



W.P.No.36286 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Orders Reserved on : 27..06..2024

Orders Pronounced on : 05..07..2024

Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

Writ Petition No.36286 of 2023

R.Ettikan

..... Petitioner

-Versus-

1.The Special Tahsildar (Land Acquisition),
By-Pass Road, Namakkal.

2.The Divisional Engineer,
National Highway, Salem,

3.The Project Director,
National Highways Authority of India,
Salem.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Mandamus directing the respondents to pay compensation to the petitioner as directed by this court vide its judgement dated 22.03.2018 made in A.S.No.527 of 2015 with all other statutory benefits including statutory interest at rate of 15% per annum as mandated under proviso to Section 34 of the Land Acquisition Act, 1894 be paid to the petitioner on simple interest basis for the first five years or appropriate period as may be fixed by this court and thereafter to pay with compounding it getting worked out once in every six months till the date of payment.



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For Petitioner : Mr.N.Subramaniyan
For Respondent (s) : Mr.P.Sathish,
Addl. Government Pleader
for R1
Mr.AR.L.Sundaresan,
Addl. Solicitor General of India
Assisted by
Mr.Su.Srinivasan,
Standing Counsel for RR2 & 3

ORDER

This writ petition has been filed seeking a writ in the nature of mandamus directing the respondents to pay compensation to the petitioner as directed by this court by its judgement dated 22.03.2018 made in A.S.No.527 of 2015 with all other statutory benefits including statutory interest at rate of 15% per annum as mandated under proviso to Section 34 of the Land Acquisition Act, 1894 on simple interest basis for the first five years or appropriate period as may be fixed by this court and thereafter to pay the compensation with compounding interest at half yearly rests till date of payment.

2. The facts leading to the filing of the writ petition, in brief, are as



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follows:-

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(i) An extent of 10759.32 square feet of agricultural land comprised in S.Nos.255/2B2, 255/3B & 255/4B situated at Vallipuram Village was owned and possessed by the petitioner. The land said was proposed to be acquired by the State for the construction of new by-pass road for Namakkal Town by the National Highways Authority of India. Accordingly, a notification under Section 4(1) of the Land Acquisition Act, 1894 was issued on 25.10.1993. After following the due procedures, on 29.09.1995, an award in Award No.3/1995 was passed fixing market value at Rs.58,823/- per hectare.

(ii) Aggrieved by the market value fixed by the Land Acquisition Officer (LAO) concerned, the petitioner made an application for enhancement of compensation. Accordingly, on a reference made by the LAO which was taken on file in L.A.O.P.No.15/1997, the reference court/Sub Court, Namakkal, enhanced the market value to Rs.100/- per square feet. On appeal by the respondents this court remitted the matter to the reference court by its order dated 06.04.2010 with a direction to implead the National Highways Authority of India as a party respondent and decide the matter afresh. Thereafter, the reference court passed an award enhancing the compensation fixed by the LAO to Rs.80/- per square feet. Again, aggrieved by the said award, the respondents preferred an appeal in A.S.No.527 of 2015 on the file of this court and this



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court by its judgement dated 22.03.2018, fixed the market value of the acquired land at Rs.67/- per square feet and directed the respondents to workout the compensation and pay the same to the petitioner after deducting the amount already paid within a period of two months from the date of receipt of copy of the judgement.

(iii) The respondents 2 & 3 , however, without any regard to the order of this court, deposited only a part of the amount on 22.03.2018 and distorted the course of justice by filing a false calculation memo to mislead the executing court.

(iv) As the respondents 2 & 3 had not deposited the compensation amount as directed by this court by its judgement in A.S.No.527 of 2015 dated 22.03.2018, the petitioner was compelled to approach the Executing Court/Sub Court, Namakkal, to enforce the decree of this court by way of execution petition in R.E.P.No.61 of 2021. After nearly two years of delay, by order dated 08.11.2023, the executing court was pleased to calculate the compensation payable to the petitioner at Rs.38,30,765.65 paise as on 08.11.2023 and directed the respondents to pay the same to the petitioner on or before 08.12.2023.

(v) The respondents without depositing the compensation amount, approached this court by way of a revision in C.R.P.No.4774 of 2023 objecting



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to the compensation calculated by the executing court. Though he was deprived of his land 28 years ago, he has not been paid the due compensation for which he is legally entitled to and the petitioner has been deprived of his constitutional rights. Therefore, the respondents are liable to pay interest on the compensation at the rate of 15% per annum at half yearly rests after five years of delay till date of payment in full. Hence, this writ petition.

3.1. A counter affidavit has been filed by 1st respondent. In the counter affidavit, the 1st respondent while admitting the land acquisition proceedings and the enhancement of compensation fixed by this court at Rs.67/- per square feet by judgement dated 22.03.2018 made in A.S.No.527 of 2015, *inter alia* contended that as against the order/award passed by the reference court dated 30.09.2002 in L.A.O.P.No.15/1997 enhancing the market value to Rs.100/- per square feet for the acquired land, the petitioner originally preferred an appeal in A.S.No.726 of 2024 on the file of this court and this court by its order dated 12.07.2004 while remitting the mater to the reference court for fresh consideration, directed the Divisional Engineer (LAO)NHAI to deposit 50% of the decree amount to the credit of the L.A.O.P.Nos.11 to 15 of 1997. Accordingly, as per the award of the reference court dated 30.09.2022, a sum of Rs.14,04,048/- being 50% of the decree amount of Rs.28,08,095/- payable was deposited into the court on 09.10.2004 by way of Demand Draft bearing DD



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No.349074 drawn on Syndicate Bank, Coimbatore. Thereafter, the reference court by its award/order dated 27.04.2012 again by passing orders afresh enhanced the market value to Rs.80/- per square feet. Thereupon, the petitioner once again challenged the award of the reference court by way of appeal in A.S.No.527 of 2015. This court by its judgement dated 22.03.2018 while allowing the appeal, fixed the market value at Rs.67/- per square feet. Accordingly, the respondents 2 & 3 deposited the balance amount of compensation of Rs.11,03,228/- including all other statutory benefits and payment of interest as provided under Section 34 of the Land Acquisition Act into the reference court on 22.01.2021 to the credit of the L.A.O.P.No.15 of 1997.

3.2. The 1st respondent further contended that, however, the executing court had erroneously calculated the compensation amount in its order dated 08.11.2023 as if the respondents were liable to pay Rs.38,30,765.65 paise and directed the respondents to pay the same which included interest amount of Rs.27,00,066.65 paise and additional interest for the period from 23.01.2021 to 08.11.2023. Interest calculated at Rs.27,00,066.65 paise by the Executing Court is untenable and not maintainable either in law or on facts as it seems that the Executing Court calculated interest on interest amount. As against the order of the executing court, a revision was filed in C.R.P.No.4774 of 2023 on the file of



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this court and this court was pleased to stay the operation of the order of the executing court dated 08.11.2023.

4. The 3rd respondent-NHAI filed its counter affidavit in the same line of the counter affidavit filed by the 1st respondent-Tahsildar, Namakkal.

5. In the additional affidavit dated 16.04.2024 filed by the 3rd respondent into the court on 17.04.2024 while *inter alia* disputing the calculation made by the executing court, the 3rd respondent stated that C.R.P.No.4774 of 2023 filed by him against the order of the executing court dated 08.11.2023 has been dismissed by this court by order dated 15.03.2024.

6. The petitioner filed his rejoinder to the additional counter affidavit filed by the 3rd respondent wherein he *inter alia* stated that C.R.P.No.4774 of 2023 was dismissed by this court by order dated 15.03.2024. Therefore, he is entitled to interest as per the judgement of the constitutional bench of the Hon'ble Supreme Court in the case of **Gurpreet Singh v. Union of India [(2006) 8 SCC 457]**. Despite the law declared on the subject by the Hon'ble Supreme Court, the respondents make preliminary objection without any regard to the verdict of the constitutional courts. The respondents oppose the order of the executing court in respect of calculation of interest without any basis and legal strength. The respondents are liable to pay the compensation with compounding interest at rate of 15% per annum at half years rests as claimed in



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the writ petition.

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7. This court heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the 1st respondent and the learned Additional Solicitor General of India appearing on behalf of the learned standing counsel for the respondents 2 and 3.

8. The present writ petition has been filed seeking a direction to the respondents to pay the compensation to the petitioner for the acquired land as directed by this court in judgement dated 22.03.2018 made in A.S.No.527 of 2015 together with all statutory benefits including interest at the rate of 15% per annum as mandated under proviso to Section 34 of the Land Acquisition Act, 1894 on simple interest basis for the first five years or appropriate period as may be fixed by this court and thereafter to pay with compounding it getting worked out once in every six months till the date of payment.

9. On considering the pleadings of either party, the point that arises for consideration in this writ petition is :

Whether the writ petition is maintainable for payment of compounding interest on the compensation directed by this court by its judgement and decree dated 22.03.2018 made in A.S.No.527 of 2015?

10. The admitted facts are as follows:-

(a) The land belonged to the petitioner was



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acquired in 1993 for the formation of Namakkal By-pass road.

(b) The LAO fixed the market value of the land at Rs.58,823/- per hectare for dry land and Rs.61,475/- per hectare for irrigated dry land.

(b) Not being satisfied by the award, the petitioner made an application for enhanced compensation and the same was referred to the reference court.

(c) On such reference, a case in L.A.O.P.No.15 of 1997 was taken on file by the Reference Court/Sub Court, Namakkal; the reference court by order dated 30.09.2022 enhanced the market value to Rs.100/- per square feet.

(d) Not being satisfied with the award of the reference court, the petitioner preferred an appeal in A.S.No.726 of 2004 and this court by order dated 12.07.2024 while staying the order of the reference court, remitted the matter back to the reference court for fresh consideration with a direction to the Divisional Engineer /LAO/NHAI to deposit 50% of the decree



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amount to the credit of the case in L.A.O.P.No.15 of 1997.

(e) Accordingly, the Divisional Engineer/LAO/Chennai deposited a sum of Rs.14,04,048/- being 50% of the decree amount on 09.10.2024 to the credit of the case in L.A.O.P.No.15 of 1997.

(f) On remitting the matter, the reference court by its order dated 27.04.2012 enhanced the market value to Rs.80/- per square feet.

(g) Again not being satisfied with the award of the reference court preferred an appeal in A.S.No.527 of 2015 and this court by judgement dated 22.03.2018 fixed the market value at Rs.67/- per square feet.

(h) This court by its judgement dated 22.03.2018 made in A.S.No.527 of 2015 while reducing the market value from Rs.80/- per square feet as ordered by the reference court to Rs.67/- per square feet, confirmed all other part of the judgement and decree of the reference court dated 27.04.2012 made in L.A.O.P.No.15 of 1997.



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11. The relevant portions of the decree of this court dated 22.03.2018

made in A.S.No.527 of 2015 are reproduced hereunder for easy reference.

“1. That the judgement and of the Subordinate Judge, Namakkal, made in L.A.O.P.No.15 of 1997 dated 27.04.2012 be and hereby modified as the market value of land is redetermined at Rs.67/- (Rupees Sixty Seven only) per sq. feet.

2. That the appellant/land acquisition officer do pay the claimants Rs.67/- (Rupees Sixty Seven only) per sq. feet being the market value for the land acquired and subsequent usual benefits i.e., additional amount under Section 23(1) of Land Acquisition Act, at the rate of 12% per annum on the market value from the date of 4(1) Notification till the date of possession or date of award whichever is earlier and solatium at the rate of 30% on the market value together with interest on such compensation at the rate of 9% per annum for a period of one year from the date of possession and thereafter at the rate of 15% per annum till date of deposit.

3. That the appellant/land acquisition officer be and hereby is directed to pay the compensation less the amount already passed to the claimants within a period of two months from the date of receipt of a copy of this judgement.

4. That the Special Government Pleader for the appellant/Land Acquisition Officer in these appeals be



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execution of the decree in R.E.P.No.61 of 2021 on the file of the Sub Court, Namakkal. The executing court taking note of the various judgements of the constitutional courts has fixed the compensation payable at Rs.38,30,765.65 paise as on 08.11.2023 by order dated 08.11.2023. Though there was a revision filed by the State in C.R.P.No.4774 of 2023 aggrieved by the order of the executing court, this court was pleased to dismiss the said revision by order dated 15.03.2024. However, the respondents without paying the compensation one way or other delaying the payment of compensation and therefore, the respondents who are the statutory authorities having acquired the land and made the petitioner landless are bound to pay interest on the compensation for the deliberate delay caused by the respondents.

14. The learned counsel for the petitioner would further submit that the petitioner was deprived of his land. Having acquired the land forcibly the respondents delaying the payment one way or other citing the pendency of legal proceedings. The respondents being statutory authorities for their deliberate failure in making the payment of compensation due and payable to the petitioner, the petitioner could maintain a writ petition and the court direct the compensation amount to be paid with compounding interest at half years rests as claimed in the writ petition.

15. In support of his contention, the learned counsel for the petitioner



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would place reliance on the following judgements of the Hon'ble Supreme

Court as well as Madras High Court:

- (1) Ram Chand v. Union of India [(1994) 1 SCC 44],
- (2) Tukaram Kana Joshi v. MIDC [(2013) 1 SCC 353] &
- (3) M.Palanisamy v. State of Tamil Nadu [2022 SCC
OnLine 2476]

16. Per contra, Mr.AR.L.Sundaresan, the learned Additional Solicitor General of India, appearing on behalf of Mr.Su.Srinivasan, learned Standing Counsel on record for the respondents 2 and 3 would submit that as, as against the order of this court dated 15.03.2024 dismissing the revision petition in C.R.P.No.4774 of 2023 filed by the 3rd respondent aggrieved by the order of the executing court quantifying the compensation amount payable, a Special Leave Petition has been filed, there cannot be any direction much less positive direction in a separate writ petition and as such the present writ petition is not maintainable.

17. This court has considered the rival submissions and perused the available records carefully.

18. As already stated supra, the respondents 2 & 3 had not deposited the compensation amount as directed by this court in its judgement in A.S.No.527 of 2015 together with all other statutory benefits, the petitioner was forced to approach the executing court to enforce the decree of this court by way of



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execution petition in R.E.P.No.61 of 2021. The executing court by its order dated 08.11.2023 directed the respondents to pay a sum of Rs.38,30,765/-. This order was put to challenge by the respondents by way of revision in C.R.P.No.4774 of 2023 before this court on the ground that executing court directed additional interest to be paid for the period from 23.01.2021 to 08.11.2023 to the tune of Rs.27,00,066.55 paise which amount is nothing but an amount calculated interest on interest and the respondents are not due and liable to pay any amount to the petitioner towards compensation and the entire compensation amount had already been deposited into the court. Now, this court was informed that the said revision petition came to be dismissed on 15.03.2024.

19. The main grievance of the petitioner is that during course of argument in C.R.P.No.4774 of 2023, a misleading statement had been advanced by the respondents. Having acquired the land belonged to the petitioner and suffered a decree from this court, the respondents cannot deprive the petitioner of his compensation as per the law and one way or other dragging on the matter and preventing the petitioner from realizing the fruits of the decree. According to the learned counsel for the petitioner, despite dismissal of the civil revision petition filed as against the order of the executing court computing the balance compensation to be paid and directing the respondent to pay the same, the



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respondents failed to pay the same and therefore, they are liable to pay the same with compounding interest as prayed in the writ petition.

20. Taking note of the various guidelines of the Hon'ble Supreme Court with regard to payment of compensation and interest, the executing court has arrived at interest and passed a detailed order in R.E.P.No.61 of 2021 computing the balance amount of compensation payable with interest. It was this order put to challenge in C.R.P.No.4774 of 2023 and this court by order dated 15.03.2024 dismissed the revision petition. In such view of the matter, this court is of the view that when the compensation payable together with interest thereon had already been crystallized and reached finality with the dismissal of the revision by this court, and the respondents are not able to furnish any particulars with regard to pendency of special leave petition before the Hon'ble Supreme Court, it is for the respondents 1 & 2 to make payment of compensation as per the order.

21. Though the learned Additional Solicitor General of India submitted that as against the order of this court dismissing the revision petition, a special leave petition has been filed before the Hon'ble Supreme Court, no particulars regarding SLP were furnished to the court. Be that as it may, no doubt, the respondents have a right of appeal against the order of this court dismissing the revision and thereby confirming the order of the executing court.



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22. When the issue of payment of compensation and interest payable thereon has already reached finality with the dismissal of the revision petition in W.P.No.4774 of 2023 by the order of this court dated 15.03.2024, unless the order in the revision petition is set aside by the Apex Court, it is the statutory duty of the respondents to pay the amount of compensation determined by the executing court in execution of the decree dated 22.03.2018 made in A.S.No.527 of 2015. However, merely for the delay in the payment of compensation, there cannot be a separate writ petition seeking to direct the respondents to pay the compensation with compound interest thereon. In the event the compensation amount as directed by the executing court is not paid, the petitioner is not remediless and for the delayed payment the petitioner is entitled interest till the entire amount of compensation is paid as per the judgement and decree of this court. The respondent 1 & 2 cannot avoid payment of interest merely citing delay in legal proceedings. This court is thus of the view that the writ petition seeking a direction for payment of compounding interest is not maintainable and the same is therefore, liable to be dismissed.

In the result, the writ petition is dismissed, however, with the above observations. No costs.

Index : yes / no

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Neutral Citation : yes / no

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To

- 1.The Special Tahsildar (Land Acquisition),
By-Pass Road, Namakkal.
- 2.The Divisional Engineer,
National Highway, Salem,
- 3.The Project Director,
National Highways Authority of India,
Salem.



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N.SATHISH KUMAR.J.,
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PRE-DELIVERY ORDER
in
W.P.No.36286 of 2023

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