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CRP(NPD).No.2114 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

CRP(NPD).No.2114 of 2022
and CMP.No.10909 of 2022

The Executive Engineer,
Tamilnadu Housing Board,
Tatabad,
Coimbatore-600 012.

... Petitioner

Vs.

1.N.Jothikumar
2.The Special Tahsildar(Land Acquisition),
Housing scheme Unit-III,
Coimbatore.

... Respondents

Prayer: This Civil Revision Petition is filed under Section 227 of Constitution of India, to set aside the docket order dated 22.02.2022 passed in E.P.No.531 of 2018 in LAOP No.129 of 1986 on the file of the II Additional Subordinate Court, Coimbatore.

For Petitioner : Mr.C.Kalaichelvan

For R1 : No appearance

For R2 : Dr.S.Suriya

Additional Government Pleader



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ORDER

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2. The lands comprised in S.F.No.303/1 of Villankurchi Village measuring to an extent of 37.85 acres was notified for acquisition to formation of Ganapathy Neighbourhood Scheme. The Notification under section 4(1) of the Land Acquisition Act was issued on 25.02.1983 and draft declaration under section 6 of the Land Acquisition Act was approved on 10.06.1985. After following due process of land acquisition proceedings, the Award was passed in Award No.1/86 dated 22.02.1986 by the Land Acquisition Officer. The possession of the lands were handed over to Tamilnadu Housing Board on 12.03.1986 and 31.03.1986. The compensation was fixed at Rs.80/- per cent and the owners of the land objected for higher compensation. During the award enquiry, the reference under section 18 of the Land Acquisition Act, was made to the learned Subordinate Judge, Coimbatore in L.A.O.P.No.129 of 1986. The learned



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Subordinate Judge, enhanced the compensation and fixed rate of Rs.5000/- per cent through order dated 30.04.2003. The said order was challenged through Appeal in A.S.No.168 of 2004 before this Court and this Court fixed compensation of Rs.6000/- per cent by its order dated 11.10.2017. Before that, as per the interim direction of this Court, the petitioner herein has deposited a sum of Rs.67,24,607/- before the Sub Court, Coimbatore.

3. In the mean while, the first respondent herein has filed execution petition claiming a sum of Rs.2,08,44,178/- and sought for attachment. The petitioner had calculated the enhanced compensation as per the Judgment ***reported in (2001) SCC 211 in Sundar Vs.Union of India*** and the land owners are entitled to get interest on solatium and additional market value from 19.09.2001 not for any prior date. Based on the aforesaid judgment, the enhanced compensation of Rs.57,21,175.07/- was paid before the Sub Court on 27.01.2021. Without considering the aforesaid calculation, the E.P Court has ordered to deposit a sum of Rs.87,11,968/- through order dated 22.02.2022 by giving one month time, failing which attachment order will be passed on 23.03.2022. The interest has been calculated on the land value from the date of taken possession till



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18.09.2001 and interest for the land value + solatium + 12% additional market value with effect from 19.09.2001 till the date of deposit. The amount, if already paid to the respondent, has been adjusted. The Referring Officer has already deposited the final amount of Rs.1,24,45,782.07/- towards the enhanced compensation to the respondents. The Government also issued G.O.Ms.No.401, Revenue and Disaster Management (LA-I(1)) Department, dated 12.10.2018, in respect of the interest. Therefore, the order passed by the E.P Court is liable to be set aside.

4. According to the respondents, they calculated the amount for an extent of 5.66 acres is Rs.2,74,68,667/-. The petitioner only deposited a sum of Rs.67,24,609/-. Therefore, according to the respondent, the balance amount of Rs.2,07,44,058/- is due and thereby, they filed execution petition before the Executing Court and the Executing Court also after verifying the calculation memo filed by both the parties, ordered to deposit the balance amount of Rs.87,11,968/-on 23.01.2021. Therefore, the order passed by the trial Court/Executing Court is in order.



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5. When the matter was taken up for hearing today, learned counsel for both sides represented that the similar matters were taken up by this Court through various Civil Revision Petitions and already order was passed by this Court and this matter also covered by those judgments and also produced a copy of one of the judgments in CRP.No.1309 of 2022 dated 17.08.2022. In that order, it is observed that, the Reference Court has made it explicit about that entitlement of interest and also the date from which the interest should be calculated. Under such circumstances, the Executing Court has no power to go beyond the decree and presumed by itself that the awardees are entitled to interest only from 19.01.2001. However, it is upto the parties to wait till the outcome of S.L.P No.6928 of 2021 pending before the Honourable Supreme Court. With the above observations, the Civil Revision Petition is dismissed and the order dated 15.03.2002 passed by the learned Judge, II Additional subordinate Court, Coimbatore in E.P.No.309 of 2017 in L.A.O.P.No.299 of 1991 is hereby confirmed.

6. The learned Judge had elaborately discussed in the order in



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CRP.No.1309 of 2022 dated 17.08.2022. The relevant para Nos.17 to 19 are extracted as follows:

"17. In fact in the case of Executive Engineer, Tamil Nadu Housing Board Vs. Saraswathiammal and others, reported in MANU/TN/1351/2021, the very same subject matter of acquisition in Ganapathy village of Coimbatore has been dealt. In the said case the Housing Board was contesting about the entitlement of interest by claiming that the claimants are entitled to interest only from the date of judgment of Sunder's case dated 19.09.2001. However, the Court has categorically held that the date of judgment of Sunder's case will not be applicable to those cases where the award itself has a specific and explicit reference about the entitlement of interest and also about the date from which the interest should be awarded. In the said case, the Hon'ble Mr. Justice R.Subramanian, has dealt at length about the date from which the interest should be awarded. It is made clear that if the award specifies the date from which the interest is due, then there is no necessity to assume the date as done in Gurupreeth Singh's case.

18. The relevant portion of the judgment in the case of Executive Engineer, Tamil Nadu Housing Board Vs. Saraswathiammal and others, reported in



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MANU/TN/1351/2021 reads as under:

"17. As already pointed out, the awards of the Reference Court in these cases were passed in April 2005 and the awards specifically directed payment of interest on the solatium and the additional amount. The said grant was confirmed by this Court in the Appeals and by the Hon'ble Supreme Court in the Civil Appeals. I therefore do not think that para 44 of the judgment in Gurpreet Singh v Union of India (supra) could be invoked by the Housing Board to deny interest on the solation and the additional amount for the period between the date of taking possession and the date of judgment in Sunder v. Union of India (supra). Hence the first contention of the learner Additional General stands rejected."

19. In view of the above judgment, there need not be any quarrel as to the application of the starting date for interest for the acquisitions made in Ganapathy Village, Coimbatore. However, it is claimed that the judgment of this Court held in Executive Engineer, Tamil Nadu Housing Board Vs. Saraswathiammal and others, (as stated supra) has been challenged before the Supreme Court in S.L.P No.6928 of 2021. As of now, the said judgment is not stayed and hence, these Civil Revision Petitions can also be disposed in the line of Executive Engineer, Tamil Nadu Housing Board Vs. Saraswathiammal and others, (as stated supra) by concluding that the first. mpondents entitlement of interest



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cannot have any other cut off date than what is mentioned in the award by the Reference Court itself."

7. Since this case is covered by judgment of this Court in the batch cases in CRP.No.1309 of 2022 and in view of the above order passed by this Court, it is appropriate to dismiss the civil revision petition by confirming the order dated 22.02.2022 passed in E.P.No.531 of 2018 in LAOP No.129 of 1986 on the file of the II Additional Subordinate Court, Coimbatore. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

mpa **04.04.2024**
Index : Yes / No
Speaking Order: Yes / No
Neutral Citation Case : Yes/No

To

- 1.The II Additional Subordinate Court, Coimbatore.
- 2.The Special Tahsildar(Land Acquisition),
Housing scheme Unit-III,
Coimbatore.



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