

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE, THANJAVUR

Present: P. Mathusuthanan, B.A., B.L.,
Principal District Judge, Thanjavur.

Saturday, the 20th day of November, 2021.

(Thiruvalluvarandu 2052 Sri Pilava Varudam Karthigai Thingal 4th day)

I.A.No.141/2021 in AOP No.12/2021

P.Selvaraj ... Petitioner / Petitioner

versus

1) The District Collector / National
Highways Land Acquisition Arbitrator,
Thanjavur.

2) The Special District Revenue Officer,
(Land Acquisition) National Highways,
Thiruvarur.

...

Respondents / Respondents

This Interlocutory Application has been come up for final hearing before me today (20.11.2021) and upon hearing the arguments of Mr.S.Jayachandran, Learned Advocate appearing for the Petitioner and of Mr.K.Arumugam, Learned Advocate appearing for the Respondents and upon perusing the available records and having stood over for consideration till this day, this court passed the following...

ORDER

1) The petitioner filed this petition under Order 26 Rule 9 and Section 151 of CPC praying to appoint an Advocate Commissioner with the help of an approved valuer to note down the physical features of the property under acquisition / demolition and to follow up the correct procedure in the valuation and assessment of the property for the just compensation.

2) **The averments of the petition in brief, are as follows:** The petitioner herein filed the main petition to set aside the award given by the 2nd respondent and the affirmation of the same under the appeal by the 1st respondent herein and for enhanced compensation by adopting correct methods, mode and procedure in valuing the properties under acquisition. The matter is subjudice and the respondent entered into appearance and now posted on 27.10.2021 for filing counter of the respondents. When the proceedings is

pending, the 2nd respondent served a notification dated 23.01.2021 stating that demolition of superstructure would be done on 01.11.2021 without fail and if such coercive demolition is allowed to be done without properly valuing and assessing the property in question, it will be deprived of legitimate claim of just compensation. In this circumstance, it is utmost necessary to appoint an advocate commissioner to note down the physical features with the assistance of the approved valuer in order to seek remedy for the gross irregularity and illegality in the procedure so far followed by the respondents in the determination of compensation, if the advocate commissioner is not appointed, it will cause grave injustice to the petitioner. Hence, this petition.

3) **The averments of the counter, in brief, are as follows:-** The petition is not maintainable either in law or on facts of the case. The front portion of the petitioner's building has been already been demolished and now, the petitioner has filed written petition in W.P.No.19444/2021 before the Hon'ble Madurai Bench of Madras High Court against the respondents for removing or altering the physical features of the property bearing S.No.187/5B and Old S.No.187/5C. The valuation of the property has been valued as Sec.26(1) of RECTLARR Act 30 of 2013 and the petitioner has also been received additional compensation. In order to get a huge compensation, the petitioner filed this petition and hence, prayed to dismiss the petition with costs.

4) **Point that arises for consideration in this Petition is that**

Whether this petition is to be allowed as prayed for?

5) **Point:** The Learned Counsel appearing for the petitioner submitted that the petitioner has no objection to demolish the building, but, he requested to value the said building prior to demolition made by the respondents herein. Further, the Learned Counsel submitted that unless the said property is valued by the Advocate Commissioner with the assistance of a qualified PWD Engineer, it is highly impossible to ascertain the original value of the building and unless the petition is allowed by appointing the Advocate Commissioner to ascertain the value of the building, the original value cannot be ascertained and it will cause great prejudice to the claim of the petitioner.

6) Per Contra, the Learned Counsel appearing for the respondents submitted that the front portion of the building has been already been demolished and in such a

circumstance, if the Advocate Commissioner is being appointed in the above matter for ascertaining the value of remaining portion of the building, it would cause undue delay in disposing the matter and it will cause hindrance to the successors of land acquisition and hence, argued for dismissal of the petition.

7) Heard both side arguments and perused the records.

8) Admittedly, the petitioner has no objection to demolish the entire building and the only grievance on the side of the petitioner is the value of the building has to be measured before demolition of the said property, for which, he has come forward with this application seeking the relief of appointment of an Advocate Commissioner to assess the value of said building before demolishing of said building to be carried out by the respondents with the help of qualified Engineer attached with the PWD.

9) Having considered the relief sought for by the petitioner, which is in my considered view, no way caused any prejudice to the respondents herein and on the other hand, the report of the Commissioner will be very helpful to the respondents as well as the authorities concerned to assess the exact value of the said building and decide the quantum of compensation to the aggrieved parties concerned. Hence, considering the above all aspects, I passed the following order.

10) In fine, Advocate Mr.K.Prasanna is appointed as Advocate Commissioner.

i) The Advocate Commissioner is directed to visit the petition mentioned property after due notice both sides and measure the petition mentioned property with the help of a qualified Surveyor attached with PWD and file a report within one month from the date of receipt of warrant.

ii) The petitioner's counsel is directed to pay Rs.10,000/- as Commissioner fees directly to the Commissioner.

iii) Commissioner's report by 23.12.2021.

This Order is dictated by me to the Stenographer Grade-III of this Court, transcribed by her in Computer, corrected and pronounced by me in open court, this the 20th day of November, 2021.

sd/-P.Mathusuthanan,
Principal District Judge,
Thanjavur.

