

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 23.10.2017
Delivered on : 03.11.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.2446 of 2010 and
M.P.No.1 of 2010

The Chief Manager (Land Acquisition)
(Earlier known as Deputy General Manager LA)
Neyveli Lignite Corporation Limited
Near 1st Thermal Station
Neyveli - 607 807
Cuddalore District.Appellant/1st Respondent
in the WP

Vs

1.M.Kaliyaperumal (Deceased)

2.K.Jayakodi

3.K.Uma Maheswari

4.K.Sudha

5.K.Velmurugan1 to 5 Respondents/
Petitioners in the WP

6. The District Collector,
Cuddalore District, Cuddalore.Respondent/2nd Respondent

7.The Special Tahsildar (Land Acquisition)
No.XX, Neyveli -2.Respondents/3rd Respondent

Prayer:- Writ Appeal filed under clause 15 of the Letter Patent against the order dated 30/08/2010 made in W.P.No.2168 of 2006. Writ of mandamus, directing the respondents to allot the petitioner an alternative land in lieu of the acquisition of the petitioners land and house situated at New No.236 (old No.597) Bhuvaneshwari Nagar Periyakurichi Village Virudhachalam Taluk Neyveli-607 802 cuddalore district by the 3rd respondent for the benefit of the 1st Respondent.

For Appellant : Mr.N.Nithianandam

For Respondents: Mr.SP.Chockalingam for R2 to R5
Mr.V.Anandhamoorthy
Addl.Govt.Pleader for R6 and R7
R1- Died

J U D G M E N T

K.K. SASIDHARAN, J.

Whether an employee of Neyveli Lignite Corporation Limited (hereinafter referred to as "NLC"), who is in occupation of the accommodation provided by the employer is eligible for alternate site on account of the acquisition of his land is the core issue that arises for consideration in this intra court appeal.

The Facts

2. The land owned by Thiru.Kaliya Perumal, the original writ petitioner (hereinafter referred to as Writ Petitioner) in Bhuvaneshwari Nagar, Virudhachalam Taluk, Neyveli, was acquired by the Government of Tamil Nadu pursuant to the requisition made by NLC. The Scheme framed by NLC contained a provision for providing alternate site, in case, the family was residing in the acquired house as on the date on which notification for acquisition was issued. The Scheme also provided that Absentee land-lords, meaning thereby, the persons who are not residing in the houses acquired are not eligible for alternate site except allowance for shifting.

3. Since the writ petitioner was residing at the accommodation provided by the NLC at Neyveli, he was not given alternate site pursuant to the Scheme. The writ petitioner, therefore, filed a writ petition in W.P.No.2168 of 2006. Before the writ court, the writ petitioner contended that except ration card, all other documents were produced indicating his residence and as such, the NLC was not correct in denying alternate site.

4. The learned single Judge observed that NLC was not correct in directing the writ petitioner to produce Ration Card. According to the learned single Judge, the writ petitioner produced other documents indicating his ownership and possession of the house and as such, the appellant erred in denying his request. The learned single Judge referred to the cases of 39 other beneficiaries to extend similar benefit to the writ petitioner. The order allowing the writ petition is under challenge before us.

Submissions

5. The learned counsel for the appellant contended that the writ petitioner was in occupation of the residential accommodation provided by NLC. It was only after inspecting the land by the Committee formed for land acquisition, the writ petitioner purchased the land and his intention was to obtain compensation as well as alternate site. The learned counsel contended that allotments were made only on

verification of ration card and voters list and as such, the learned single Judge was not correct in observing that 39 other similarly placed persons were given alternate accommodation. The learned counsel by taking us through the Scheme contended that the writ petitioner miserably failed to prove the conditions required for allotment of alternate site and as such, the learned single Judge was not correct in allowing the writ petition.

6. The learned counsel for the writ petitioner contended that the writ petitioner produced property tax receipts, electricity bill and other government records. However, his case was negatived on account of his failure to produce the ration card and voters list. According to the learned counsel, since the writ petitioner was employed in NLC, residential house was given on lease. The writ petitioner was actually not residing there and as such, it would not be possible for him to produce the voters list and ration card. According to the learned counsel, the writ petitioner satisfied the essential conditions and as such, the learned Judge was justified in directing the appellant to provide alternate site.

Analysis

7. The writ petitioner purchased a land measuring 2400 sq.ft in Survey No.240/4 situated at New No.236, (Old No.597), Bhuvaneshwari Nagar, Periyakurichi Village, Virudhachalam Taluk, Neyveli. The purchase was in 1986. The house constructed by the writ petitioner was given on lease to a tenant. Since the writ petitioner was an employee of NLC, he was given company accommodation. It is the admitted case of the parties that the writ petitioner continued to stay at the quarters provided by NLC. In short, even during the period when the appellant initiated land acquisition proceedings, the writ petitioner was a resident of the residential quarters at Neyveli.

8. The NLC with a view to take possession of the acquired land without delay and for rehabilitation of the land owners framed a Scheme for allotment of alternate site. Clause 3.3 (a)(i) of the Scheme provides that alternate site of 5 cents will be allotted to the family of the Pattadar. Sub-clause (vi) of Clause 3.3 (a) provides that the Absentee land-lords, meaning thereby, persons who are not residing in the houses acquired are not eligible for alternate sites.

9. In order to avail the benefit of the Scheme, the applicant has to produce evidence indicating his actual residence. Clause 3.3 (c) deals with Proof of Residence. The applicant has to prove his residence for a period of five years prior to the notification under Section 4(1) in the form of voters list, ration card, house tax receipts, electricity bills, service connection, postal correspondence, Government

records etc. The intention is very clear that the person should be a resident of the house and he continues to reside till the land was acquired for NLC.

10. The writ petitioner produced house tax receipts and electricity bills. There is no dispute with regard to the ownership of the house. Since tenant was residing, there was electricity connection and as a result, the writ petitioner produced electricity receipts.

11. However, the core question is as to whether the Absentee land-lord like the writ petitioner is eligible for allotment of alternate site.

12. While dealing with a case of this nature, the Court must consider the object of the Scheme. The main object of the Scheme is to rehabilitate the land owner, who would be displaced on account of the acquisition. The Corporation must be in a position to take possession of the land and commence its mining activity without delay. The delay in taking possession of the land would cause financial loss to the Corporation and that appears to be the main reason in incorporating a clause for allotment of alternate land notwithstanding the payment of compensation for the acquired land.

13. The writ petitioner purchased the land in 1986. According to the appellant, it was only after inspecting the land by the Committee constituted by the Government, the writ petitioner purchased the land. In any case, it is the admitted case of the parties that Section 4(1) notification was issued in 2000. The tenant was actually residing in the acquired house and not the writ petitioner. The provision is very clear that the person, who is not residing in the house acquired is not eligible for alternate site. The writ petitioner has no case that he was residing in the house acquired by the Government on behalf of NLC. It was only the tenant, who was residing there and not the writ petitioner. The employee, like the writ petitioner, who were staying in the Government quarters is not entitled to the benefit of the Scheme.

14. The learned single Judge was moved by the submission made by the writ petitioner that 39 other similarly placed employees were given the benefit. The documents produced by the appellant demonstrated that only those who were actually residing were given alternate site by the Corporation.

15. The right of the land owner is only to receive compensation. The alternate site is a concession given by the Corporation. Such a Scheme must require strict construction. While interpreting a Scheme like this, the object should also be taken note of. Since the provision made it clear that alternate site is only for persons, who are actually residing,

the writ petitioner has no right to claim allotment of alternate site. We are therefore of the view that the learned single Judge was not correct in directing the appellant to provide alternate site to the writ petitioner notwithstanding the payment of compensation amount.

16. In the result, the order dated 30 August, 2010 is set aside. The writ petition in W.P.No.2168 of 2006 is dismissed.

17. The intra court appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Svki

sd/
ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

To

- 1.The District Collector,
Cuddalore District, Cuddalore.
- 2.The Special Tahsildar (Land Acquisition)
No.XX, Neyveli -2.
- 3.The Chief Manager (Land Acquisition)
(earlier known as Deputy General Maganer LA)
Neyveli Lignite Corporation Limited
Near 1st Thermal station, Neyveli-607807
Cuddalore District.

+1 CC to Mr.S.P.Chockalingam, Advocate SR.No. 77996

+1 CC to Mr.N.Nithianandam Advocate SR.No. 78202

+1 CC to Government Pleader SR.No. 78247

W.A No.2446 of 2010

RK (CO)
MLT 28/11/2017

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