



C.R.P.(MD)Nos.3237 and 3238 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 23/02/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGO VAN**

C.R.P (MD) Nos. 3237 and 3238 of 2023

and

CMP (MD) No. 16703 and 16704 of 2023

(1) CRP (MD) No. 3237 of 2023 :-

G.P.Gnanadesigan (Died)

- 1.G.P.Sivaprakasam
- 2.G.P.Sudareswaran
- 3.T.Veerammal
- 4.T.Karthikaeni Amma Pillai
- 5.T.Mangalam
- 6.T.Ponvelsamy
- 7.Ponmani
- 8.Kalaiselvi
- 9.Nantheeswaran
- 10.Divya

: Petitioners/Petitioners/
Petitioners/3rd Parties

Vs.

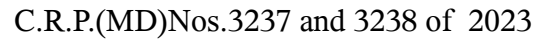
- 1.The Special Thasildhar (Land Acquisition),
Shanmuganathi Reservoir Scheme,
Uthamapalayam Taluk,
Theni District.

: 1st Respondent/
1st Respondent/
1st Respondent/
Land Acquisition Officer

R.Periyasamy Thevar (Died)

- 2.P.Pitchammal
- 3.P.Sukumar
- 4.P.Saravanakumar
- 5.P.Rameshwari
- 6.P.Latha

R.Vellaisamy (Died)



R.Akkini Thevar (died)

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: Respondent No.2 to 14/
Respondent No.2 to 17/
Respondent No.2 to 17/
Claimants
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PRAYER:- Civil Revision Petition has been filed under section 115 of the Code of Civil Procedure, to set aside the fair and decreetal order, dated 02/08/2023 passed in IA No.32 of 2019 in IA No.63 of 2017 in L.A.O.P No.14 of 1992 on the file of the Sub Court, Periakulam and pass such further or other orders.

(2) CRP (MD) No.3238 of 2023:-

G.P.Gnanadesigan (Died)

: Petitioners/Petitioners/
Petitioners/3rd Parties

 $V_S.$

: 1st Respondent/
1st Respondent/
1st Respondent/
Land Acquisition Officer



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R.Periyasamy Thevar (Died)

- 2.P.Pitchammal
- 3.P.Sukumar
- 4.P.Saravanakumar
- 5.P.Rameshwari
- 6.P.Latha

R.Vellaisamy (Died)

- 7.V.Jhansi Rani
- 8.V.Jegatheswari
- 9.V.Jeyasudha
- 10.Muruga Jothi
- 11.V.Rajesh @ Ramkumar

R.Akkini Thevar (died)

- 12.Karnan
- 13.Subbiah
- 14.Kathirvel

: Respondent No.2 to 14/
Respondent No.2 to 17/
Respondent No.2 to 17/
Claimants

PRAYER:-Civil Revision Petition has been filed under section 115 of the Code of Civil Procedure, to set aside the fair and decreetal order, dated 02/08/2023 passed in IA No.33(2) of 2019 in IA No.61 of 2017 in L.A.O.P No.13 of 1993 on the file of the Sub Court, Periyakulam and pass such further or other orders.

For Petitioners : Mr.S.Visnhuvaradhan
(both cases)

For 1st Respondent : Mr.A.Sivanu Pandian
(both cases) Government Advocate
(Civil Side)

For R2 to R6
& R8 to R14 : Mr.B.Chandra Mohan
(both cases)



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CRP(MD)No.3237 of 2023 is filed seeking to set aside the fair and decreetal order, dated 02/08/2023 passed in IA No.32 of 2019 in IA No.63 of 2017 in L.A.O.P No.14 of 1992 on the file of the Sub Court, Periyakulam, whereas CRP(MD)No.3238 of 2023 has been filed seeking to set aside the order, dated 02/08/2023 passed in IA No.33(2) of 2019 in IA No.61 of 2017 in L.A.O.P No.13 of 1993 on the file of the Sub Court, Periyakulam.

2.The facts in brief:-

The Government initiated action for acquiring the lands in Rayappanpatti and Mamayakoundanpatti villages for constructing Shanmuga River Bed. The claimants filed claims petition before the trial court namely the Sub Court, Periyakulam. Later it was ordered, on 27/02/1995 In LAOP Nos.13 and 14 of 1992, the amount was deposited by the Government into the account.

3.Now the problem arises by way of filing IA Nos.61 and 63 of 2007 by the petitioners stating that the amount has been dispersed to wrong persons; They are the true owners of the said survey numbers mentioned in the LAOP award. Suppressing the true owners to the property, the respondents are now taking steps to withdraw the amount.



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4. So seeking direction to disburse the amount to them, the above said application was filed.

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5. The respondents also appeared and during the course of enquiry, the impugned petitions have been taken up by these petitioners stating that the first respondent namely Special Tashildar, for Land Acquisition, Shanmuga River Bed, must be examined with reference to the documents. For that purpose, enquiry must be re-opened.

6. That was resisted by the respondents stating that the right of the private respondents were confirmed upto this court. Only to drag on the proceedings, these petitions are filed.

7. After hearing both sides, that applications were dismissed by the Enquiry Court namely the trial Court.

8. Against which, these civil revision petitions are preferred.

9. The learned counsel appearing for the petitioners would submit that since non-owners were conferred with right of claim, unless the entire file relating to the Land Acquisition Proceedings are produced, just decision



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cannot be arrived at. For that purpose, the first respondent must be summoned to give evidence along with relevant records.

10. But the first respondent is a party before the trial court. A counter party cannot be summoned for the purpose of giving evidence. If the petitioners want the particular documents to be produced which is in the custody of the opposite side, they can resort to the proceedings under Order 11 Rule 12 CPC, which is extracted herein:-

"O.11 R12-Application for discovery of documents.-Any party may, without filing any affidavit, apply to the Court for an order directing any other party to any suit to make discovery on oath of the documents which are or have been in his possession or power, relating to any matter in question therein. On the hearing of such application the Court may either refuse or adjourn the same, if satisfied that such discovery is not necessary, or not necessary at that stage of the suit, or make such order, either generally or limited to certain classes of documents, as may, in its discretion be thought fit:

Provided that discovery shall not be



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ordered when and so far as Court shall be of opinion that it is not necessary either for disposing fairly of the suit or for saving costs."

11.Order 11 Rule 16 CPC reads as under:-

"O.11 R.16-Notice to produce.-Notice any party to produce any documents referred to in his pleading or affidavits shall be in Form No7. In Appendix C, with such variations as circumstances may require."

12.Without resorting to the above said specific provision, summon has been taken out. So the impugned orders passed by the trial court does not require any interference though for different reasons.

13.In the result, both civil revision petitions are **dismissed.** No costs. Consequently, connected Miscellaneous Petitions are closed.

23/02/2024

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Subordinate Judge,
Periyakulam,
Theni District.
- 2.The Special Thasildhar (Land Acquisition),
Shanmuganathi Reservoir Scheme,
Uthamapalayam Taluk,
Theni District.
- 3.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN, J

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23/02/2024