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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2022

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.NPD.Nos.3988 of 2017

and

C.M.P.No.18612 of 2017

The Special Tahsildar (LAO)
SIPCOT, on behalf of
Revenue Divisional Officer,
Cuddalore

... Petitioner

Vs.

S.M.Andul Pasuthin

... Respondent

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, to set aside the order dated 13.06.2017 in E.P.No.1 of 2013 in L.A.O.P.No.87 of 1983 on the file of the Subordinate Court, Cuddalore.

For Petitioner .. Dr.S.Suriya, Addl. Govt. Pleader

For Respondent .. Mr.T.S.Baskaran

ORDER

There were two Land Acquisition Original Petitions. One was LAOP No.87 of 1983 and another was LAOP No.90 of 1983. The lands belonging to the respondent were sought to be acquired by the Special



Tahsildar (LAO) / respondent, the Revenue Divisional Officer,
Cuddalore.

2.The Land Acquisition Proceedings came to a finality and compensation amounts for the acquired lands were determined. Those amounts had to be paid by the petitioner herein.

3.It is claimed that with respect to LAOP No.90 of 1983, the petitioner had paid an excess of Rs.2,16,413/-. The amount payable with respect to LAOP No.87 of 1983 is Rs.68,784/-. Seeking that particular amount of Rs.68,784/-, the respondent herein filed E.P.No.1 of 2013. In that Execution Petition, the petitioner / Special Tahsildar (LAO), SIPCOT, had raised an issue stating that excess amount had been paid to the respondent in LAOP No.90 of 1983 and therefore, that excess could be set-off with the amount payable under LAOP No.87 of 1983. This necessitated leading evidence to first establish,

(i)the award in LAOP No.90 of 1983;

(ii)the amount paid or deposited towards that particular award in LAOP No.90 of 1983;

(iii)the award amount in LAOP No.87 of 1983;

(iv)the fact that the respondent herein had actually withdrawn the amount deposited in LAOP No.90 of 1983.



4. These steps were not taken by the revision petitioner herein.

These are issues on fact which only the Executing Court can examine.

5. The Executing Court / Special Sub Court for LAOP Cases, Cuddalore had dismissed the claim of the revision petitioner herein by stating that there appears to be set-off of two separate acquisition proceedings and two separate execution petitions. But, however, a broader view can be taken by the Executing Court. Permission to lead evidence is granted. Therefore, the order now under revision in E.P.No.1 of 2013 dated 13.06.2017 is set aside and E.P.No.1 of 2013 is remanded back for fresh disposal.

6. I am informed that the respondent herein is a senior citizen of advanced age. I therefore, direct the Special Sub Court for LAOP Cases, Cuddalore, to bestow personal interest and endeavour to dispose of E.P.No.1 of 2013 in manner known to law. This would require the petitioner herein / the Special Tahsildar (LAO), SIPCOT, to lead evidence with respect to aforesaid aspects namely, the award in LAOP No.90 of 1983, the award in LAOP No.87 of 1983 and the amount deposited in LAOP No.90 of 1983. The Executing Court may also examine the possibility of referring the parties to any alternative method of dispute resolution taking into consideration the fact that the



respondent is a senior citizen. The fact whether excess amount has been deposited by the petitioner herein has to be determined only on examination of the records and cannot be either denied or disputed or even admitted by the respondent herein. It all depends on the records available before the Trial Court.

7. With the above observations, the present Civil Revision Petition is allowed. No order as to costs. Consequently, connected Civil Miscellaneous Petition is closed. The order dated 13.06.2017 in E.P.No.1 of 2013 in LAOP No.87 of 1983 is set aside and E.P.No.1 of 2013 is remanded back for fresh hearing.

8. The parties are directed to lead evidence. The Special Sub Judge for LAOP Cases, Cuddalore, may explore the possibility of Alternate Disputes Resolution Method to settle the issues. At any rate, the entire issue should be concluded, on or before 31.07.2022.

28.03.2022

Internet: Yes/No
Index: Yes/No
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To

The Special Sub Court for LAOP Cases, Cuddalore.

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C.V.KARTHIKEYAN,J.

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