
(2014) 03 MAD CK 0173
In the Madras High Court
Case No : C.R.P. (NPD) No. 2955 of 2008

Mrs. Kamala and Sadasivam

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 07-03-2014

Acts Referred:

Tamil Nadu Court Fees and Suits Valuation Act, 1955 — Section 51

Citation : (2014) 03 MAD CK 0173

Hon'ble Judges : R. Karupiah, J

Bench : Single Bench

Advocate : A. Rajakumar for Mr. T.R. Rajaraman, for the Appellant; T. Jayaraman, for the Respondent

Final Decision : Disposed Off

Judgement

R. Karupiah, J.—The revision petitioners, who are the appellants in C.M.A. No. 11 of 2000, preferred this Civil Revision Petition against the order made in C.M.A. No. 11 of 2000 on the file of Sub Court, Tiruvannamalai. The revision petitioners filed an appeal u/s 9 of the Tamil Nadu Land Acquisition for Harijan Welfare Schemes to set aside the order of the Special Tahsildar (Adi Dravidar Welfare) Chengam dated 10.03.2000 in Award No. 5/99-2000 and enhance the value of the lands acquired in Na.Ka.A. 1279/97 dated 15.06.1998.

2. After hearing both sides, the Tribunal/Sub-Court has given a finding that since the appellants claiming enhanced the compensation, the appellants have to pay the deficit Court fee u/s 51 of the Tamil Nadu Court Fees and suit Valuation Act, but the appellants paid only Rs. 10/- as fixed Court fee and therefore, the trial Court directed the appellants to pay the deficit Court fee and to proceed further in this appeal. In spite of issued cheque slip, the appellants have not paid the deficit Court fee and hence, the trial Court has dismissed the civil miscellaneous appeal for default.

3. Aggrieved over the aforesaid order of the Subordinate Court, this revision

petitioners have filed this Civil Revision Petition.

4. The learned counsel appearing for the revision petitioners submitted that the appellants are ready to pay the deficit Court fee u/s 51 of the Tamil Nadu Court Fees and Suit Valuation Act, but the learned counsel seeks two months further time to pay the deficit Court fee. In support of his contention, the learned counsel appearing for the petitioners relied on a decision of this Court reported in Gunasekar and 3 others Vs. Special Tahsildar, Adi Dravidar Welfare, Tirunelveli . In the said decision, in paragraph Nos. 38 and 41, this Court held as under:

38. In the light of the above decision, the land owner/or person interested, whose land is acquired for public purpose, viz., the Harijan Welfare schemes, if aggrieved by such determination has a right of appeal u/s 9 of the Act 31 of 1978 on payment of Court Fee only in terms of Section 51 of the Court Fee Act.

41. C.R.P. (PD) No. 262 of 2008: If the revision petitioners paid appropriate Court Fee within a period of four weeks, the Court below is directed to take up the C.M.A. No. 14 of 1998 shall be restored to file and dispose the same on merits, failing which the judgment of the Court below shall stand. Accordingly, the above Civil Revision Petition is dismissed.

5. In view of the above decision, this Court is of the view that the Civil Revision Petition may be disposed of with a direction to the appellants to pay the deficit Court fee within a period of two months. But the learned counsel appearing for the respondents submitted that there is a delay in taking steps to restore the Civil Miscellaneous Appeal and therefore, he prayed for to pass an order that the appellants are not entitled to interest for the above said delay period. The said submission of the learned counsel for the respondent is concerned, I am of the view that the trial Court may pass an appropriate order after hearing both sides.

6. In the result, if the revision petitioner paid the appropriate Court Fee u/s 51 of the Court Fee Act, within a period of four weeks, the Court below is directed to take up the C.M.A. No. 11 of 2000 shall be restored to file and dispose the same on merits, failing which the judgment of the Court below shall stand. With the above said observation, this Civil Revision Petition is disposed of. No costs.