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CRP No. 2440 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2023

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P. No. 2440 of 2014

and

M.P.No. 1 of 2014

The Chairman and Managing Director,
SIPCOT,
No.19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai – 600 008.

.... Petitioner

Vs

1. V.S.Govindaraj (Died)

2. The Special Tahsildar (LA),
SIPCOT, Cuddalore.

3. Padmavathy

4. Deepah Kumar

(Respondents 3 & 4 are brought on
record as LR's of the deceased R1
viz., V.S.Govindaraj, vide Court
order dated 05.01.2023 made in
CMP No.22799 to 22801
of 2022 in CRP No.2440 of 2014)

.... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India against the order dated 14.02.2013 made in E.P.No.4 of 2013 in LAOP No.109 of 1984 on the file of the Special Sub Judge for LAOP Cases/I Additional Sub Court, Cuddalore.



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For Petitioner	: Mr.M.Naresh
For R1	: Died (Steps taken)
For R2	: Mr.C.Sathish Government Advocate
For R3 & R4	: Mrs.R.Meenal

ORDER

This Civil Revision Petition has been filed as against the order dated 14.02.2013 made in E.P.No.4 of 2013 in LAOP No.109 of 1984 on the file of the Special Sub Judge for LAOP Cases/I Additional Sub Court, Cuddalore, thereby allowing the execution petition and directed to pay the balance amount with interest at the rate of 15% per annum.

2. The petitioner acquired the land for the purpose of the provision of amenity buildings and housing for the establishment of industrial complex by SIPCOT Limited. The Special Tahsildar was appointed as Land Acquisition Officer and consequent to the disbandment of the post of Special Tahsildar, the District Revenue Officer appointed as Sub-Collector, Cuddalore as Land Acquisition Officer to perform the function of the Collector under the Act. The Land Acquisition Officer passed an Award. Aggrieved by the same, the reference was made in the Land Acquisition Revision Petition before the



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Subordinate Court, Cuddalore. The Subordinate Judge, Cuddalore enhanced the award passed by the Land Acquisition Officer in the respective petitions. Aggrieved by the same, the Land Acquisition Officer filed an appeal suit before this Court and the same was also dismissed and the order passed by the Subordinate Court, Cuddalore was confirmed. On the strength of the enhanced award, the claimants filed Execution Petition. The Execution Court, after deducting the amount which was already deposited by the Land Acquisition Officer, directed the Land Acquisition Officer to pay the balance award amount with interest at the rate of 15% per annum. Aggrieved by the same the petitioner herein, who is the Chairman-cum-Managing Director of SIPCOT, preferred this Civil Revision Petition as interested person.

3. Originally, the land acquisition proceedings was initiated for the purpose of amenity buildings and housing for the establishment of industrial complex by the petitioner herein. Initially, the acquisition proceedings were initiated by the Special Tahsildar, SIPCOT and after after disbandment of the said post, the Special Collector was appointed as Land Acquisition Officer in order to perform the functions of the Collector under the Act and passed award. In fact, the copy of the award



was marked by the SIPCOT by the Managing Director/Petitioner.

However, the respective land owners represented that it was referred before the Subordinate Court for determining the compensation. The Subordinate Judge, Cuddalore, enhanced the award amount and directed the Land Acquisition Officer to pay the enhanced compensation amount with interest. Aggrieved by the same, the acquisitioning body viz., the petitioner herein, did not prefer any appeal. The Land Acquisition Officer, viz., the Special Tahsildar, SIPCOT, Cuddalore, filed an appeal suit and the same was partly allowed by this Court by a Judgment and Decree dated 22.04.2003 and thereby the market value of the acquired land is fixed at Rs.1,500/- per cent with 30% solatium, interest of solatium and a direction under Section 23(1)(a) of the Land Acquisition Act. The Subordinate Judge, Cuddalore, enhanced the award from Rs. 459.57 paise per cent to Rs.1565/- per cent. In order to execute the same, the respective land owners filed execution petitions.

4. The Execution Court, after referring the Judgment reported in **2006 (8) SCC 459** in the case of **Gurpreet Singh Vs. Union of India**, ordered to pay the balance amount with interest at the rate of 15% per annum. The Hon'ble Supreme Court of India held as follows :



“52. That is to happen when a part of the amount averted by the Reference Court or by the Appellate Court is deposited pursuant to an interim order of the Appellate Court or of the further Appellate Court and the awardees is given the liberty to withdraw that amount ? In such a case, the amount would be received by the decree-holder on the strength of the interim order and the appropriation will be subject to the decision in the appeal or the further appeal and the direction, if any, contained therein. In such a case, if the appeal is disposed of in his favour, the decree-holder would be entitled to appropriate the amount already received by him pursuant to the interim order first towards interest then towards costs and the balance towards principal as on date of the withdrawal of the amount and claim interest on the balance amount of enhances compensation by levying execution. But on the part appropriated towards the principal, the interest would cease from the date on which the amount is received by the awardee, of course, if while passing the interim order, the Court has indicated as to how the deposited amount is to be appropriated, that direction will prevail and the appropriation could only be done on the basis of that direction.



53. *Thus, on the whole, we are satisfied that the essential ratio in Prem Nath Kapur on appropriation being at different stages is justified through it at a particular stage there is short fall, the awardee decree-holder would be entitled to appropriate the same on the general principle of appropriation, first towards interest, then towards costs and then towards the principal unless, of course, the deposit is indicated to be towards specified heads by the judgment debtor while making the deposit intimating the decree-holder of his intention. We, thus, approve the ratio of Prem Nath Kapur on the aspect of appropriation...*

5. Thus, it is clear that till the balance of enhanced amount is paid, the judgment debtor is liable to pay interest for the balance amount in the land acquisition cases. The authorities had chosen to pay the amount in response to the Court order in piecemeal and as such, the land owners are entitled to adjust the amounts first received towards interest and then towards cost and thereafter towards principal. Accordingly, the Execution Court rightly directed the second respondent to pay the balance principal amount with interest at the rate of 15% per annum.



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6. In view of the above, this Court finds no infirmity or illegality in the order passed by the Court below. Accordingly, this Civil Revision Petition stands dismissed with cost. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

09.02.2023
(2/4)

Index : Yes/No
Neutral Citation : Yes/No
Speaking/Non-speaking
Lpp

To

The Special Sub Judge for LAOP Cases/
I Additional Sub Court, Cuddalore.



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G.K.ILANTHIRAIYAN,J.

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