

(2009) 04 MAD CK 0482
In the Madras High Court
Case No : C.R.P. (NPD) No. 367 of 2009

Jeyaraj Nadar

APPELLANT

Vs

Special Tahsildar (Land Acquisition)

RESPONDENT

Date of Decision : 17-04-2009

Acts Referred:

Citation : (2009) 04 MAD CK 0482

Hon'ble Judges : M. Venugopal, J

Bench : Single Bench

Advocate : V.M. Balamohan Thambi, for the Appellant; K. Nallathambi, AGP, for the Respondent

Final Decision : Dismissed

Judgement

M. Venugopal, J.—The revision petitioner/claimant has filed the Civil Revision Petition as against the order dated 05.11.2008 in E.A. No. 811 of 2008 in L.A.O.P. No. 30 of 2002 passed by the learned Additional District Judge (Fast Track Court No. 1), Tirunelveli in dismissing the application filed by the revision petitioner praying for issuance of a cheque of Rs. 9,59,687/- in favour of his counsel.

2. It transpires that the revision petitioner/claimant has filed E.A. No. 811 of 2008 in L.A.O.P. No. 30 of 2002 before the learned Additional District Judge (Fast Track Court No. 1), Tirunelveli inter alia stating that the respondent/referring officer has deposited a sum of Rs. 9,61,155/- towards the compensation in respect of the land that has been acquired and therefore, has prayed for an issuance of cheque for a sum of Rs. 9,59,687/- in favour of his counsel before the learned Additional District Judge (Fast Track Court No. 1), Tirunelveli. The respondent/ referring officer has filed a counter stating that an appeal has been filed against the enhanced award amount in A.S. No. 26 of 2007 before this Court and in such cases, the appellate court would allow the claimant to withdraw 25% of the award amount without security and that the claimant has to seek permission only from the appellate forum.

3. After contest, the learned Additional District Judge (Fast Track Court No. 1), Tirunelveli has dismissed the application stating that in view of the appeal having been filed by the respondent/referring officer before the High Court has not been inclined to allow the application and resultantly dismissed the same.

4. It is not in dispute that A.S. No. 26 of 2007 has been filed before this Court as against the award dated 20.08.2003 in L.A.O.P. No. 30 of 2002 by the learned Additional District Judge (Fast Track Court No. 1), Tirunelveli. Therefore, in all fairness, this Court opines that the revision petitioner/claimant is to approach this Court in appeal forum namely, in A.S. No. 26 of 2007 before this Court and to seek appropriate remedy in regard to seeking permission for withdrawal of amount deposited by the respondent and in that view of the matter, the Civil Revision Petition fails and the same is hereby dismissed.

5. In the result, the Civil Revision Petition is dismissed leaving the parties to bear their own costs. The order passed by the trial court dated 05.11.2008 in E.A. No. 811 of 2008 in L.A.O.P. No. 30 of 2002 is confirmed for the reasons assigned by this Court in this revision. However, taking into account of an overall assessment of the facts and circumstances of the case, this Court permits the revision petitioner/claimant to file necessary application in A.S. No. 26 of 2007 pending on the file of this Court and to seek remedy in the manner known to law in regard to the withdrawal of the amount deposited by the respondent to the credit of L.A.O.P. No. 30 of 2002 before the trial court.