



C.R.P(NPD)No.1760 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

**C.R.P(NPD).No.1760 of 2017**

**and**

**CMP.No.8298 of 2017**

Dr.B.Venkatesan

..Petitioner

Vs.

Sri Balaganapathy Pillaiyar Temple,  
Nagore, Rep. By its hereditary Trustee,  
S.Ramalingam, S/o.late Subramania Pathar,  
Retta Kammala Street,  
Nagore Post,  
Nagapattinam Taluk.

..Respondent

Prayer: Civil Revision Petition filed under Section 115 of C.P.C., against the order and decree dated 23.01.2017 passed in I.A.No.103 of 2015 in I.A.No.61 of 2013 in L.A.O.P.No.290 of 1999 on the file of the Sub-Ordinate Judge, Nagapattinam.

For Petitioner : Mr.S.A.Hafiz

For Respondent : Mr.D.Rajagopal



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### **ORDER**

The 1<sup>st</sup> claimant in L.A.O.P.No.290 of 1999, which is now pending on the file of the Sub-Court, Nagapattinam / Land Acquisition Tribunal at Nagapattinam is the revision petitioner herein.

2.L.A.O.P.No.290 of 1999 had travelled a long way and let me not enter into a detailed discussion, but it appears that the land which was the subject matter of the acquisition proceedings belonged to the respondent herein, who was shown as a 2<sup>nd</sup> claimant / Sri Balaganapathy Pillaiyar Temple, Nagore and the building or the super structure over the aforementioned land, was the entitlement of the 1<sup>st</sup> claimant / petitioner herein. There was a reference under Section 18 of the Land Acquisition Act, 1894 with respect to the claim between the 1<sup>st</sup> and 2<sup>nd</sup> claimants or rather the petitioner and the respondent herein.

3.Finally by an order of the Tahsildhar, the revision petitioner herein was granted compensation both for land and building. There was an attempt to bring about apportionment and there was also another order, which stated that the petitioner herein / 1<sup>st</sup> claimant was entitled to 75% of



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the compensation and the respondent / 2<sup>nd</sup> claimant / temple was entitled to 25%. That order came to be challenged in an appeal before this Court and in the appeal, the said apportionment was interfered with and it was directed that the revision petitioner is entitled for compensation for the building or super structure and the respondent / temple / 2<sup>nd</sup> claimant was entitled for compensation with respect to the land. Thereafter, the petitioner herein / 1<sup>st</sup> claimant, who was entitled for compensation for the super structure or building had deposited back to the Sub-Court, Nagapattinam to the credit of L.A.O.P.No.290 of 1999 a sum of Rs.6,74,928/- which, according to the revision petitioner indicated the amount of compensation which had been granted to him towards the value, solatium and interest for the land.

4.An application had been filed in I.A.No.61 of 2013 by the respondent / 2<sup>nd</sup> claimant / temple seeking such deposit together with interest at 12%. The order passed that it should be deposited with interest at 12% seems to have aggravated the petitioner herein / 1<sup>st</sup> claimant, who denied any liability towards payment of interest.



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5.I would not enter into any discussion on that particular aspect but record the fact that an amount of Rs.6,74,928/- came to be deposited voluntarily by the petitioner, which represents the value of the land, solatium and interest.

6.Thereafter, the petitioner herein had filed I.A.No.103 of 2015 in I.A.No.61 of 2013, calling upon or inviting an order from the learned Sub-Judge to dismiss I.A.No.61 of 2013 as not maintainable.

7.After hearing both the sides, by an order dated 23.01.2017, I.A.No.103 of 2015 had been dismissed and the learned Sub-Judge reserved his right to hear parties in I.A.No.61 of 2013. However, in the course of the said order in Paragraph 8, the learned Sub-Judge had also observed as follows:-

*“8.The Land Acquisition Office though made the repayment, when the matter came to the court for further enquiry, this Court has pwoer U/s. 144 and 151 C.P.C., directing the petitioner to pay the wrongful payment received*



*by him with interest.”*

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8.This observation by the learned Judge invites interference by this Court. There was no necessity for the learned Judge to express an opinion that the Court has a right to direct payment of interest. Whether interest should be paid or not, is a subject matter to be decided in I.A.No.61 of 2013. Therefore, the aforementioned portion in the order in I.A.No.103 of 2015 is set aside. However, the final result that I.A.No.103 of 2015 has to be dismissed is upheld. The Sub-Court, Nagapattinam is directed to make necessary endorsement in the original of the order in I.A.No.103 of 2015 dated 23.01.2017 in L.A.O.P.No.290 of 1999, deleting the aforementioned lines in Paragraph 8 of the said order.

9.This Civil Revision Petition is partly allowed to that particular extent but the rest of the portion of the order in I.A.No.103 of 2015 stands. This would necessarily mean that the Principal Sub-Court at Nagapattinam will now have to hear I.A.No.61 of 2013. Let that application be heard in manner known to law and let the same be disposed of on or before 31.07.2022.



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10. With the above observations, this Civil Revision Petition is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

**21.03.2022**

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Index: Yes/No

Internet: Yes/No

Speaking/Non-speaking order



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To:-

The Sub-Court,  
Nagapattinam.



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**C.V.KARTHIKEYAN, J.**

KKN

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