



WEB COPY

CRP(NPD)No.1908



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

**C.R.P.(NPD)No.1908 of 2017
and C.M.P.No.9215 of 2017**

The Managing Director
Tamil Nadu State Transport Corporation (Salem) Limited
No.12, Ramakrishna Road
Dharmapuri Region, Salem.

... Petitioner

Vs.

A.R.M.Palaniyappan (died)

1.A.R.M. Sundaram (died)

2.M.Babu

3.P.Aandal

4.P.Karthi

5.P.Banumathi

6.The Land Acquisition Officer
(Revenue Divisional Officer)
Dharmapuri.

7. S.Vijaya Lakshmi

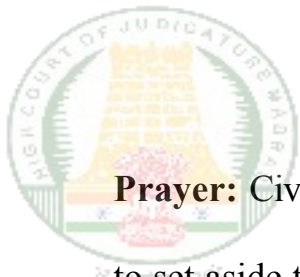
8. S.Usha

9. S.Jansi

10. S.Durai Rajesh

... Respondents

(Respondents 7 to 10 brought on record as
legal heirs of the deceased 1st respondent
viz., A.R.M.Sundaram vide Court order
dated 17.07.2023 in C.M.P.Nos.18223, 18224
& 18226 of 2021 in C.R.P.No.1908 of 2017)



Prayer: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code to set aside the order of attachment passed in R.E.P.No.33 of 1992 in L.A.O.P.No.6 of 1989 dated 20.04.2017 by the learned Subordinate Judge, Dharmapuri.

For Petitioner : Mr.Ilamvazhuthi for
for Mr.R.Babu

For R2 to R5 : Mr.T.R.Rajaraman
for Ms.P.Veena Suresh

For R6 : Mr.B.Tamilnidhi
Additional Government Pleader (CS)

ORDER

The civil revision petition challenges an order in R.E.P.No.33 of 1992 in L.A.O.P.No.6 of 1989, dated 20.04.2017 on the file of the learned Subordinate Judge, Dharmapuri.

2. The civil revision petitioner is the 2nd respondent and 6th respondent is the 1st respondent in R.E.P.No.33 of 1992. The lands were acquired by the 6th respondent at the request of the 2nd respondent. The 1st respondent has not filed a revision against the order. A decree was passed in L.A.O.P.No.6 of 1989, dated 20.03.1992. It was put in challenge in appeal and was dismissed and the same had attained finality.

3. The matter is on a very narrow compass. According to the learned counsel for



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the petitioner, Mr.Ilamvazhuthi, appearing for Mr.R.Babu, the part payments that have been made by the beneficiary of the acquisition should be adjusted towards the principal first and against the interest later. This proposition of law on this aspect has been raised in several cases and decided against the petitioners. The Courts have held, following the Land Acquisition Act, 1894, that any payment made will be only adjusted towards interest first and thereafter, adjusted towards the principal.

4. The second submission of Mr.Ilamvazhuthi is that the payment of 9% for the first year and 15% for the years thereafter, is onerous and usurious. The Land Acquisition Act, 1894 mandates such a payment. When the statute fixes such payment and when it has been decreed by the learned Subordinate Judge, Dharmapuri, in L.A.O.P.No.6 of 1989, I do not have the jurisdiction either to rewrite the statutory law or to revisit the award. The Court can apply a statute, but cannot rewrite the statute. Therefore, the plea of Mr.Ilamvazhuthi that the payment of 9% for the first year and 15% for the years thereafter is usurious, is not acceptable to me.

5. Mr.Ilamvazhuthi, also would pray that this Court can reduce the interest subsequent to the filing of the Civil Revision Petition till the date of entering upon the date of the judgment. Such power, unfortunately, is not vested with me. I am sitting on the revision against an order passed by the Executing Court. The revision is circumscribed by the four corners by the decree passed in L.A.O.P.No.6 of 1989.



Therefore, I have to deny that argument of the learned counsel for the petitioner.

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6. Mr.T.R.Rajaraman, learned counsel appearing for Ms.Veena Suresh, learned counsel for the respondents 2 to 5, will bring to my notice that as against earlier E.P. in E.P.No. 33 of 1992, the very same points were agitated and they were rejected. *Resjudicata* applies between the parties. This order was passed in C.R.P.(NPD)No.2543 of 2004, dated 10.12.2012. The acquisition authority having raised the very same points and having been rejected, review being filed and that also being dismissed and the order in review being challenged before this Court and having been rejected, it is not open to the beneficiary to re-agitate the very same points all over again. An order passed in L.A.O.P.No.6 of 1989 was confirmed by this Court in A.S.No.958 of 1992 and A.S.No.133 of 1993.

7. It is pertinent to point out that as against the appeals filed from L.A.O.P.No.6 of 1989, the very same points were urged and it was rejected by this Court. The points having been settled on the Original Side, it is not open to this Court to re-open the same on the executing side.

8. No other points having been urged, this Court is constrained to dismiss this Civil Revision Petition. The Executing Court is directed to proceed further with execution and ensure that the execution proceedings are completed within a period of



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four months from the date of receipt of a copy of this order. No costs. Consequently,
connected Miscellaneous Petition is closed.

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

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To

The Subordinate Judge, Dharmapuri.

V.LAKSHMINARAYANAN,J.



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