

**(2017) 07 MAD CK 0019**  
**In the Madras High Court**  
**Case No : 320, 321, 322 & 437 of 2006**

Subramanian, & Ors.

APPELLANT

Vs

Special Tahsildar Adhi Dravidar Welfare Department, & Anr.

RESPONDENT

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**Date of Decision :** 21-07-2017

**Acts Referred:**

**Citation :** (2017) 07 MAD CK 0019

**Hon'ble Judges :** T.Ravindran

**Bench :** SINGLE BENCH

**Advocate :** T.Ravindran

**Final Decision :** Dismissed

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## Judgement

1. The revision petitioners preferred applications before the Court below, under Rules 163 and 165 of the Civil Rules of Practice, seeking permission to withdraw their respective shares of amount lying in Court deposit to the credit of L.A.O.P.No.2 of 1996, on the footing that they are entitled to receive the same in accordance with the Judgment and Decree passed in L.A.O.P.No.2 of 1996 and as modified by the High Court in A.S.No.466 of 1999.

2. The above applications preferred by the revision petitioners were resisted by the respondent contending that the respondent, in accordance with the Judgment and Decree passed by the Lower Court, had deposited the compensation amount and accordingly, it is also stated that the revision petitioners had also been permitted to withdraw the compensation amount as per the Judgment and Decree of the Lower Court in L.A.O.P.No.2 of 1996. However, it is stated that as the Judgment and Decree of the Lower Court had been subsequently modified by the High Court in

A.S.No.466 of 1999, it is stated that the excess amount lying in the Court deposit is entitled to be withdrawn only by the respondent and further it

is stated that the revision petitioners have withdrawn the excess amount from the amount deposited by the respondent and as such the revision

petitioners are liable to remit back the sum of Rs.2,35,999/- and according to the respondent, the applications had been preferred by the revision

petitioners as a ploy to avoid the refund of the said sum drawn by them in excess and also to prevent the respondent from getting back the amount

from the Court deposit to which the respondent is entitled to and hence, the applications preferred by the revision petitioners are liable to be

dismissed.

3. The impugned common order of the Court below is perused.

4. It is found that the lands belonging to the revision petitioners and others were acquired by the Government, after observing necessary formalities

as per the provisions of the Land Acquisition Act. It is also found that the Referring Officer, after conducting due enquiry, had fixed the

compensation, to which the revision petitioners and others are entitled to, for the lands acquired from them and inasmuch as the compensation fixed

by the Referring Officer was not accepted by the revision petitioners and others, it is found that the matter had been referred to the

L.A.O.P.Court, wherein it is found that the value of the lands acquired from the revision petitioners had been determined by fixing the value at

Rs.2,326/- per Cent and accordingly, it is also found that the respondent had also deposited the compensation amount in the Court. However, it is

noted that the respondent had challenged the quantum of compensation fixed by the Lower Court in A.S.No.466 of 1999 and it is found that the

First Appellate Court had modified the Judgment and Decree of the Lower Court by fixing the value of the land at Rs.1,170/- per Cent.

Accordingly, it is noted by the Court below that the value fixed by the Referring Officer at Rs.71,316.40 had already been paid to the claimants.

Pursuant to the Judgment and Decree of the First Appellate Court, it is found that the amount to be paid is Rs.5,32,350/- and adding 30% of the

solatium, it comes to Rs.1,59,705/-. Therefore, it is found that the respondent had to deposit Rs.4,61,033.60, after deducting the amount already

paid by the respondent. It is also noted by the Court below that the interest at

various levels for the periods specified in the Judgment and Decree

works out to various sums as noted in the impugned order and finally, the Court below had held that the total amount to be paid comes to

Rs.9,92,494/- and deducting Rs.24/- from the same, it comes to Rs.9,92,470/-.

5. The respondent had already deposited a sum of Rs.21,33,460/- in the Court. Therefore, it is noted by the Court below that the respondent,

inasmuch as the Judgment and Decree of the Lower Court had been modified by the First Appellate Court, had deposited a sum of

Rs.11,40,990/- in excess. Therefore, as rightly determined by the Court below, the respondent is entitled to withdraw the amount paid by them in

excess and lying in Court deposit.

6. So holding, it is found that considering the extent of the lands acquired from the revision petitioners under the proceedings, it is found by the

Court below that the revision petitioners have withdrawn excess amount than to which they are entitled to and therefore, they are liable to refund

the excess amount with 6% interest to the respondent.

7. In such view of the matter, it is found by the Court below that the claim of the revision petitioners seeking for withdrawal of their respective

shares of amount lying in the Court deposit as if they are entitled to the same is bereft of merits and not acceptable. Therefore, it is seen that the

Court below had rejected the applications preferred by the revision petitioners and held that the respondent is entitled to recover the excess

amount withdrawn by the revision petitioners by way of appropriate proceedings in accordance with law.

8. Challenging the same, the present civil revision petitions have been preferred.

9. The only point that is urged by the learned counsel for the revision petitioners is that their calculation memos have not been taken into

consideration by the Court below and therefore, the impugned common order of the Court below is vitiated and liable to be set aside. On the other

hand, it is strenuously argued by the learned Additional Government Pleader appearing for the respondent that the Court below had properly taken

into consideration the Judgment and Decree of the L.A.O.P. Court as well as the modification of the same by the First Appellate Court in the right

perspective and held correctly that the excess amount lying in the Court deposit is entitled to be withdrawn only by the respondent and not by the

revision petitioners and according to him, the revision petitions have been laid by the revision petitioners as a ploy to avoid the payment of the amount withdrawn by them in excess and also to prevent the respondent from withdrawing the amount lying in the Court deposit, to which the respondent is entitled to.

10. On a perusal of the materials placed, it is found that as rightly contended by the learned Additional Government Pleader for the respondent and also as found by the Lower Court, the revision petitioners have withdrawn excess amount than to which they are entitled to as per the Judgment and Decree of the Lower Court and as modified by the First Appellate Court. In such view of the matter, when there is no basis on the part of the revision petitioners to claim for withdrawal of their respective shares of amount lying in the Court deposit in any manner, particularly when they had withdrawn excess sum as seem from the Judgment and Decree passed in the proceedings, the request of the revision petitioners had been rightly discountenanced by the Court below. When it is found that the revision petitioners have already been paid or withdrawn the amount to which they are entitled to in accordance with the Judgment and Decree passed in the proceedings and also that the revision petitioners have withdrawn the excess sum and liable to refund the same with interest to the respondent and when the Court below had properly approached the matter in all aspects both factually as well as legally and held that it is only the respondent, who is entitled to withdraw the excess amount lying in the Court deposit and not the revision petitioners, I do not find any merit in these civil revision petitions.

11. When it is found that the Court below had properly declined the request of the revision petitioners for the withdrawal of the amount, taking into consideration the terms of the Judgment and Decree passed in the proceedings and held that it is only the revision petitioners, who have withdrawn the excess amount and it is only the respondent, who is entitled to withdraw the amount lying in the Court deposit, I hold that the present contention of the revision petitioners that their calculation memos have not been taken into consideration by the Court below as such cannot be appreciated. The Court below, as rightly put forth by the learned counsel for the respondent, has taken into consideration the terms of the

Judgment and Decree passed in the proceedings in the correct perspective.

12. In view of the foregoing reasons, the civil revision petitions are dismissed with costs.