

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2017

CORAM :

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

WA.Nos.1184, 1185, 1250 & 1251 of 2017
and CMP.Nos.17822, 17823, 16430, 16431 & 17338 of 2017

W.A.No.1184 of 2017:

M/s.NLC India Limited

(Formerly known as M/s.Neyveli Lignite Corporation
Limited)

Rep. By its Chairman cum Managing Director,

Neyveli-607 801. .. Appellant /Petitioner

Vs.

1.Mr.Chockalingam

2.Thirugnanasambandam

3.Balasubramanian

4.State of Government of Tamilnadu,

Represented by its Principal Secretary to
Government,
Industries (NLC) Department,
Fort St. George, Chennai-600 009.

5. The District Collector,
Cuddalore District,
Cuddalore.

6. The Special Tahsildar,

L.A.No.7, Neyveli-2 .. Respondents/Respondents

W.A.No.1185 of 2017:

M/s.NLC India Limited

(Formerly known as M/s.Neyveli Lignite Corporation
Limited)

Rep. by its Chairman cum Managing Director,

Neyveli-607 801.

.. Appellant

Vs.

1.Balasubramanian

2.State Government of Tamilnadu,

Rep. by its Principal Secretary to Government,
Industries (NLC) Department,
Fort St. George, Chennai-600 009.

3.The District Collector,
Cuddalore District,
Cuddalore.

4. The Special Tahsildar,
L.A.No.7, Neyveli-2

.. Respondents

W.A.No.1250 of 2017:

1.State Government of Tamilnadu,
Rep. By its Principal Secretary to Govrnment,
Industries (NLC) Department,
Fort St. George,
Chennai-600 009.

2.The District Collector,
Cuddalore District.

3.The Special Tahsildar,
L.A.No.7,
Neyveli-2.

.. Appellants

Vs.

1.Chockalingam
2.Thirugnanasambantham,
3.Balasubramanian
. Respondents

W.A.No.1251 of 2017:

1.State Government of Tamilnadu,
Rep. By its Principal Secretary to Government,
Industries (NLC) Department,
Fort St. George,
Chennai-600 009.

2.The District Collector, (L.A.),
Cuddalore District.

3.The Special Tahsildar,
L.A.No.6,
Neyveli-2.

.. Appellants

Vs.

Balasubramanian
.. Respondent

PRAYER in WA.Nos.1184 & 1250/2017: Appeal filed under Clause 15 of the Letters Patent to set aside the order of the learned single Judge made in W.P.No.30188 of 2015 dated 11.04.2016.

WP Prayer in WP.No.30188 of 2015:Writ Petitions under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned notice in reference No.L.6/2539/2008 dt 31.12.2008 under Sec.3 (2) of Tamil Nadu Acquisition of lands for Industrial Purposes Act 10 of 1999 on the file of 2nd respondent and notice issued under Section Sec. 7(5)and 7(2) of Tamil Nadu Land Acquisition for Industrial Purposes Act 10 of 1999 in Ref. No. L6/ 2539/2008, dt 14.2.2012 on the file of 2nd respondent and G.O.Ms. No.9, Industries (NLC) 4th January 2012 published in Tamil Nadu Government Gazette No.5, dt 4.1.2012 Part II, Section 2, Industries Department, Acquisition of Lands,Notification U/S 3 (1) of Tamil Nadu Acquisition of Land for Industrial Purpose Act 1997 (Tamil Nadu Act 10 of 1999) on the file of the first respondent for the lands in Cuddalore District, Chidambaram Taluk, 2, Velayamadevi Melpatty Village, Block-46, in respect of the petitioner land in

Sl.No.	R.S.No.	Classification	Extent Required/ acquired (in Hec)
12	39/2A	Wet	0.20.0
14	39/3A	Wet	0.53.0

and consequential impugned award No.9/2014 in Ref.L6/2539/2006, dated 30.10.2014 on the file of the second respondent and to quash the same in respect to the above land and direct the respondents to apply the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and to for bear the respondents from taking possession of the above lands.

PRAYER in WA.Nos.1185 & 1251/2017: Appeal filed under Clause 15 of the Letters Patent to set aside the order of the learned single Judge made in W.P.No.30189 of 2015 dated 11.04.2016.

Prayer in WP.No.30189 of 2015:Writ petition filed under Article 226 of the constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned notice in reference No. L.4/685/2010 dt 18.4.2010 under Sec. 3 (2) of Tamil Nadu Acquisition of lands for Industrial Purposes Act 10 of 1999 on the file of 2nd respondent and notice issued under Section Sec. 7(5) and 7(2) of Tamil Nadu Land Acquisition for Industrial Purposes Act 10 of 1999 in Ref. No. L4/ 685/2010, dt 24.2.2012 on the file of 2nd respondent and G.O.Ms. No.135, Industries (NLC) 13th September 2011 published in Tamil Nadu Government Gazette No.329, dt 13.9.2011 Part II, Section 2, Industries Department, Acquisition of Lands, Notification U/S 3 (1) of Tamil Nadu Acquisition of Land for Industrial Purpose Act 1997 (Tamil Nadu Act 10 of 1999) on the file of the first respondent for the land in Cuddalore District, Chidambaram Taluk, 2, Velayamadevi Melpatty Village, Block-13, in respect of the petitioner land in

Sl.No	R.S.No	Classification	Extent Required/ acquired (in Hec)
13	77/2A	R.Wet	0.09.5

and consequent impugned award No.4/2014 in Ref.L4/685/2009, dated 27.08.2014 on the file of the second respondent and to quash the same in respect to the above land and direct the respondents to apply the provisions of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 and to for bear the respondents from taking possession of the above lands.

For appellants : Mr.V.Anandhamoorthy, AGP
(in WA.Nos.1250&1251/17)
Mr.N.Nithianandam
(in WA Nos.1184/17 & 1185)

For respondents: Mr.V.Anandhamoorthy, AGP for R4toR6
in WA.No.1184 /2017 and

RR2 to 4 in WA : 1185/2017
Mr.J.R.K.Bhavanandham for R1toR3
in WA.1184/2017;
R1 in WA. 1185/2017
R1 to R3 in
WA:1250/2017 and R1 in WA: 1251/17

COMMON JUDGMENT

(Judgment of this Court was made by P.VELMURUGAN, J.)

These writ appeals have been preferred challenging the common order passed by the learned Single Judge in W.P.Nos.30188 and 30189 of 2015 dated 11.04.2016. Since the issue involved and the relief sought for in all the writ appeals are one and the same, the writ appeals were heard together and disposed of by this common judgment.

2.The brief facts relating to filing the writ petitions are as follows:

The specific case of the respondents/petitioners is that they have not dispossessed from the lands in question, though notification came to be issued under the Tamil Nadu Acquisition of Lands for Industrial Purposes Act, during the year 2010. This Court having satisfied that the petitioners are in possession of the lands in question, had granted interim stay on 25.09.2015. The petitioners came to know that the Government has passed orders in G.O.Ms.No.45 Industries (SIPCOT-LA) Department, dated 14.05.2014, passing entire award, and deposited the award amount with the State Bank of India. This is evident from the award proceedings, which are impugned in these writ petitions. As state above, the compensation amount has not been paid to the landowners/writ petitioners, but deposited with the State Bank of India. The other issue raised by the respondents/petitioners is that physical possession of the lands in question have not

been taken over from the respondents/petitioners. Therefore, on both grounds, which are set out in Section 24(2) of the Act 30 of 2013, the petitioners claim that the entire land acquisition proceedings are deemed to have been lapsed.

3.The learned Single Judge after hearing the arguments of both sides, passed the following order, while concluding the order the learned Single Judge observed as follows:

"10. In the light of the above observation, it is needless to say that the provisions of Section 24(2) of Act 30 of 2013 will be attracted, and consequently, the entire land acquisition proceedings shall stand lapsed.

11. In the result, the writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed."

4.Aggrrieved against the said common order, dated 11.04.2016, passed by the learned Single Judge in W.P.Nos.30188 and 30189 of 2015, M/s.NLC India Limited, Rep. by its Chairman cum Managing Director, Neyveli-607 801, in his capacity filed the writ appeals in W.A.Nos.1184 and 1185 of 2017 and the respondents in the above writ petitions have filed the writ appeals in W.A.Nos.1250 and 1251 of 2017.

5.Learned counsel for the appellants in WA.Nos.1184 and 1185 of 2017 contended that the learned Single Judge failed to appreciate that in view of the ownership dispute over the acquired lands, the Special Tahsildar, LA6, Neyveli, referred the matter before the Special Sub Court for Land Acquisition Cases, Cuddalore, to determine the ownership of the land in dispute and deposited the interim compensation in the said Court and the case was numbered as L.A.O.P.No.26 of 2015 and thereafter, the said Court issued notice to the respondents/land owners. Though the respondents/land owners were appeared in person before the Court, subsequently they remained absent. Therefore, L.A.O.P. No. 26 of 2015 was dismissed for default on 28.10.2015. As such, the findings of the learned Judge that the compensation for the subject lands was not paid to the owners is untenable. It is further contended that subsequent to passing of the award by the Land Acquisition Officer, the possession of the lands were handed over by the Special Tahsildar, LA6, Neyveli, to the M/s.NLC India Limited on 08.06.2015. Since the NLC India Limited is in possession and enjoyment of the same and the revenue records relating to the said property was also mutated, the finding of the learned Single Judge that the possession of the subject land acquired by the Special Tahsildar, LA6, Neyveli, was not taken over, is incorrect and the same has to be set aside. The findings and conclusions of the learned Single Judge that the twin conditions stipulated under Section 24(2) of the Central Act, 30 of 2013 have been fulfilled in the subject matter is contrary to the materials available on record. He would further submit that the determined interim compensation by the Land Acquisition Officer could not

be paid as there was dispute over the ownership of the properties and in accordance with law and the same was deposited in the Civil Court. A perusal of the award passed by the Land Acquisition Officer discloses that the compensation determined by the Land Acquisition Officer in the Award Nos.4 and 9 of 2014 dated 27.08.2014 and 30.10.2014 respectively, is only an interim compensation and not a final compensation. The main contention of the learned counsel for the appellants that the award itself passed after commencement of the New Act. Therefore, Section 24 (2) of the said Act is not attracted, as per the New Act only, the interim compensation has been awarded. The learned Single Judge by over sighted and wrongly held that the Land Acquisition Proceedings are hit by provisions of Section 24(2) of Act 30 of 2013.

6.Learned Additional Government Pleader for the appellants in WA.Nos.1250 and 1251 of 2017 contended that the Single Judge ought to have noted that as per G.O.Ms.No.88 dated 21.02.2014, wherein it is stated that where the process of Land Acquisition has commenced under the Old Act and interim compensation should be determined based on the procedure already in vogue, subject to additional compensation being paid as per the New Act. It is also further contended that the learned Single Judge failed to note that insofar as the respondents/writ petitioners herein are concerned, Section 24(1)(a) and 24(1)(b) of Old Central Act of 1984 were proceeded prior to the New Central Act 30 of 2013, with effect from 01.01.2014 and 24(1)(c) was passed subsequent to Act 30 of 2014 but as per G.O.Ms.No.88 dated 21.02.2014 and G.O.Ms.No.45 dated 14.05.2014. He would further contend that the possession of the acquired land was taken by the Appellants/respondents on the date of passing of Award.

7.Learned counsel for the respondents/claimants/writ petitioners would submit that the amount has not been deposited and also the compensation has not been withdrawn. Therefore, as per Section 24(2) of the said Act, the New Act can be applied, the compensation can be awarded only under the New Act. Even the prayer in the writ petitions itself reveal that the prayer in W.P.No.30188 of 2015, the consequential impugned award No.9/2014 in Ref.L6/2539/2006 dated 30.10.2014 on the file of the second respondent/District Collector, Cuddalore and to quash the same in respect of the above land and to direct the respondents to apply the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and to forbear the respondents from taking possession of the above lands and in the prayer in W.P.No.30189 of 2015, the consequential impugned award No.4/2014, in Ref.L4/685/2009, dated 27.08.2014, on the file of the second respondent and to quash the same in respect of the above land and to direct the respondents to apply the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and to forbear the respondents from taking possession of the above

lands.

8. According to the learned Additional Government Pleader for the appellants, the State Government has issued G.O.No.88 dated 21.02.2014, wherein it has been stated as follows:

"3. In all the Land Acquisition cases wherein the process under the Land Acquisition Act, 1894 has started i.e., the notification under Section 4(1) has been issued but the Award has not been made, the Government direct to take the following action as specified under section 24(1)(a) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

(i) Process initiated under the Land Acquisition Act, 1894, where notification under Section 4(1) has been issued, should be allowed to continue and declaration under Section 6 of the Land Acquisition Act, 1894, if not made, should be issued. However, the interim compensation should be determined based on the procedures already in vogue subject to additional compensation being paid as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act.

(ii) Process initiated under the Land Acquisition Act, 1894, where the declaration under section 6 of the Land Acquisition Act, 1894 has been made, should be allowed to continue and the interim compensation should be determined as specified in Para 3 (i) above"

9. The learned Additional Government Pleader appearing for the appellants in WA.Nos.1250 and 1251 of 2017 would submit that after the New Act came into force, the State Government has passed the Government Order in G.O.Ms.No.45 dated 14.05.2014, which reads as follows:

"5. To give effect to the said decision, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Tamil Nadu Amendment) Bill, 2014 (L.A.Bill 52 of 2014) has been passed by the Tamil Nadu State Legislature seeking to amend the Central Act 30 of 2013 so as to continue the acquisition of lands under the above said State Acts for a period of one year after the date of commencement of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 by including the said three State Acts in the newly inserted Fifth Schedule and the Government of India has been requested to obtain the assent of the President to the said Bill. In the circumstances, the Government have decided as follows.

6. Inasmuch as section 105-A proposed to be inserted to the Central Act 30 of 2013 by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Tamil Nadu Amendment) Bill, 2014 has been given

retrospective effect from 1.1.2014, and pending issue of notification under section 105-A(2) of the said Central Act 30 of 2013, interim compensation for all cases where acquisition of land is taken up under the Tamil Nadu Land Acquisition for Industrial Purposes Act, 1997 should be determined based on the procedure already in vogue subject to additional compensation being paid as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013."

10. Based on these Government Orders, the District Collector/Land Acquisition Officer, Cuddalore has conducted enquiry. After completion of the enquiry, the awards were passed on 27.08.2014 and 30.10.2014 in Award Nos.4 & 9 of 2014 respectively, in W.A.No.1250 & 1251 of 2017, which read as follows:

W.A.No.1250 of 2017

12. Mode of Disbursement of award amount:

The Land Acquisition Special Thasildar No.7 has been issued Powers to disburse the interim award amount to the land owners by getting consent and as per the list of the Sub Treasury.

W.A.No.1251 of 2017

14. Mode of Disbursement of award amount:

The Land Acquisition Special Thasildar No.6 has been issued Powers to disburse the interim award amount to the land owners by getting consent and as per the list of the Sub Treasury.

11. Since the awards were passed on 27.08.2014 and 30.10.2014 respectively, after enactment of New Act, therefore, Section 24 (2) will not be attracted. Section 24(1)(a) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013) is only applicable.

12. At this juncture, it is pertinent to extract the Section 24(1)(a) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, reads as under:

Land acquisition process under Act No.1 of 1894 shall be deemed to have lapsed in certain cases:

(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894),--

(a) where no award under Section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply."

13. The award has not been passed under Section 11 of the

Land Acquisition Act (old Act) the award has been passed on 27.08.2014 and 30.10.2014 after enactment of the New Act w.e.f.01.01.2014. Therefore, Section 24(2) will not be attracted.

14. In G.O.(Ms.)No.88 dated 21.02.2014, wherein it has been stated as follows:

2. The provision laid down under Section 24(1) of the above New Land Acquisition Act reads as follows:

(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894);

(a) where no Award under Section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply.

(b) where an Award under said Section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

3. In all the Land Acquisition cases wherein the process under the Land Acquisition Act, 1894 has started i.e., the notification under Section 4(1) has been issued but the Award has not been made, the Government direct to take the following action as specified under section 24(1)(a) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

(i) Process initiated under the Land Acquisition Act, 1894, where notification under Section 4(1) has been issued, should be allowed to continue and declaration under Section 6 of the Land Acquisition Act, 1894, if not made, should be issued. However, the interim compensation should be determined based on the procedures already in vogue subject to additional compensation being paid as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act.

(ii) Process initiated under the Land Acquisition Act, 1894, where the declaration under section 6 of the Land Acquisition Act, 1894 has been made, should be allowed to continue and the interim compensation should be determined as specified in Para 3 (i) above"

15. In this case also, Land acquisition proceedings has already been initiated under old Land Acquisition Act, 1894 based on the notification dated 13.09.2011, insofar as the impugned awards have been passed in award Nos.4 and 9 of 2014 dated 27.08.2014 and 30.10.2014 respectively. As per Section 24 (1)(a), the proceedings should continue only so far as the determination of compensation alone, in other respects, the procedure adopted in the acquisition proceedings as per old Act stands good and the course to be adopted for determination of compensation to be effected as per the New Land Acquisition Act

30 of 2013. According to Section 24(1)(a), all provisions of the Act relating to the determination of compensation shall apply (Determination of compensation should be fixed under the New Act). On reading of the award, it is only an interim award. Therefore, the learned Single Judge has over sighted the facts, as if that the award passed prior to the inception of New Act and also held that the possession of the land was not taken over from the land owners.

16.As discussed above, the award were passed only after inception of the New Act. We are therefore of the considered view, no question of lapse arise as per Section 24(2) of New Act and the common order passed by the learned Single Judge in W.P.Nos.30188 and 30189 of 2015 is hereby set aside. Hence, the respondents/claimants/petitioners are entitled to the respective determination of compensation under the New Act. Therefore, all the Writ Appeals are partly allowed. Consequently connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1.State of Government of Tamilnadu,
Rep. by its Principal Secretary to Government,
Industries (NLC) Department,
Fort St. George, Chennai-600 009.

2.The District Collector,
Cuddalore District, सत्यमेव जयते
Cuddalore.

3. The Special Tahsildar,
L.A.No.7, Neyveli-2

4.The Special Tahsildar,
L.A.No.6, Neyveli-2.

+3cc to Government Pleader SR.No.76252, 76388, 76389

WA.Nos.1184, 1185, 1250 & 1251 of 2017
and CMP.Nos.17822, 17823, 16430,
16431 & 17338 of 2017

RR(CO)
GN(30/11/2017)