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C.R.P.(NPD).Nos.2656, 2678, 2646, 2665, 2966, 2644 & 2649 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2024

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.(NPD). Nos.2656, 2678, 2646, 2665, 2966, 2644 & 2649 of 2023
and
CMP.No.27676 of 2023

C.R.P.(NPD).No.2656 of 2023

Geetha Devi

... Petitioner

-Versus-

1. Special Tahsildar (L.A.),
Land Acquisition Officer,
Ennore Expressway,
Fort-Tondiarpet Taluk,
Chennai Collectorate,
Chennai – 600 001.

2.Pavan Kumar Gupta

3.Girish Gupta

4.Anand Kumar Gupta ... Respondents

(Respondents 2 to 4 impleaded vide
court order dated 31.07.2024 made
in CMP.Nos.16056, 16057, 16060,
16408, 16414, 16419 and 16420 of
2024 in CRP.Nos.2656, 2665, 2646,
2644, 2649, 2678 and 2966 of
2023)



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Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decree dated 22.08.2022 passed by the learned VI Assistant Judge, City Civil Court, Chennai in I.A.No.2 of 2019 in LAOP.No.30 of 2012 on 22.08.2022.

For Petitioner : *Mr.K.Jeyachandran*

For Respondent 1 : *Dr.S.Suriya,*
Additional Government Pleader

For Respondents : *Mr.D.Kulasekaran*
2 to 4

COMMON ORDER

These civil revision petitions arise out of the orders passed in the interlocutory applications in LAOP.No.30 of 2012 on the file of the learned VI Assistant City Civil Judge at Chennai.

2. The civil revision petitioners before me are all claimants in LAOP.No.30 of 2012. The Government had acquired lands belonging to a partnership firm under the name and style of "M/s.Venkateswara Roller Flour Mill". Since the land acquisition officer could not come to a conclusion as to who was entitled to the compensation, he made a reference under Section 30 of



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the Land Acquisition Act to the City Civil Court. This reference was taken on file as LAOP.No.30 of 2012.

3. The referring authority namely, the Special Tahsildar, Land Acquisition Ennore Express Highway, Chennai, also deposited Rs.45,88,574/- on 29.06.2012. The Court, on receipt of the said amount, has also deposited the same in an interest bearing account. The LAOP was disposed of by the City Civil Court on 23.03.2018. In terms of the order passed in the reference, the following persons were held entitled to the shares as denoted in the Order:

<u>Rajkumar Gupta</u>	- 9%
Gajananda Gupta	- 7%
Nandhakishore	- 9%
Geethadevi	- 9%
Sarwana Kumari	- 15%
Vijay Kumar Goel	- 9%
Shambu Kumar Gupta	- 9%
Sheela Gupta	- 9%
<u>Rajkumar Gupta</u>	- 9%
Renu Devi	- 9%
Mahendra Kumar Gupta	- 15%

It had committed an error in granted Mr.Rajkumar Gupta a share twice.



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4. The Court came to a categorical conclusion that the claimants were the lawful owners of the acquired land. While this proceedings was under way, the partners, who are entitled to decide amongst themselves as regards dissolution of the partnership itself, approached this court by way of a petition under the Arbitration and Conciliation Act in O.P.No.383 of 2016. This Court appointed Mr.K.Palanisamy, B.Sc., B.L., formerly a District Judge, as the Arbitrator. The prayers in the claim petition is as hereunder:

“(i) winding up of the partnership dated 07.11.1980 in respect of the partnership firm namely Venkateswara Roller Flour Mills by declaring the percentage of share of the claimant and respondents in the partnership assets described in the A and B schedule properties.

(ii) ordering sale of the property described in the “A” schedule property by public auction or by private sale by identifying the buyers.

(iii) distributing the sale proceeds from the sale of the “A” schedule property, to the claimant and the other partners and the legal heirs of the deceased partners, as per their shareholdings as per the partnership deed dated 07.11.1980.”

5. Pending the litigation, the parties entered into a compromise on 16.01.2018, and the learned Arbitrator passed an Award on 26.03.2018. It was



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three days after the date of order of the reference court. The award reads in the following terms:

“ The parties of the Tenth Part and Eleventh part herein agree that they shall take necessary steps and vacate the aforesaid order of Status Quo passed in O.S.No.328 of 2005 pending on the file of the XIII Additional Chief Judge, City Civil Court, Hyderabad before the sale of the Schedule “A” mentioned property.”

6. In terms of the Award, the partners of Venkateswara Flour Mills agreed that they would take the shares in the following terms:

S.No.	Name	% of share
1	Mr.Nand Kishore Goel – Party of the First Part	10.50%
2	Mrs.Geetha Devi – Party of the Second Part	11.50%
3	Mr.Vijay Kumar Goyal – Party of the Third Part	11.00%
4	Mr.Shambu Kumar – Party of the Fourth Part	11.50%
5	Mr.Rajkumar Gupta – Party of the Fifth Part	11.50%
6	Mr.Mahendra Kumar Gupta – Party of the Sixth part	28.50%
7	Mrs.Sheela Gupta – Party of the Seventh Part	15.50%

7. The compensation that has to be received by the parties was the subject matter of arbitration and found in the schedule B of the Award. As per the Clause 13, the parties had agreed to withdraw the amount deposited to the



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reference Court and share the same with respect to Schedule B and D (I am not concerned with that Schedule in these revisions) in the same ratio as mentioned in the tabular column set forth above.

8. As this award came to be passed, an application was presented to the learned VI Assistant City Civil Judge seeking to modify the judgment and decree passed by the Court on 23.03.2018 in terms of the arbitration award dated 26.03.2018. Each of the petitioners sought shares as per the clause 1 of the Award dated 26.03.2018.

9. The learned Trial Judge, after receipt of a counter from the respondents, came to the conclusion that since the LAOP had been answered on merits and as Section 152 gives the Court only to correct the clerical and arithmetical error, it does not possess the power to modify the order. Consequently, it dismissed the said petition, against which the present revisions.

10. When the revisions came up for disposal, I noticed that all the parties to the arbitration award have not been impleaded. Therefore, I requested Mr.K.Jeyachandran, the learned counsel appearing for the civil revision



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petitioners in all the revisions, to implead the remaining persons who were parties to the Award, as parties to the revisions. Accordingly, he filed CMP.Nos.16056, 16057, 16060, 16408, 16414, 16419 and 16420 of 2020.

11. In the aforesaid CMPs., Mr.D.Kulasekaran entered appearance on behalf of the newly impleaded parties.

12. On query from this Court to Mr.D.Kulasekaran regarding whether the Award that had been passed by the learned Arbitrator had been challenged, he answered that the parties had accepted the Award and it had attained finality and none of the parties have challenged it. Similarly, Mr.K.Jeyachandran would submit that none of the civil revision petitioners have challenged the Award. In other words, there is a decree passed by the LAOP court on 23.03.2018 over the subject matter of compensation, and a subsequent Award dated 26.03.2018 passed by the Arbitrator over the very same issues.

13. In terms of the Land Acquisition Act, the answer to the reference by the reference court is a decree. Similarly, in terms of the Arbitration and Conciliation Act, 1996, an award that is passed by the Arbitrator has the same



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effect as a decree. Therefore, I am presented with a situation where there is a conflict between one decree passed by the Court and the other passed by the Arbitrator.

14. It is a settled position in construction of decrees that where there are two conflicting decrees, the latter decree is deemed to have overridden the former. See, *P. Umanath Bhandary v. Pedru Souza, AIR 1950 Mad 19 (Paragraph 7)*. This principle which has been brought in for construction of decrees has roots in principles of statutory interpretation. It is the duty of the Court to try to harmonise both decrees; if harmonisation is not possible then the latter decree must be given precedence over the former.

15. Insofar as the revisions itself are concerned, the findings of the Court that Section 152 of the Code of Civil Procedure cannot be used for the purpose of rewriting the decree is absolutely correct. No exception can be taken to the order passed by the learned Trial Judge that an Order under Section 152 can only be for arithmetical and clerical errors. There, however, remains the other provision, which could have been resorted to by the learned Judge namely Section 151 of the Code of Civil Procedure read with Section 141 of the said Code.



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16. By virtue of Section 151, the Court dealing with the procedural aspect always has the power to pass an appropriate order in the interest of justice. By Section 141, the same principle which applies to suit, is made applicable to the interlocutory applications. If there are two decrees, I have already pointed out that the latter overrides the former.

17. If that is the position of law which applies to the decrees, the learned Judge could have invoked Section 151 and could have modified the decree in terms of the compromise Award, which had been passed on 26.03.2018. This is more so because,

(i) the decree is a compromise decree; and

(ii) the parties had specifically agreed before the Arbitrator that the partners would take the property in schedule B in the same shares as found in the tabular column set forth above.

18. This arrangement would have enabled the claimants, whom the reference court has found to be the rightful owners of the property, to enjoy the benefits of the decree granted by it on 23.03.2018. Furthermore, when these revisions were argued by both Mr.K.Jeyachandran as well as Mr.D.Kulasekaran filed a joint memo of compromise dated 02.08.2024 affirming that their respective clients stand by the Award of the arbitrator dated 26.03.2018. Apart



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from that, it is the duty of this court to ensure that the litigation does not unnecessarily outlive its necessity. By virtue of the Award dated 26.03.2018, the parties had settled the matter between themselves. Having settled the matter, though six years have gone by, they are yet to see the colour of the coin.

19. Dr.S.Suriya would submit that in terms of the Award, the Special Tahsildar had deposited the amount and therefore, there cannot be any liability on the Government. She is correct in her submission because this is being a reference under Section 30, on the deposit of the amount by the Special Tahsildar to the reference court, the liability of the acquiring body came to an end.

20. In light of the above discussion, the civil revision petitions stand allowed. The orders of the learned VI Assistant City Civil Judge, Chennai dated 22.08.2022 are set aside. The applications filed to modify the decree in LAOP.No.30 of 2012 dated 23.03.2018 stand allowed not by virtue of the provisions invoked by the petitioners, but by invoking Section 151 of the Code of Civil Procedure.

21. The learned VI Assistant City Civil Judge, Chennai shall disburse the



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amount deposited to the credit of LAOP.No.30 of 2012 in the same share as found in the clause XV(1) at page 10 of the Compromise Award dated 26.03.2018. For ready reference of the court, the shares are setforth above in the tabular column in this judgment. The trial judge shall ensure about the identity of the parties before disbursing the amount to the claimants.

22. With the above observations, this civil revision petitions stand allowed. No costs. Consequently, the connected miscellaneous petition is closed.

02.08.2024

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Index : Yes/No
Speaking Order/Non-speaking order
Neutral Citation : yes/No

To

1.The VI Assistant City Civil Judge, Chennai



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V.LAKSHMINARAYANAN, J.

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