



CMP(MD). No.10751 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Monday, the Twentieth day of November Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice BATTU DEVANAND

CMP(MD). No.10751 of 2023
in
C.R.P(NPD)(MD)No.307 of 2017

Kulandaivelu (Died)

1. Chitra

2.Manivel

3.Abirami

(cause title accepted vide orders
dated 9/8/2023 and made in
CMP.No.48927 of 2018)

... Petitioner/Petitioner

Vs

1.The Deputy Chief Engineer,
Constructions Southern Railways,
Salem Division,
Salem.

...1st Respondent/Petitioner

2.The Special Tahsildar,
Salem Karur New Broad Gauge Railway Line Scheme,
Karur.

... 2nd Respondent/2nd Respondent



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Prayer in CMP(MD)No.10751 of 2023 :-

Civil Miscellaneous Petition filed under section 151 of C.P.C to pass an order to permit us to withdraw the remaining 1/4th amount to the tune of Rs.13,39,520/- with interest forthwith, pending disposal of the main Civil Revision Petition and thus render justice.

Prayer in C.R.P(MD)No.307 of 2017 :-

The Civil Revision Petition filed under Articles 227 of the Constitution of India, pleaded to set-aside the order on 2.9.2014 passed in E.P.No.281 of 2013 in L.A.O.P.No.94 of 2010 on the file of the Principal Subordinate Judge, Karur and pass such further other appropriate order as this Court.

ORDER:- This Civil Miscellaneous Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.M.P.Senthil, Advocate for the Petitioner and of Thiru./Ms. K.Govindarajan, Deputy Solicitor General of India, Government Advocate for the first respondent and the second respondent not appearing in person or by advocate this Court made the following order:

This Civil Miscellaneous Petition is filed seeking permission of this Court to permit the petitioners to withdraw the remaining 1/4th amount to the tune of Rs.13,39,520/- with interest.

2. Originally, C.R.P.(NPD)(MD) No.307 of 2017 was filed against the order dated 02.09.2014 in E.P.No.281 of 2013 in L.A.O.P.No.94 of 2010 on the file of the Principal Subordinate Judge, Karur. The said Civil Revision Petition was disposed of by order dated 16.02.2016 by this Court by passing the following order:



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“5. Considering the above facts and in the interest of justice,
this Court is inclined to pass the following order:-

The petitioner is directed to deposit the entire award amount with accrued interest and costs, from the date of claim petition till the date of deposit, within a period of twelve weeks from the date of receipt of a copy of this order. On such deposit, the first respondent is permitted to withdraw 75% of the award amount with accrued interest, subject to the condition that the withdrawal would be subject to the order to be passed in the appeal stated to have been filed by the petitioner and the balance amount shall be deposited in the Indian Bank, High Court Branch, Madurai.”

3. As per the order of this Court, in the above Civil Revision Petition, the petitioners have withdrawn 75% of the award amount with accrued interest and the balance amount is deposited in the Indian Bank, High Court Branch, Madurai. To ascertain the status of the balance amount, this Court called for a report from the Principal Subordinate Judge, Karur, by order dated 06.11.2023. In response to the same, the Principal Subordinate Judge, Karur, submitted a report dated 17.11.2023,



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wherein it is submitted that the total balance amount is Rs.16,93,564/- out of which Rs.13,39,520/- was deposited to the Indian Bank, High Court Branch, Madurai on 23.03.2018 in A/c.No.6620466451 and the same has been renewed till date. It is further submitted that the remaining amount of Rs.3,54,044/- was deposited into Andhra Bank, Karur, now merged by Union Bank of India, Karur, on 19.03.2019 in A/c.No.265413030000029 and the same has been renewed till date. In view of the same, it is clear that the balance amount is lying in the banks as reported hereinabove.

4. Learned counsel for the petitioners submits that the petitioners are the legal heirs of the deceased and they are entitled to withdraw the balance amount. He contends that there is no dispute regarding the apportionment of the award amount among the legal heirs.

5. Learned counsel for the petitioners also submits that the award passed in L.A.O.P.No.94 of 2010 has become final, as no further legal proceedings are pending against the same.

6. Learned Deputy Solicitor General of India appearing for the respondents



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submits that the respondents have no objections to permit the petitioners to withdraw the remaining 1/4th of the amount, which is lying in the fixed deposit, as per the direction of the Court.

7. Having regard to the facts and circumstances of the case, in the considered opinion of this Court, it is appropriate and reasonable to permit the petitioners to withdraw the remaining 1/4th amount to the tune of Rs.13,39,520/- with accrued interest.

8. Accordingly, this Civil Miscellaneous Petition is allowed permitting the petitioners to withdraw the remaining 1/4th amount to the tune of Rs.13,39,520/- with accrued interest without furnishing any security.

Sd/-

Assistant Registrar (C.O)

// True Copy //

/12/2023

Sub Assistant Registrar(CS)



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TO

1. The Principal Subordinate Judge,
Karur.
2. The Deputy Chief Engineer,
Constructions Southern Railways,
Salem Division,
Salem.
3. The Special Tahsildar,
Salem Karur New Broad Gauge Railway Line Scheme,
Karur

Copy to:

The Section Officer,
Judicial Section(Posting),
Madurai Bench of Madras High Court,
Madurai

ORDER DATED : 20/11/2023

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ORDER

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in
C.R.P(NPD)(MD)No.307 of 2017

Giving direction and etc.
as stated within.



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SSA/(30.11.2023)/ 7P/ 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.