



WEB COPY



C.R.P. (NPD) .Nos.3012 and 3013 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(NPD).Nos.3012 and 3013 of 2021

and

C.M.P.Nos.21392 and 21394 of 2021,

C.M.P.No.21388 of 2021 in CRP.Sr.No.104945 of 2021

and

C.M.P.No.21389 of 2021 in CRP.Sr.No.104952 of 2021

C.R.P.No.3012 of 2021 and
C.M.P.No.21388 of 2021 in
CRP.Sr.No.104945 of 2021:

1.Tamil Nadu Housing Board, Chennai
by its Managing Director and its Chairman.

2.Tamil Nadu Housing Board,
Ashok Nagar, Chennai
by its Executive Engineer

...Petitioners

Vs.

1.N.Ramasamy
2.The Revenue Divisional Officer,
Cuddalore.

...Respondents

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C.R.P. (NPD) .Nos.3012 and 3013 of 2021

PRAYER in C.R.P.No.3012 of 2021: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, praying to allow this Civil Revision Petition and set aside the impugned order dated 20.10.2021 (Docket order) made in E.P.No.25 of 2013 in LAOP.No.19 of 1990, on the file of the Special Sub Judge (LAOP), Cuddalore.

PRAYER in C.M.P.No.21388 of 2021 in CRP.Sr.No.104945 of 2021: Civil Miscellaneous Petition filed under Section 5 of the Limitation Act, praying to condone the delay of 1932 days in filing the above Civil Revision Petition challenging the fair and decreetal order dated 06.11.2014 made in E.P.No.25 of 2013 in LAOP.No.19 of 1990, on the file of the Special Sub Judge (LAOP), Cuddalore.

C.R.P.No.3013 of 2021 and
C.M.P.No.21389 of 2021 in
CRP.Sr.No.104952 of 2021::

1.Tamil Nadu Housing Board, Chennai
by its Managing Director and its Chairman.

2.Tamil Nadu Housing Board,
Ashok Nagar, Chennai
by its Executive Engineer

...Petitioners

Vs.

1.N.Srinivasan

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2. The Revenue Divisional Officer,
Cuddalore.

...Respondents

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PRAYER in C.R.P.No.3013 of 2021: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, praying to allow this Civil Revision Petition and set aside the impugned order dated 20.10.2021 (Docket order) made in E.P.No.26 of 2013 in LAOP.No.20 of 1990, on the file of the Special Sub Judge (LAOP), Cuddalore.

PRAYER in C.M.P.No.21389 of 2021 in CRP.Sr.No.104952 of 2021: Civil Miscellaneous Petition filed under Section 5 of the Limitation Act, praying to condone the delay of 1866 days in filing the above Civil Revision Petition challenging the fair and decreetal order dated 06.11.2014 made in E.P.No.26 of 2013 in LAOP.No.20 of 1990, on the file of the Special Sub Judge (LAOP), Cuddalore.

For Petitioners : Mr.S.Silambanan,
Additional Advocate General
for Dr.R.Gouri

For Respondents : Mr.T.S.Baskaran for R1
Mr.M.Bindran,
Additional Government Pleader
for R2



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COMMON ORDER

WEB COPY Mr.T.S.Baskaran, learned counsel appearing for the 1st respondent in CRP.Nos.3012 and 3013 of 2021 would submit that the 1st respondent in CRP.Nos.3016 and 3017 of 2021 are no more and he has no vakalat for the 1st respondent in CRP.No.3015 of 2021. He also takes notice for the 1st respondent in CMP.Nos.21388 and 21389 of 2021. Hence, the other Civil Miscellaneous Petitions viz., CMP.Nos.21398, 21399, 21401 of 2021, C.M.P.No.21387 of 2021 in C.R.P.Sr.No.104949 of 2021 and C.M.P.No.21396 of 2021 in C.R.P.Sr.No.104944 of 2021 and Civil Revision Petitions viz., CRP.Nos.3015, 3016 and 3017 of 2021 are de-linked.

2. This order pertains only to CRP.Nos.3012 and 3013 of 2021 and CMP.No.21388 of 2021 in CRP.Sr.No.104945 of 2021 and CMP.No.21389 of 2021 in CRP.Sr.No.104952 of 2021. These Revisions arises in a proceeding for execution of the awards passed in LAOP.Nos.19 and 20 of 1990.



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WEB COPY 3. Certain lands belonging to the 1st respondent in these Revisions were acquired for the purpose of construction of houses by the petitioners herein. The Land Acquisition Officer passed an award on 03.08.1988 granting a sum of Rs.3/- per sq.ft. for the land acquired. Upon reference before the sub-Court, the learned Subordinate Judge, Cuddalore enhanced the award to Rs.15/- per sq.ft. The award of the Sub-Court became final. An attempt to challenge the award was un-successful, since the applications for condonation of delay were dismissed by this Court.

4. Thereafter, the land owners levied execution proceedings and amounts were deposited on various dates during the course of execution proceedings. There arose a dispute as to whether the entire amount payable was paid or not. Liability to pay interest on solatium and the additional amount of 12% granted under Section 23A was also raised. The executing Court passed an order in the year 2002 which was subject matter of Revisions in CRP.Nos.1654 to 1662 of 2002. Those Revisions came to be dismissed on 19.06.2012. This Court however while dismissing the



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Revisions gave liberty to the petitioners viz., the Land Acquisition Officer to raise issue relating to arithmetic calculation before the executing Court.

5. Thereafter, the executing Court passed an order fixing the amount that is to be paid by the petitioners as compensation on 06.11.2014. Thereafter, an order of attachment was passed by the executing Court on 09.03.2016. Against which the Civil Revision Petitions were filed before this Court in CRP.Nos.2156 to 2160 of 2016. Those revisions came to be dismissed on the ground that the orders fixing the amount dated 06.11.2014 were not challenged. Subsequently, the executing Court passed the impugned order of attachment on 20.10.2021.

6. While the Civil Revision Petitions in CRP.Nos.3012 and 3013 are against the orders of attachment. The petitions for condonation of delay in CMP.Nos.21388 and 21389 of 2021 have been filed seeking condonation of delay in challenging the orders dated 06.11.2014 determining the amount.



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WEB COPY 7. Pending the Revisions Mr.S.Silambanan, learned Additional Advocate General took time to re-work the calculation based on the judgment of mine in *The Executive Engineer, Tamil Nadu Housing Board Vs. V.Saraswathiammal and others*, wherein, I had indicated as to how the apportionment has to take place.

8. A calculation was filed taking the date of taking possession as 11.09.1989. The learned counsel for the respondents Mr.T.S.Baskaran has filed a calculation stating that the date of taking possession was 03.08.1988 i.e., the date of the award. Normally possession is taken on the date of the award, unless it is shown that there was a stay or that the Acquiring Authority was prevented from taking possession. It is now found that the date viz., 11.09.1989 is actually the date on which the Revenue Authority handed over possession to the Housing Board. The date of taking possession as per the Land Acquisition Act for the purpose of determining the additional amount payable under Section 23A is the date of taking possession by the Revenue Authority and not the date on which the Revenue

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Authority transfers possession to the person or Corporation for whose benefit the land is acquired.

9. Therefore, the petitioners were directed to re-work the compensation on the basis that the possession was taken on 03.08.1988 viz., the date of award. Upon such re-working, it is found that the Housing Board viz., petitioners has to pay a sum of Rs.4,92,793.76/- to the 1st respondent in CRP.No.3012 of 2021 and Rs.4,92,791.27/- to the 1st respondent in CRP.No.3013 of 2021.

10. Mr.S.Silambanan, learned Additional Advocate General would submit that the Housing Board would require three months time to pay the said compensation. Therefore, while granting three months time to the petitioners to pay the balance amount, it is made clear that they will have to pay interest at 15% on the sum of Rs.99,791.80/- in CRP.No.3012 of 2021 and on the sum of Rs.99,791.29/- in CRP.No.3013 of 2021 till date of payment. The learned counsel for the 1st respondent Mr.T.S.Baskaran accepts the calculation given by the Housing Board.



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WEB COPY 11. Hence, these Revisions are **allowed** the orders of attachment are set aside. The Housing Board is granted three months time from today to pay the balance amount as per the calculation submitted by them. The calculation shall form part of the order. In view of the disposal of the Civil Revision Petitions, the condone delay petitions are closed as un-necessary. No costs. Consequently, the connected miscellaneous petitions are closed.

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