

**IN THE COURT OF THE SUBORDINATE JUDGE,
KOTTARAKKARA**

Present:- Sri. Sandeep Krishna. V, Sub Judge

On Friday the 24th day of November, 2023/3rd day of Agrahayana, 1945 .

EP 11/2023

in

LAR 05/2020

Between

Decree Holder:-

Sanath Kumar, Sree Ganesham, Karikkam P.O,
Kottarakkara, Represented by Power of Attorney
Sudha Devi, W/o. Sanath Kumar,
Sree Ganesham, Karikkam P.O,
Kottarakkara,

By Adv: Sri.C. Gopalakrishna Pillai.

And

Judgment Debtor:-

1. Kerala State, represented by
the District Collector, Kollam.
2. The Deputy Chief Engineer,(Constructions),
Southern Railway, Thycaud P.O,
Thiruvananthapuram-695 014.

By Adv: R. Sunil Kumar(AGP)

This Execution Petition is filed by u/O. XXI, Rule 10 and 11(1) of the Code of Civil Procedure, 1908 coming on for hearing before me on 24.11.2023, the court on the same day passed the following:-

ORDER**Order dated 24.11.2023 in EP 11/2023 in LAR 5/2020**

1. This order relates to the balance due from the judgement debtors as on the date of this order.

2. Both sides have filed balance statements and they are not tallying and hence this court has to calculate the actual amount due as balance.

3. The decree in the EP reads as follows:

“In the result, the reference is partly allowed. The market value of the property acquired and involved in this reference is redetermined as Rs.75,000/- per are i.e. the market value of the total 4.75 are land as per section 23(1) first of the Land Acquisition Act, 1984 is redetermined as Rs. 3,56,250/- (Rupees Three Lakhs Fifty Six Thousand Two Hundred and Fifty only). The claimant is entitled to the benefit under section 23(1A) and 23(2) on the redetermined market value and the interest as specified under section 28 of the Land Acquisition Act, 1894. The claimant is entitled to the proportionate costs”

4. In *State of Punjab v. Amarjit Singh and Another*, AIR 2011 SC 982, the honourable Supreme Court of India held as follows:

“ 7. Thus a person whose land is acquired is entitled to the following amounts under the Act.

(a) Compensation determined under S.23(1) of the Act (comprising the market value of the land referred to as the first factor and any damages / expenses referred to as the second to sixth factors under the said sub-section).

(b) Solatium at 30% on the market value determined as the first factor under S.23(1) of the Act.

(c) Additional amount at 12% per annum of the market value of the land

referred to as the first factor under S.23(1) of the Act, for the period specified in S.23(2).

(d) Interest on the aggregate of (a), (b) and (c) above for the period between the date of taking possession to date of payment / deposit at the rate of 9% per annum for the first year and 15% per annum for the remaining period.

Payments made are to be adjusted and accounted in the manner set out in Gurpreet Singh v. Union of India 2006 (8) SCC 457.”

5. Applying the above ratio decidendi, the balance statement is calculated as below :

Market valued fixed as per section 23(1) first	3,56,250.00
12 % increase as per section 23 (1A) for 7 days from 24.12.2004 to 30.12.2004	819.86
30% solatium on the market value of land as per section 23(1) first	1,06,875.00
Total compensation awarded by Court	4,63,944.86
Total Compensation is rounded to Rs. 4,63,945/-	

Deposits

Rs. 2,47,010 /- on 31.1.2006

Rs. 6,84,458/- on 20.9.2019

Rs.28,681/- on 16.11.2023

6. The above dates of deposit are not seen disputed.

Balance calculation

Interest at the rate of 9% on Rs.4,63,945/- for one year from 31.12.2004 to 30.12.2005	41,755.05
Interest at the rate of 15% on Rs. 4,63,945/- for 32 days from	6,101.19

	31.12.2005 to 31.01.2006, the date of first deposit of Rs. 2,47,010/-	
	Total amount due as principal and interest as on 31.01.2006 was Rs.5,11,801.24/- (Rs.4,63,945 +41,755.05 + 6,101.19)	
	Less the amount of Rs. 2,47,010/- deposited on 31.01.2006	5,11,801.24 (-) 2,47,010.00 = 2,64,791.24/-
	Interest at the rate of 15% on Rs. 2,64,791.24/- for 4979 days from 1.2.2006 to 20.9.2019	5,41,806.40
	Total amount due as compensation on 20.9.2019, the date of second deposit of Rs. 6,84,458/-	2,64,791.24 (+) 5,41,806.40 = 8,06,597.64
	Less the amount of Rs. 6,84, 458/- deposited on 20.9.2019	1,22,139.64
	Interest at the rate of 15% on Rs. 1,22,139.64 for 1517 days from 21.9.2019 to 16.11.2023	76,144.86
	Total amount due as on 16.11.2023	1,22,139.64(+) 76,144.86 = 1,98,284.50
	Less the amount of Rs. 28,681/- deposited on 16.11.2023	1,69,603.50

7. From the above calculation, I find that **the total balance amount due as on 17.11.2023 is Rs. 1,69,603.50/-**. There has not been any directions from the judgement debtors as to the mode of adjustment of the deposited amount and hence the amount will first be adjusted to the interest and then the principal.

8. As per the directions of the honourable Supreme Court of India in *Rahul S. Shah v. Jitendra Kumar Gandhi and others, 2021 KHC 6252*, the honourable Supreme Court of India has clearly directed that the execution petitions should be disposed of in six months. In the circumstances, the JD1 and JD2 are directed to deposit the balance amount without delay in one month time with the accruing interest till the date of deposit. If the deposit is not made in the said time, this court will order sale of the attached vehicles. Until such time, the vehicle attached are given in interim safe custody of the Tahsildar, Kottarakara who shall ensure that the vehicle is surrendered before court as and when directed by the court on this court finding that there is failure on the part of the JD s to deposit the balance.

Pronounced in open Court on this the 24th day of November, 2023.

Sd/-
SANDEEP KRISHNA. V
Sub Judge

APPENDIX :- NIL.

Sd/-
Sub Judge

Typed by :Binu.S
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