



Rev.Aplc.(MD) Nos.17 and 23 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.04.2023

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

**Rev.Aplc.(MD) Nos.17 and 23 of 2023
and
CMP (MD) Nos.3254 and 4328 of 2023**

Rev.Aplc.(MD) No.17 of 2023

- 1.Land Acquisition Officer/
Revenue Divisional Officer,
Palani.
- 2.The Chief Engineer,
Public Works Department,
Pollachi Region,
Coimbatore.
- 3.The Superintendent Engineer,
Public Works Department,
Palani.
- 4.The Executive Engineer,
Public Works Department,
Nanganchiyar Water Resources,
Basin Division,
Palani..

... Petitioners

/vs./



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Narendra Dairy Farms (P) Ltd.,
represented by its Director,
V.Duraisinga Lakshmana Naicker (Demised)

1.D.Rajesh

2.D.Satheesh Kumar

3.R.Jegadeesh Kumar

... Respondents

PRAYER: Review Application filed under Order 47 Rule 1 r/w Section 114 of CPC, to review the order passed in C.R.P.(MD) No.1563 of 2019 dated 03.01.2022.

For Petitioners : Mr.Veerakathiravan
Additional Advocate General assisted by
Mr.A.Kannan
Government Advocate

For R1 & R2 : Mr.D.Kirubakaran

For R3 : Mr.RM.Loganathan

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1.Land Acquisition Officer/
Revenue Divisional Officer,
Palani.

2.The Chief Engineer,
Public Works Department,

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Pollachi Region,
Coimbatore.

3.The Superintendent Engineer,
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Public Works Department,
Nanganchiyar Water Resources,
Basin Division,
Palani..

... Petitioners

/vs./

Narendra Dairy Farms (P) Ltd.,
represented by its Director,
V.Duraisinga Lakshmana Naicker (Demised)

1.D.Rajesh

2.D.Satheesh Kumar

3.R.Jegadeesh Kumar

... Respondents

PRAYER: Review Application filed under Order 47 Rule 1 r/w Section 114 of CPC, to review the order passed in C.R.P.(MD) No.1564 of 2019 dated 03.01.2022.

For Petitioners : Mr.Veerakathiravan
Additional Advocate General assisted by
Mr.A.Kannan Government Advocate



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For R1 & R2 : Mr.D.Kirubakaran
For R3 : Mr.RM.Loganathan

COMMON ORDER

These review applications have been filed by the petitioners seeking to review the orders passed in CRP.(MD) Nos.1563 and 1564 of 2019 dated 03.01.2022, which in turn relate to the proceedings in E.P.Nos.72 and 73 of 2018 in LAOP.Nos.7 and 6 of 1996 respectively on the file of the Additional District Court (Fast Track Court), Palani.

2.Before proceeding to discuss the grounds on which the review petitions have been filed, it is necessary to set out the dates and events, which form the chronology for the present review petitions.

19.01.1972:-

Section 4(1) notification is issued in respect of the lands in question.

01.03.1972:-

Possession of the land is taken. However, further proceedings are not initiated and therefore, the acquisition proceedings had lapsed. Possession of the lands continued to remain with the authorities.



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11.09.1990:-

The second 4(1) notification is issued.

10.02.1993:-

The Land Acquisition Officer determines compensation at the rate of Rs. 6,881/- per acre. On reference under Section 18 of the Land Acquisition Act, 1894, compensation is enhanced to a sum of Rs.15,000/- per acre.

Challenging the enhancement, the petitioners herein had filed A.S.Nos.132 and 133 of 2001 and the respondents had filed cross objection Nos.14 and 15 of 2003.

17.03.2003:-

The appeals were allowed insofar as the order passed by the learned Subordinate Judge granting additional sum of Rs.12% per annum on the total compensation from the date of possession till the date of deposit is modified. Cross Objection Petitions were allowed enhancing the amount to Rs.28,000/-.

The petitioners herein had filed review applications in Rev.Aplc.Nos.78 to 81 of 2004 in the appeals as well as the cross objection petitions.



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08.12.2005:-

The review applications are dismissed. CMP.Nos.35 to 38 of 2009 were filed to clarify the order passed in Rev.Aplc.Nos.78 to 80 of 2004 in A.S.Nos.132 and 133 of 2001 and Cross Objections Nos.14 and 15 of 2003 dated 08.12.2005.

21.10.2009:-

The orders clarified as follows:-

a) The respondents (the petitioners herein) have to pay 9% interest for the period, for which the petitioners were forced to be out of possession of their lands and

b) the petitioners are entitled to interest/damages at the rate of 9% for the compensation granted for the period from 01.03.1972 till 10.09.1990 (the date of second notification) and from 11.09.1990 till the date of 10.02.1993 (the date of award). The petitioners are also entitled to additional amount as per Section 23 (1)(A) of the Act.

SLP.(C) Nos.8733 to 8736 of 2010 were filed challenging the order dated 21.10.2009 in C.M.P.Nos.35 to 38 of 2009. E.P.Nos.72 and 73 of 2018 in LAOP.Nos.7 and 6 of 1996 respectively were filed by the respondents herein.



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27.09.2018:-

E.P.Nos.72 and 73 of 2018 were allowed. CRP.(MD)Nos. 1563 and 1564 of 2019 were filed challenging the said execution proceedings.

03.01.2022:-

The above Civil Revision Petitions are dismissed and the calculations submitted by the respondents directed to be part of the award. Special Leave Petition in SLP.(C).Diary No.25369 of 2022 was filed with delay challenging the orders passed in CRP.(MD)Nos. 1563 and 1564 of 2019.

04.11.2022:-

Petitions dismissed.

20.02.2023:-

The review applications now under consideration are filed.

3.The above chronology of events would clearly indicate how the State, which has taken possession of the lands of the respondents as early as in the year 1972, is still to give the price of the land to its owners nearly 50 years after possession has been taken by them. This is a very unfortunate case, where by prolonging the litigations not only has the State has caused a loss to the



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exchequer but has also deprived a land owner of his land and the compensation for having acquired it.

4. Every ground that is sought to be agitated in the present review applications were argued not only in the review applications filed in A.S.Nos.132 and 133 of 2001 but also in the review applications filed by the State in Rev.Aplc.Nos.78 to 80 of 2004. Thereafter, the respondents had sought for clarification in CMP.Nos.35 to 38 of 2009, which was also clarified by the Court by order dated 21.10.2009. It was only this clarificatory order that was challenged before the Hon'ble Supreme Court in SLP.(C) Nos.8733 to 8736 of 2010. Leave was granted in C.A.Nos.1078 to 1081 of 2010. These appeals were also dismissed by order dated 10.02.2016, thereby confirming not only the order passed in the review petitions but also the clarificatory orders passed by the Division Bench of this Court.

5. It is thereafter that the respondents had filed execution proceedings, which were allowed and challenged in the revision, which is the subject matter of the present review petitions. The order in the revision was also challenged by the



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petitioners in SLP.(C).Diary No.25369 of 2022. The Hon'ble Supreme Court after condoning the delay had stated as follows:-

“We do not find any reason to interfere with the orders impugned under these petitions for special leave to appeal. The Special Leave Petition is, accordingly, dismissed.”

Therefore, the order passed in the revision petitions have attained finality.

6.It is at this juncture that the present review applications have been filed. In order to appreciate the arguments of the petitioners, it would be useful to refer to the main grounds that have been raised in the revision petitions and the grounds raised before the Hon'ble Supreme Court in the Special Leave Petition.

7.In the revision before this Court, the arguments were that the interest arrived at under Section 28 of the Act was not inconsonance with the orders passed in CMP.Nos.35 to 38 of 2009 and consequently, the subsequent calculations were erroneous; that once the principal amount deposit was adjusted towards the principal amount, it is not proper to calculate interest on the principal amount subsequently.

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8.This argument was on the basis that the award amount of Rs.26,80,528/- was paid to the claimants on 10.02.1993 and further a sum of Rs.53,58,104/- was deposited on 19.11.2001 and a sum of Rs.5,38,58,436/- was deposited on 03.06.2002 and a further deposit of Rs.59,30,720/- was made on 28.01.2015. These amounts have not been taken into consideration.

9.Before the Hon'ble Supreme Court, they have challenged the order on the following main grounds:-

a) the compensation was only a sum of Rs.28,000/- per acre and did not include additional compensation and solatium;

b) the review petitioners have already paid a sum of Rs.6,38,62,930/- in respect of the lands in Padhachu Village and Rs.10,25,55,747/- with reference to Balasamuthram Village;

c) calculation of the 9% damages contrary to the orders of the Division Bench;

d) the calculation of interest under Section 28 of the Act was not on the basis of the judgment of the High Court in CMP.Nos.35 to 38 of 2009 in R.A.Nos.78 to 80 of 2004; and



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e) in the revision petitions, the High Court has wrongly placed reliance on the judgment in the case of ***Sundar Vs. Union of India*** reported in ***AIR 2001 SC 3516*** and the case of ***Gurpreet Singh Vs. Union of India*** reported in ***(2006) 8 SCC 457***;

10.The Special Leave Petition has been dismissed by the Hon'ble Supreme Court, after condoning the delay, on merits and after hearing the parties. In the present review applications, the very same arguments are sought to be put across and some new grounds have been raised for the first time in these review applications.

11.Section 114 r/w Order XLVII of the Code of Civil Procedure deals with the procedure for reviewing of the judgment. The grounds, on which a review can be entertained, are as follows:-

a) where there is a discovery of a new and important matter or evidence, which after the exercise of due diligence was not within the knowledge of the review petitioner or could not be produced at the time when the decree/order was passed;



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- b) there is a mistake or error apparent on the face of the records; and
c) where there are any other sufficient reasons

12.A mere perusal of the grounds raised before this Court as also the arguments advanced, it is clear that the petitioners herein are seeking to re-agitate the grounds of revision and they have not been able to show any error or mistake apparent on the face of the records. The argument that has been advanced in the revision was that the Executing Court has not considered the calculations properly, which was the very same argument that has been primarily advanced in the above review petitions.

13.After considering the arguments of both the parties in great detail and after considering the calculations submitted by both the parties, this Court had opined that the calculation, which has been submitted by the respondents herein, reflected the tenor and intent of the earlier orders passed by the Division Bench of this Court as also that of the Hon'ble Supreme Court in the case of ***Sundar Vs. Union of India*** reported in ***AIR 2001 SC 3516*** and the case of ***Gurpreet Singh Vs. Union of India*** reported in ***(2006) 8 SCC 457***.



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14.In fact, the arguments that had been advanced in the civil revision petitions center only around the compensation that was payable. The petitioners herein had stated that the compensation was only a sum of Rs.28,000/- and the additional compensation as well as the solatium were to be calculated only on the basis of the compensation provided under Clause 1 of the judgment.

15.After considering the language of Section 23 and the ratio laid down in the aforesaid two judgments, this Court had come to the conclusion that the Executing Court had followed the earlier orders of this Court and the dictum laid down by the Hon'ble Supreme Court and had confirmed the order passed in execution with an addenda that the calculations submitted by the respondents would form part of this order. The petitioners have not been able to make out any grounds for reviewing the said orders.

16.In fine, the Review Applications are dismissed. It is needless to state that the amount shall be deposited forthwith at least within a period of two



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months from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

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