

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)Nos.3785 to 3787 of 2011

Elavarasan @ Sivagnanaprakasm .. Petitioner in
C.R.P.Nos.3785 and 3786/2011
Mangayar Karasi .. Petitioner in
C.R.P.Nos.3787/2011

Vs.

The Secretary,
Neyveli Lignite Corporation,
Neyveli,
Cuddalore District .. Respondent in
all C.R.Ps.

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the fair and decretal orders dated 21.06.2011 made in I.A.Nos.216, 218 and 226 of 2010 in L.A.O.P.Nos.725, 1653 and 1735 of 2008 on the file of the Subordinate Court, Neyveli.

For Petitioners : Mr.V.Anand

COMMON ORDER

These Civil Revision Petitions are filed to set aside the fair and decretal orders dated 21.06.2011 made in I.A.Nos.216, 218 and 226 of 2010 in L.A.O.P.Nos.725, 1653 and 1735 of 2008 on the file

of the Subordinate Court, Neyveli.

2.The issues and the respondent are one and the same in all the Civil Revision Petitions and therefore, they are disposed of by this common order.

3.The petitioner in all the Civil Revision Petitions are the respondent respectively and respondent is the petitioner in I.A.Nos.216, 218 and 226 of 2010 in L.A.O.P.Nos.725, 1653 and 1735 of 2008 on the file of the Subordinate Court, Neyveli. The respondent filed the said petitions under Order VII Rule 11 read with Section 151 of C.P.C to reject the respective L.A.O.P.Nos.725, 1653 and 1735 of 2008 filed under Section 18(1) of the Land Acquisition Act on the ground that they are barred by limitation. According to the respondent, the lands belonging to the petitioners were acquired for the benefit of the respondent and award Nos.4/1997, 12/1997 and 3/1993 respectively dated 09.07.1997, 05.11.1997 and 26.04.1993 were passed fixing compensation payable for the lands. The petitioners belatedly and out of time sought for reference to the Court for claiming the enhanced compensation. The Referring Officer, without appreciating the legal aspects and his competence to refer the matter to the Court, has

simply forwarded the same to the Court. He failed to see that the cause of action did not survive in view of the bar of limitation as per the provisions of Land Acquisition Act. The plea of limitation can be decided based on the records and it will save the time of Court from recording the lengthy oral evidence and number of documents.

4.The petitioner in all the Civil Revision Petitions filed counter affidavits and contended that the petitioner received copy of the award only on 27.03.2002, 23.02.2007 and 03.08.2007 respectively and petitioners issued notices dated on 28.03.2002, 30.03.2007 and 24.08.2007 for reference under Section 18 (1) of Land Acquisition Act. The notices were issued by the petitioners within the time limit fixed under Section 18(2)(a) of the Land Acquisition Act. The land acquisition Tahsildar referred the award to the Court on 05.04.2002, 29.05.2007 and 29.05.2007, which were numbered as L.A.O.P.Nos. 143 of 2002, 97 of 2007 and 13 of 2008 on the file of the Subordinate Court, Virudhachalam. On transfer to the present Court wherein it was renumbered as L.A.O.P.Nos.725, 1653 and 1735 of 2008, the claim of the petitioner is in time and it is not barred by limitation.

5.Before the learned Judge, both the petitioners and

respondent did not let in any oral evidence. The respondent marked notice issued under Section 12(2) as Exs.A1 and A2. The petitioners did not mark any documents.

6.The learned Judge considering the averments in the affidavit, counter affidavit and Sections 18(1), 18(2)(a) of the Land Acquisition Act and judgment relied on by the parties, allowed the applications, holding that the petitioners have not made claim for the reference within the time limit fixed either under Section 18(1) or 12 (2) of the Land Acquisition Act.

7.Against the said orders dated 21.06.2011 made in I.A.Nos.216, 218 and 226 of 2010 in L.A.O.P.Nos.725, 1653 and 1735 of 2008, the petitioners have come out with the present Civil Revision Petitions.

8.Heard the learned counsel for the petitioners and perused the materials available on record.

9.Though the Civil Revision Petitions are filed in the year 2011, no notice was ordered till today. When the Civil Revision Petitions are taken up for hearing today, the learned counsel for the

petitioners produced the copy of the order of this Court passed in connected C.R.P.Nos.3711 to 3714, 3798 to 3806 of 2011 dated 29.10.2013. In the said order, this Court considered the following decisions a) **2002 (3) CTC 477 (K.S. Geetha vs. Stanleybuck and another)** and b) **AIR 1976 Patna 221 (Mt. Rani Krishna Kumar vs. The State of Bihar and others)** and held in paragraph 9 as follows:

"9. In the light of the aforesaid decisions, the contentions urged on behalf of the respondent corporation that these revision petitions are not maintainable is well founded. Accordingly, I hold that as against the orders dated 21.06.2011 passed by the learned Subordinate Judge, Neyveli in I.A.Nos.221, 219, 224, 223, 220, 232, 217, 222, 225, 227, 228, 229 and 230 of 2010 filed by the corporation under Order VII Rule 11 read with Section 151 of CP.C, these Civil Revision Petitions are not maintainable and only an appeal would lie. While so, in the interest of justice, I have no hesitation in issuing a direction for converting these Civil Revision Petitions in to that of Appeal suits. Accordingly, Office is directed to treat and convert the above Civil Revision Petitions in to that of an Appeal suit and post it for passing appropriate orders thereon."

10. The same order will follow in the present cases also.

Accordingly, these Civil Revision Petitions are not maintainable and

only appeals would lie. The office is directed to treat and convert the above Civil Revision Petitions in to that of an Appeal suit and post it for passing appropriate orders thereon.

28.03.2018

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gsa

To

The Subordinate Judge,
Neyveli.



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V.M.VELUMANI,J.

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