



CRP NPD.No.3420 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 20.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

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Nachammal [died]

Palanisamy Gounder [died]

1. Mahudeeswari
2. Katheresan
3. Kirupashini
4. Thirumalaisamy

. . . Petitioners

Versus

1. The Special Thasildhar [Land Acquisition],
Neighbour Hoor Scheme,
Dharapuram [Now], formerly Land Acquisition Thasildhar,
The Special Thasildhar [Land Acquisition],
2. The Superintending Engineer, [Housing Board],
Erode [Now Formerly],
Executive Engineer, Housing Board Scheme,
Erode, Periyar Nagar, Erode Town, Erode.
3. Ravichandran
4. Chellammal
5. Saraswathi
6. Gandhimathi



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7. Ponnusamy

. . . Respondents

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PRAYER : Petition filed under Article 115 of Code of Civil Procedure to set aside the Order dated 14.03.2023 in E.P.No.48 of 2003 in LAOP.No.11 of 1991 on the file of the Subordinate Judge, Dharapuram.

For petitioners : Mr.K.Sudhakar

For respondents : Mr.D.Gopal
Government Advocate – R1

Mr.C.Kalaichelvan – R2

Mr.J.Pradeep – R3 to R7

ORDER

Challenging the Order of the Execution Court dismissing the Execution Petition, the present Civil Revision Petition has been filed.

2. Brief facts leading to filing of this revision is as follows :

The notification for acquiring the property of the petitioner has been



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issued under section 41[1] of the Land Acquisition Act on 11.08.1982 followed by notice under section 9[1] of the Land Acquisition Act on 17.12.1986 and award has been passed on 20.08.1987 for acquiring 4 acre and 55 cents and compensation of Rs.4629/63 per acre has been fixed by the Special Tahsildar. Reference was made to the Court under section 18 of the Land Acquisition Act. The Tribunal by an Order dated 27.08.1993, fixed the compensation at the rate of Rs.3000/- per cent in L.O.P.No.11 of 1991. Challenging the said Order, an appeal has been filed by the State in A.S.No.917 of 1994 and Cross objection No.86 of 2001 has also been filed by the petitioner. While dismissing the appeal, this Court has allowed the cross objections and enhanced the compensation from Rs.3000/- to Rs.4000/- per cent and also held that the claimant is entitled to interest on solatium only for the market value of the land acquired in addition to this additional amount at the rate of 12% per annum from the date of 4[1] satisfaction till the date of passing of the award or delivery or possession, which ever is earlier. It is also made clear that claimants are entitled to interest at the rate of 9% per annum from the date of possession for a period of one year and thereafter, at the rate



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of 15% per annum till the date of deposit. Further the issue regarding grant of interest, this Court had held that solatium is pending before the larger bench of the Supreme Court, hence, depending on the outcome of the case before the Supreme Court, the claimants are permitted to file appropriate petition before the concerned Subordinate Court. Therefore, they had filed an execution petition taking note of the authoritative pronouncement made by the Constitution Bench judgment in **Sunder Vs. Union of India in Case in Appeal [Civil] 6271 of 1998, dated 19.09.2001.** However, the Execution Court has dismissed the Execution petition on the ground that the appellate Court has not granted any interest on solatium and additional amount. Challenging the same, the present revision has been filed.

3. The learned counsel appearing for the first and second respondents would submit that on the date of judgment in **Sundar case cited supra**, entire amount has already been deposited. Therefore, petitioners are not entitled to any interest.



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4. Whereas, the learned counsel appearing for the petitioner would submit that the Execution Court has misrepresented the Order of the appellate Court. Infact, the appellate Court has permitted the petitioners to approach the Subordinate Court for claiming interest on the solatium and additional amount subject to the outcome of the judgment of the Constitution Bench. Now the Constitution Bench in **Sundar case cited supra** has answered the reference and held that the solatium provided under section 23[2] of the Land Acquisition Act forms an integral and statutory part of the compensation awarded to a land owner and then interest is also payable on the compensation awarded and not merely on the market value of the land. Hence, submitted that the Order of the Execution Court has to be set aside.

5. Heard both sides and perused entire materials available on record.

6. The Execution Petition has been dismissed mainly on the ground that



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the appellate Court has not provided any interest. It is relevant to note that the appellate Court while enhancing the compensation from Rs.3000/- to Rs.4000/- per cent has passed the following Order :

“It is further made clear that the claimants are not entitled to interest on solatium and additional amount. Further, the issue regarding grant of interest on solatium is pending before the larger bench of the Honourble Supreme Court. Hence, depending on the outcome of the case before the Supreme Court, the claimants are permitted to the appropriate petition before the concerned sub-court.”

The above Order makes it clear that the appellate Court has not rejected the claim of interest or additional amount and it has postponed the interest subject to the outcome of the decision of the Constitution Bench of the Supreme Court. Now the Constitution Bench of the Supreme Court in **Sundar case cited supra** has held that the interest is also payable on solatium. The appellate Court has permitted the revision petitioner to file an appropriate petition



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before the Sub Court on the outcome of the case before the Supreme Court. It is also relevant to note that the other Constitution Bench in the judgment in **Gurpreet Singh Vs. Union of India in Case No.Appeal [Civil] No.4570 of 2006** has held as follows :

“But if the award of the reference court or that of the appellate court does not specifically refer to the question of interest on solatium or in cases where claim had not been made and rejected either expressly or impliedly by the reference court or the appellate court, and merely interest on compensation is awarded, then it would be open to the execution court to apply the ratio of **Sunder** (supra) and say that the compensation awarded includes solatium and in such an event interest on the amount could be directed to be deposited in execution. Otherwise, not. We also clarify that such interest on solatium can be claimed only in pending executions and not in closed executions and the execution court will be entitled to permit its recovery from the date of



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the judgment in Sunder (September 19, 2001) and not for any prior period. We also clarify that this will not entail any re-appropriation or fresh appropriation by the decree-holder. This we have indicated by way of clarification also in exercise of our power under [Articles 141](#) and [142](#) of the Constitution of India with a view to avoid multiplicity of litigation on this question.”

7. Therefore, considering the dictum laid down by the Supreme Court, when the appellate Court has held that the revision petitioners are entitled to interest subject to the outcome of the judgment of the Constitution Bench of the Supreme Court in **Sundar case cited supra**, the Execution Court holding that the appellate Court has not granted any interest, is necessarily to be interfered and set aside.

8. Accordingly, this revision is allowed and the order of the Execution Court in E.P.No.48 of 2003 dated 14.03.2023 is set aside. The Execution



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Court has to decide the quantum of interest payable in tune with the Constitution judgments of the Supreme Court cited supra and the guidelines set out in **Gurpreet Singh Vs. Union of India in Case No.Appeal [Civil] No.4570 of 2006** and pass Orders on merits within a period of two months.

No costs.

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Index : Yes / No

Internet: Yes

Speaking/non speaking order

vrc

To,

The Subordinate Judge,
Dharapuram.



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N. SATHISH KUMAR, J.

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