

IN THE COURT OF THE ADDITIONAL SUBORDINATE JUDGE, NAMAKKAL

PRESENT:-THIRU.N.SACHIDHANANTHAM, L.L.M.,

Additional Subordinate Judge, Namakkal

Monday, the 18th day of August 2025

திருவள்ளூர்வராண்டு 2056, விசுவாவசு வருடம், ஆவணித்திங்கள் 02 ம் நாள்

REP.No.112 of 2013

in

L.A.O.P.No.07 of 1996

1. M.Mahalingam(Died)

2. Navasilambarasan

3. Kalai Tamilselvi

4. Jeeva Selvalakshmi

... Petitioners

/Vs/

1. Land Acquisition Officer & Spl.Tahsildar(LA) By pass Road,

2. Divisional Engineer, (N.H) Salem- 5,

3. Project Officer, Namakkal Highways Authority of India,

Karur- 2.

.... Respondents

Amended as per order in R.E.A.9/2025 dated 25.06.2025

This Petition is taken on file by this Court on 13.12.2013 and came up for final hearing before me on 23.07.2025 in the presence of Tmt.N.Lakshmi, Advocate for petitioner and Government pleader appearing for Respondents, for non filing of counter statement were set exparte and upon perusing the materials available on record and upon hearing petitioners side arguments and having stood over for consideration till this day, this court delivered the following;

ORDER

1. The Petitioners/decreed holders filed this execution petition under Order 21 Rule 52 of CPC Seeking the relief to attach the petition mentioned properties for

realization of the decree amount mentioned in the column 8 & 9 of the execution petition.

2. Points for consideration:-

Whether this petition can be allowed or not?

2.1. Petitioners side arguments heard and perused the material records. On perusal of, it is found that the Petitioners/deGREE holders filed this execution petition seeking the relief to attach the petition mentioned properties for realization of the decree amount. The respondents remained exparte. However the counsel of first respondent has participated in the proceedings along with the decree holder counsel. According to the decree holders, after passing the award, the respondents/judgment debtors, failed to pay the decree amount for several years and hence the petitioners prayed to attach the petition mentioned properties.

2.2. It could be seen for the submission on both sides, the extent of land and the modified award passed in respect of acquired land from the petitioners is not disputed on either side. During the course of arguments, both side have filed a memo of calculation in respect of the claim amount due as on date. It is the specific contention of the learned counsel for dec.holders that a sum of Rs.34,68,861/- is due from the respondents. Refuting such contention the learned first respondent counsel would submit that all the decree amount with interest has been paid pending execution and as such there was no due and in fact the respondents have paid the excess amount apart from the award amount.

2.3. At this juncture it is necessary to peruse the calculation filed on either side.

The dec,holder and first respondent were filed the calculation which were reproduced as follows:

Area of Land : 23958 sq. ft sq.ft		Rate:67/- per
Sl.No	Details	Amount (in Rs.)
1.	Land Value	16,05,186.00
2.	30% Solatium	4,81,555.80
3.	12% Additional Value for 25.10.93 to 05.10.95 (711 days)/365	3,75,217.72
4.	Total amount (1) + (2) +(3)=	24,61,959.52
5.	Amount already paid by LAO	20,086.00
6.	Balance Principal Amount (4) – (5)	24,41,873.52
7.	9% interest for 1 year 19.10.95 to 18.10.96 Non Leap year (74/365 days)	44,555.83
8.	9% interest for 1 year 19.10.95 to 18.10.96 Leap year (292/366 days)	1,75,334.53
9.	15% interest from 19.10.96 to 09.08.2001 Leap year (440/366 days)	4,40,337.85
10.	15% interest from 19.10.96 to 09.08.2001 Non Leap year (1316/365 days)	13,20,618.72
11.	Total interest (7+8+9+10)	19,80,846.93
12.	25% amount deposited on 09.08.2001 in this Hon'ble Court	6,55,265.00
13.	The interim payment shall be deducted only from the interest payable at the first instance and accordingly the balance interest payable is (11-12)	13,25,581.93
14.	Rs.24,41,873.52-15% interest from 10.08.2001 to 14.06.2019 Leap year – 1464 days	14,65,124.11
15.	Rs.24,41,873.52-15% interest from 10.08.2001 to 14.06.2019 Non Leap year – 5054 days	50,71,737.85
16.	6+13+14+15 Amount to be payable on 31.12.2018, principal, Interest	1,03,04,317.00
17.	Amount Deposited on 14.06.2019	84,29,035.00
18.	Balance amount to be paid to the petitioner as on 31.12.2018 (16-17)	18,75,282.00

19.	Balance amount Rs.18,75,282.00- 15% interested from 15.06.2019 to 21.10.2021 (859 days)	6,62,000.00
20.	Amount Deposited on 21.10.2021	1,21,147.00
21.	The interim payment shall be deducted only from the interest payable at the first instance and accordingly the balance interest payable is (19-20)	5,40,853.00
22.	Balance amount Rs.18,75,282.00 – 15% interested from 22.10.2021 to 19.07.2025 (1366 days)	10,52,726.00
23.	Balance Amount(18+21+22)	34,68,861.00

2.4. Per contra the first respondent has filed the following calculation:

Area of Land : 23958 sq. ft		Rate:67/- per sq.ft
Sl.No	Details	Amount (in Rs.)
1.	Land Value	16,05,186.00
2.	30% Solatium	4,81,556.00
3.	12% Additional Value for 25.10.93 to 05.10.95 (711 days)	3,75,217.00
4.	Total amount	24,61,959.00
5.	Amount already paid	20,086.00
6.	Balance Principal Amount	24,41,873.00
7.	9% interest from 19.10.1995 to 18.10.1996 (366 days) (20,86,742/-)	1,88,321.00
8.	15% interest from 19.10.1996 to 09.08.2001 (440 days) (20,86,742)	3,77,329.00
9.		30,07,523.00
10.	25% award amount and interest paid as per Hon'ble High Court Order	6,55,265.00
11.	25% Principal Rs.5,21,685, Interest Rs.1,33,579/-	23,52,258.00
12.	Principal amount of Rs.15,65,057/- (Rs.20,86,742 – Rs.5,21,685)	41,92,209.00
13.		65,44,467.00
14.	NHAI deposited on 14.06.2019	84,29,035.00
15.	NHAI deposited a sum of Rs.1,21,147/- on 22.01.2021	
As per the contention of the respondent a total sum of Rs.20,05,715/- paid in excess to the decree holder		

2.5. It is imperative to note both the parties were relied upon the order passed by the then presiding officer of this court who disposed the execution petition No... 61 of 2021 in LAOP.No.15 of 1997 dated 08.11.2023 which consists of similar award and it was upheld by the Honble High court in CRP.No.4774 of 2023 dated 15.03.2024.

2.6. On careful perusal of the calculation memo filed on either side, it seems there was huge difference in the amount claimed by the decree holder. It is the specific contention of the decree holder that the respondent has deposited a sum of Rs.6,55,265/- on 09.08.2001, a sum of Rs.8429,035/- on 14.06.2019 and again a sum of Rs.1,21,147/- on 21.10.2021 were deposited before this court and the respondent as adjusted those deposits from the principal amount instead of adjusting the same from the interest amount. The above deposit made on several dates were admitted on both sides. It is settled principles that part satisfaction of award amount shall be made credit into the interest amount payable and not to the principal amount.

2.7. In the present case, the respondent has merely calculated the amount due and deducted the deposit amount from the principal award amount which is incorrect. The interest for the period from 19.10.1995 to 18.10.1996 and the interest from 19.10.1996 to 09.08.2001 were calculated and arrived for a sum of Rs.19,80,846/-. After deducting the 25% interim amount deposited i.e., Rs.6,55,265/- from the interest payable, the balance amount payable is Rs.13,25,581/-. Thereafter, interest at the rate of 15% from 10.08.2001 to 14.06.2019 would come to Rs.1,03,04,317/- and after deducting the amount deposited on 14.06.2019 a sum of Rs.84,29,035/- the

balance amount as on 31.12.2018 is Rs.18,75,282/-. The interest for the above amount at the rate of 15% from 15.06.2019 to 21.10.2021 would come to Rs.18,75,282 + Rs.6,62,000 = Rs.25,37,282/-. Thereafter, a sum of Rs.1,21,147/- was deposited on 21.10.2021 and after deducting the above deposits the balance amount interest from 22.10.2021 to 19.07.2025 at the rate of 15% interest would come to Rs.10,52,726/-. After deducting all the interim payments made by the respondent, the total balance amount payable is Rs.34,68,861/-. However, the respondent in his calculation has mentioned only a sum of Rs.20,05,715/- is the balance amount payable to the petitioner which is incorrect. There was no valid contra submissions made by the respondent so far in regard to the calculation filed by the decree holder. Therefore, considering the submissions on both sides and the deposits made by the respondent this court is of view the respondent is liable to pay a sum of Rs.34,68,861/- as on 19.07.2025 to the decree holder. The contention of the respondent that the entire amount has been paid to the decree holder cannot be sustained.

2.8. It is noted that the present execution is pending for more than 13 years and considering the above circumstance and in the interest of justice, it is necessary to direct the respondent to deposit the amount payable to the decree holder within a specified time limit. Accordingly the respondent is directed to pay a sum of Rs.34,68,861/- (as on 19.07.2025) to the decree holder within one month(18.09.2025) from the date of this order failing which the petition properties is liable for attachment. Hence, this petition is allowed accordingly.

In the result, this petition is allowed. The first respondent is directed to pay a sum of Rs.34,68,861/- (as on 19.07.2025) to the decree holder within a period of one month, (i.e., on or before 18.09.2025) from the date of this order failing which the petition properties are liable for attachment. The decree holder for entitled for costs. For compliance call on 19.09.2025.

Dictated by me to the Steno - Typist, typed by him, and corrected by me,
Pronounced by me in open court, on this the 18th day of August 2025

**ADDITIONAL SUBORDINATE JUDGE,
NAMAKKAL.**

Petitioners side Witness and Documents:- Nil

Respondents side Witness and Documents:- Nil

**ADDITIONAL SUBORDINATE JUDGE,
NAMAKKAL.**