Judge, Villupuram.

For Petitioner :Mr.M.K.Kabir

Senior Advocate

For Respondents :Mr.C.Munusamy

for R1

M/s.Dr.S.Suriya

Additional Government Pleader

for R2



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O R D E R

The Civil Revision Petition is filed challenging the order dated 01.07.2022 directing the attachment of properties of the petitioner.

2. The first respondent herein filed E.P.No.150 of 2012 for recovery of the Land Acquisition Compensation amount fixed in award passed in LAOP.No.115 of 1996 as enhanced by this Court in Appeal.

3. Earlier the Executing Court directed the petitioner to pay a sum of Rs.15,07,371.98/- to the first respondent by order dated 09.09.2021. The said order was challenged by the petitioner in CRP.Nos.2290 to 2292, 2298 and 2306 of 2021. The said Civil Revision Petitions were allowed with a direction to the Court below to give an opportunity to the petitioner to file a counter affidavit in execution petition, hear parties and pass fresh orders.



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4. The learned counsel for the petitioner submits that thereafter the petitioner herein filed a counter in execution petition. In the counter affidavit filed in Execution Petition, the petitioner had stated that the entire compensation amount as enhanced by this Court has already been paid to the first respondent. It is stated that the petitioner herein also filed a calculation memo dated 12.11.2021, wherein it was mentioned that the entire amount has been already paid to the first respondent and in fact as per the calculation memo of the petitioner, it has paid a sum of Rs.18,68,603.98/- in excess of what is due to the respondent. Thereafter, the Executing Court passed an order on 02.03.2022, directing the petitioner to pay a sum of Rs.15,32,060.98/- to the first respondent. Even though, this Court in the earlier order dated 22.10.2021 made in CRP.Nos.2290 to 2292, 2298 and 2306 of 2021 directed the Executing Court to give an opportunity to both the parties and passed an order in accordance with law, the Executing Court appeared to have passed an order dated 02.03.2022, without considering the calculation memo filed by both the parties. Subsequently in pursuance of the order passed on 02.03.2022, by way of impugned order, the Executing Court passed an order for attachment of the property of the petitioner herein.



Challenging the order of attachment, the petitioner is before this Court.

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5. Though the petitioner has not challenged the order dated 02.03.2022, which is a non-speaking order, the same is merged with the subsequent order passed on 01.07.2022 and the order dated 02.03.2022 directing the petitioner to pay a sum of Rs.15,32,060.98/- to the first respondent cannot be sustained as it is a non-speaking order. Therefore, this Court is inclined to set aside the order and also, consequently, the order dated 01.07.2022 attaching the property of the petitioner.

6. Both the learned counsel for the petitioner and the learned counsel for the first respondent/claimant agreed that order dated 02.03.2022 and the consequent order dated 01.07.2022 may be set aside and the matter may be remanded back for fresh consideration.

7. In view of the discussions made earlier, the Civil Revision Petition stands allowed, the order dated 02.03.2022 and 01.07.2022 made in E.P.No.150 of 2012, on the file of the Principal Subordinate Judge, Villupuram, are set aside and the matter is remanded back to the same Court



to consider the memo of calculations filed by the petitioner as well as the respondent and pass a fresh order on its own merits in accordance with law.

8. In view of the fact that the acquisition proceedings were of the year 1996, this Court is inclined to issue a direction to the executing Court to pass a final order in Execution Petition on or before 30.01.2023. No costs. Consequently, connected miscellaneous petition is closed.

22.11.2022

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Index: Yes/ No
Speaking Order / Non-Speaking Order
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S.SOUNTHAR, J.

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To

The Principal Subordinate Judge,
Villupuram.



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