



C.R.P.No.1826 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2023

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

C.R.P.No.1826 of 2019

K.Palani

.. Petitioner/Petitioner/Claimant

.Vs.

1.P.Krishnaveni

2.K.Kanniammal

3.G.Selvi

4.M.Pushbalatha

5.T.Parimala

6.D.Jayanthi

... Respondents/Respondents/Claimants

Civil Revision Petition filed under Section 227 of Constitution of India, to set aside the order and decreetal order dated 30.11.2018 made in I.A.No.36 of 2015 in L.A.O.P.No.46 of 2014, on the file of Sub-Judge, Tambaram.



C.R.P.No.1826 of 2019

WEB COPY

For Petitioner : Mr.R.Veeramani

For Respondents : Mr.K.Varathan
for R1

Mr.S.Siva
for R2 to R6

ORDER

This Civil Revision Petition has been filed by the claimant against the fair and decreetal passed in I.A.No.36 of 2015 in LAOP.No.46 of 2014, by the Sub Judge, Tambaram, dated 30.11.2018, wherein, the claimant had sought for payment out of a sum of Rs.6,63,915/- along with accrued interest.

2.The shorts facts of the case are as under ;

(a) The property belonging to the petitioner which is a house site was acquired under the Tamil Nadu Highways Act, 2001. Pursuant to the same, award proceedings were conducted and an award was passed in Award No.11/09, dated 14.08.2009 in the name of the deceased Thambiran Naicker. Even before the demise of the said Thambiran Naicker, a settlement deed was executed in favour of the petitioner on 29.08.2005 and the same was registered as D.No.4961 of 2005.



C.R.P.No.1826 of 2019

(b) The total compensation was fixed at Rs.13,27,830/- and the petitioner also filed a writ petition before this Court in WP.No.1497 of 2014, wherein an order was passed on 04.08.2014 permitting the petitioner to withdraw 50% of the compensation amount deposited and the balance was directed to be kept in deposit till the suit that was pending in OS.No.268 of 2010 before the Principal District Judge, Chengalpattu, is disposed of and the rights of the rival claimants is decided.

(c) The suit was dismissed by judgment and decree dated 17.02.2017 and pursuant to the same, the petitioner filed I.A.No.36 of 2015, before the Court below seeking for the payment out of the balance amount of 50% along with accrued interest. The said application came to be dismissed by the Court below through fair and decreetal order dated 30.11.2018. Aggrieved by the same, the present Civil Revision Petition has been filed before this Court.

3.Heard Mr.R.Veeramani, learned counsel for the petitioner, Mr.K.Varathan, learned counsel for R1 and Mr.S.Siva, learned counsel appearing on behalf of respondents 2 to 6.

4.The main ground projected by the Court below while dismissing the payment out petition was that as against the dismissal of the suit in O.S.No.268/2010, the rival claimant had filed AS.No.7/2018, before the Principal



C.R.P.No.1826 of 2019

District Court, Chengalpattu and the same was pending. During the pendency of this Civil Revision petition, the appeal that was filed by the rival claimant viz., Krishnaveni came to be dismissed through a judgment and decree dated 11.03.2022 passed by the Principal District Judge, Chengalpattu. In view of the same, the ground that was put against the petitioner by the Court below no longer survives.

5.The learned counsel for the petitioner also brought to the notice of this Court that the judgment and decree passed in the appeal in AS.No.7/2018, has become final and till date, the rival claimant viz., Krishnaveni has not preferred any appeal before this Court. The learned counsel further submitted that the LAOP No.46/2014, was transferred to the Sub Court, Alandur and it was renumbered as LAOP.No.1607/2021.

6.Taking into consideration the subsequent events and also the fact that the right of the petitioner having been recognised by a competent Civil Court and the appeal filed by the rival claimant having been dismissed, there will be no more hindrance for the petitioner to withdraw the balance 50% of the compensation along with the accrued interest.



C.R.P.No.1826 of 2019

7.In the light of the above, the fair and decreetal order passed in I.A.No.36 of 2015 in L.A.O.P.No.46 of 2014 dated 30.11.2018 on the file of Sub-Judge, Tambaram, is hereby set aside. The petitioner is permitted to file a payment out petition in LAOP No.1607 of 2021 before the Sub Court, Alandur and the same shall be entertained by the Court below and the payment out petition shall be ordered in favour of the petitioner.

8.In the result, this Civil Revision petition is allowed in the above terms. No costs.

12.01.2023

KP

Internet: Yes

Index: Yes/No

Speaking Order: Yes/No

To

1.Sub-Judge
Sub Court
Tambaram.

2.Sub Court,
Alandur.



WEB COPY



C.R.P.No.1826 of 2019

N.ANAND VENKATESH. J.,

kp

C.R.P.No.1826 of 2019

12.01.2023