

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2016

CORAM :

THE HONOURABLE Mr. JUSTICE N.KIRUBAKARAN

AS.Nos.185 to 200 of 2016
and
CMP.Nos.2866 to 2881 of 2016

The Special Tahsildar,
Land Acquisition Unit-II
Tamil Nadu Cements Corporation Ltd.,
TANCEM Limited, Ariyalur Taluk,
Ariyalur. ... Appellant in all the AS

Vs.

Periyasamy ...R1 in A.S.185 of 2016
Saminathan ...R1 in A.S.186 of 2016
Anbalagan ...R1 in A.S.187, 188 of 2016
Krishnamoorthy ...R1 in A.S.189 of 2016
Subramanian ...R1 in A.S.190 of 2016
Natchathiram ...R1 in A.S.191 of 2016

1. Thiyagarajan
2. Saminathan
3. Natchathiram ... Respondents A.S.192 of 2016

1. Sundaram
2. Pitchiyammal ... Respondents in A.S.193 of 2016

Pitchiyammal ...R1 in A.S.194/2016

Palanisamy ...R1 in A.S.195/2016

1. Jagadambal
2. Vembu ...R1 & R2 in A.S.196/2016

Marudhamuthu ...R1 in A.S.197 of 2016

Sengamalam ...R1 in A.S.198 of 2016

Ramasmy ...R1 in A.S.199 of 2016

Govindarajan ...R1 in A.S.200 of 2016

2.Tamil Nadu Cements Corporation Ltd.,
Ariyalur Cement Works,
Ariyalur,

Rep. by its Deputy General Manager.

(R2 impleaded vided order dated 21.12.2015 in

AS.Sr.No.86857/13)...R2 in A.S.185 to 191/2016, 194/2016,

195/2016, 197 to 200/16

R4 in A.S.192/2016, R3 in

A.S.193/2016, R3 in A.S.196/2016

A.S.Sr.Nos.86821/2013, 86825/2013, 86845/2013, 86869/2013,
86837/2013, 86840/2013, 86849/2013, 86829/2013, 86833/2013,
86881/2013, 86861/2013, 86873/2013, 86877/2013, 86865/2013,
86853/2013, Appeal Suit is filed under Section 54 of the Land
Acquisition Act, to set aside the decree passed in LAOP.No.91 of
2000 03/2001, 04/2001, 05/2001, 06/2001, 08/2001, 10/2001, 11/2001,
22/2001, 23/2001, 24/2001, 36/2001, 50/2001, 65/2001, 70/2001, 13
of 2001 dated 29.11.2012 on the file of the Sub Court, Ariyalur.

For Appellant : Mr.P.Gunasekaran, AGP. in all AS

For Respondents : Mr.R.Gokulakrishnan for R1. in
A.S.185 to 191 of 2016, 194, 195, 197 to 200/2016 R1 to R3 in
A.S.192/2016 for R2 in A.S.193/2016 for R1 & R2 in A.S.196/2016

Mr.A.Sivaji for R2. in A.S.185 to 191 of 2016 194, 195,
197 to 200/16 R4 in A.S.192/2016 R3 in A.S.193/2016 R3 in
A.S.196/2016

COMMON JUDGMENT

The appeals have been preferred against the decree and judgment
passed by the referral Court in fixing the value of the acquired
land at Rs.1,25,000/- per acre as against Rs.30,000/- fixed by the
Special Tahsildar (Land Acquisition).

2.The land comprised in S.Nos.244/5, 244/6, 244/7A, 244/9,
245/8, 244/9, 245/10, 366/3, 366/4, 366/9A, 366/10B, 367/12A,
367/12B, 367/12C, 367/13A, 367/13B, 367/14, 367/1B, 369/1B, 369/10B,
368/16A, 370/14B, 367/2, 369/11B, 369/1B, 367/6, 367/6, 368/7A,
368/9, 370/6A, 368/7B, 368/8, 369/1J, 258/1A, 258/2A, 264/3, 264/4,
272/4, 350/2A, 350/7B, 351/10A, 351/12A, 351/13A, 357/10, 367/A,
368/16C, 368/19A and 370/1A belong to the respective first
respondents were acquired by virtue of Section 4(1) notification

dated 24.01.1996. After enquiry, the Special Tahsildar passed an award dated 17.02.1999, fixing the value at Rs.30,000/- per acre. Not satisfied with the quantum of compensation as awarded by the Special Tahsildar, a reference was made under Section 18 of the Land Acquisition Act, at the instance of the claimants.

3.The Civil Court after elaborate trial enhanced the compensation and fixed the value of the land at Rs.1,25,000/- per acre and the said enhancement of compensation by the Civil Court is being challenged before this Court by the Government.

4.Heard Mr.P.Gunasekaran, learned Additional Government Pleader appearing for the appellants; Mr.R.Gokulakrishnan appearing for the claimants in all the appeals and Mr.A.Sivaji, learned counsel appearing for the Tamil Nadu Cements Corporation Limited, Ariyalur.

5.The said lands were acquired for the benefit of Tamil Nadu Cements Corporation Limited which is a Tamil Nadu Government Undertaking.

6.It is brought to the notice of this Court by Mr.A.Sivaji, learned counsel appearing for the Tamil Nadu Cements Corporation Limited, the beneficiary for whose purpose the lands were acquired was not made as a party before the referral Court. According to him, as per Section 18(3) of the Land Acquisition (Tamil Nadu Amendment) Act, 1996, the beneficiary should be made as a party to the proceedings. Hence, it is mandatory on the part of the claimants to make the beneficiary as a party, Since the compensation amount fixed by the referral Court has to be paid by the beneficiary alone. The Tamil Nadu Cements Corporation was not made as a party and hence, the decree and judgment is liable to be set aside and the same is required to be remanded back to the referral Court, for fresh disposal. The learned counsel has also brought to the notice of this Court a similar judgment passed by this Court on earlier occasion in AS.Nos.419 and 569 of 2011 dated 20.08.2014, by which on the same ground for non impleading the beneficiary the appeals were remitted back to the referral court for fresh disposal.

7.The said position is also accepted by the learned Additional Government Pleader as well as by the learned counsel appearing for the claimants.

8.The mandatory provision has not been complied with by impleading the beneficiary/Tamil Nadu Cements Corporation Limited before the referral Court. The decree and judgment passed by the Subordinate Judge, Ariyalur has to be necessarily suffer.

9. Accordingly, the appeals are allowed and the decree and judgment passed by the referral Court are set aside and the cases are remitted back to Referral Court viz., Subordinate Judge, Ariyalur for fresh disposal, with the following directions:-

(i) The learned Sub Judge is directed to issue necessary notice to the parties concerned viz., appellants, claimants, including the beneficiary/Tamil Nadu Cements Corporation Limited, informing the date on which the land acquisition proceedings would be taken up for enquiry.

(ii) The Sub Court is also directed to dispose of the concerned LAOP.Nos.91 of 2000, 3, 6, 8 13, 50, 70, 4, 5, 10, 11, 22, 23, 24 and 36 of 2001 within a period of four months from the date of receipt of a copy of this judgment, after providing an opportunity to the newly impleaded party viz., Tamil Nadu Cements Corporation Limited and allow the parties to adduce fresh evidence.

(iii) Taking into consideration, the lands were acquired as early as on 24.01.1996 and possession was also taken and it was also utilised and the matter is pending for more than twenty years, the claimants cannot go with the empty handed at this stage. Only on technical grounds alone the matter is remitted back and not on merits. Therefore, the appellant is directed to deposit 50% of the award amount on or before 20.06.2016.

10. However, there is no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

11. Call on 21.06.2016, for compliance, with regard to deposit of 50% of the award amount. In case, the amount is not deposited within the date mentioned, the Managing Director of the Tamil Nadu Cements Corporation Limited shall appear before this Court.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

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To

1. The Deputy General Manager.
The Tamil Nadu Cements Corporation Ltd.,
Ariyalur Cement Works,
Ariyalur.

2. The Sub Judge
Ariyalur

1 cc to Government Pleader, Sr. 24440
2 ccs to Mr.A. Swaji, Advocate, Sr. 24437

AS.Nos.185 to 200 of 2016

SSK (CO)
kk 7/6



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