

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2018

CORAM : THE HON'BLE Mr.JUSTICE N.SESHASAYEE

W.P.No.3755 of 2017
and W.M.P.No.3807 of 2017

M.Ashok Kumar

... Petitioner

Vs.

1. The Collector of Cuddalore,
Cuddalore District.
2. The Special Tahsildar,
Land Acquisition No.III, Neyveli-2,
Cuddalore District.
3. The Managing Director,
Neyveli Lignite Corporation,
Neyveli-II, Cuddalore District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the respondents to provide Fair Compensation for the lands of the petitioner comprised in extent of Nanja lands 0.15.5 comprised in Survey No.59/4a2 and Nanja lands 0.10.0 comprised in Survey No.56/9 and Punja lands in an extent of 0.25.0 comprised in Survey No.60/1 and Nanja lands in an extent of 0.27.0 comprised in Survey No.60/3A and Nanja lands in an extent of 0.10.5 comprised in Survey No.60/3B and Nanja lands in an extent of 0.09.5 comprised in Survey No.60/3C and Nanja lands in an extent of 0.08.0 comprised in Survey No.60/3D and Nanja lands in an extent of 0.09.0 comprised in Survey No.60/3E and Nanja lands in an extent of 0.09.5 comprised in Survey No.61/1 and Nanja lands in an extent of 0.30.0 comprised in Survey No.61/2 and Nanja lands in an extent of 0.08.0 comprised in Survey No.61/3 and Nanja lands in an extent of 0.12.0 comprised in Survey No.61/4 and Nanja lands in an extent of 0.16.0 comprised in Survey No.61/5 and Nanja lands in an extent of 0.10.5 comprised in Survey No.61/6 and Nanja lands in an extent of 0.08.5 comprised in Survey No.61/7 and Nanja lands in an extent of 0.14.0 comprised in Survey No.61/8 and Nanja lands in an extent of 0.09.5 comprised in Survey No.61/9 and Nanja lands in an extent of 0.05.5 comprised in Survey No.61/10 and Nanja lands in an extent of 0.03.5 comprised in Survey No.61/11 and Nanja lands in an extent of 0.28.5 comprised in Survey No.61/12

and Nanja lands in an extent of 0.04.5 comprised in Survey No.63/1 and Nanja lands in an extent of 0.11.5 comprised in Survey No.63/2 and Nanja lands in an extent of 0.39.0 comprised in Survey No.63/3 and Punja lands in an extent of 0.73.5 comprised in Survey No.65/2 and Punja lands in an extent of 0.16.5 comprised in Survey No.65/3A and Punja lands in an extent of 0.34.5 comprised in Survey No.65/3B and Punja lands in an extent of 0.11.5 comprised in Survey No.65/3C and Punja lands in an extent of 0.12.5 comprised in Survey No.65/3D and Nanja lands in an extent of 0.14.5 comprised in Survey No.65/4 and Punja lands in an extent of 0.03.0 comprised in Survey No.65/5 and Punja lands in an extent of 0.06.0 comprised in Survey No.65/6 at 147, U.Athanur, Virudhachalam Taluk, Cuddalore District since raised Fish Ponds by the petitioner under the Right to Fair Compensation Act, 2015.

For Petitioner : Mr.R.Karunagaran

For Respondents: Mr.Akhil Akbar Ali
Government Advocate [for R1 &R2]
Mr.N.Nithianandam [for R3]

ORDER

When the matter is taken up today, the learned counsel for the petitioner confined his contentions only to the three survey numbers namely S.Nos.59/4A2, 56/9 and 60/1 of U.Athanur, Virudhachalam Taluk, Cuddalore District.

2. The brief facts that are necessary to dispose of the matter may be stated: The contention of the petitioner is that his properties are acquired by the Land Acquisition Authorities for the purpose connected with Neyveli Lignite Corporation under the provisions of the Tamil Nadu Acquisition of Lands for Industrial Purposes Act, 1997, and that no award has been passed and therefore, seeks a direction from this Court to pass an award as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act, 30 of 2013).

3. Mr.Akhil Akbar Ali, Government Advocate appears for Respondents 1 and 2 and Mr.N.Nithyanandam, appears for the 3rd respondent. Third respondent has also filed its counter.

4. Addressing the grievances of the petitioner, the learned counsel for the 3rd respondent brought to the notice of the Court that so far as the petitioner's property in S.No.60/1 is concerned, an award in Award No.04/2011 has already been passed on 28.02.2011 and compensation amount has been paid and possession has been taken over on 18.04.2012. As to the remaining two properties of the petitioner in S.Nos.59/4A2 and

56/9 is concerned, an award enquiry is under progress, submitted the counsel.

5. Responding the same, the learned Government Advocate appearing for the respondents 1 and 2 submitted that in terms of Section 105A, of the Central Act, 30 of 2013 cannot be telescoped into the provisions of Special Act in Schedule V of the said Act. However, even as per Section 105A(2) of the said Act, those provisions in Central Act 30/2013 that are beneficial to the landowners of those properties acquired under the State enactments cannot be disregarded, and that payment of compensation cannot be diluted, nor can the offer of rehabilitation or resettlement as may be necessary to be conferred under the Central Act. A fair statement indeed.

6. Since the award amount has already been deposited regarding petitioner's property in S.No.60/1 is concerned, the present petition can no more be sustained. If he is entitled to the enhanced compensation in terms of statute, the same is not precluded from making the claim. The learned counsel for the petitioner submitted that the said claim is pending before the appropriate authority.

7. So far as the property in S.No.59/4a2 and S.No.56/9 is concerned, the award enquiry proceedings are only under way. The Land Acquisition Authority is therefore directed to issue notice of enquiry to the petitioner at the address given in this petition and grant him adequate and effective opportunity of participating in the same and pass an award as per law in force and the said exercise shall be concluded within a period of four months from the date of receipt of a copy of this order.

8. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

ssn
To:

1. The Collector
Cuddalore District.

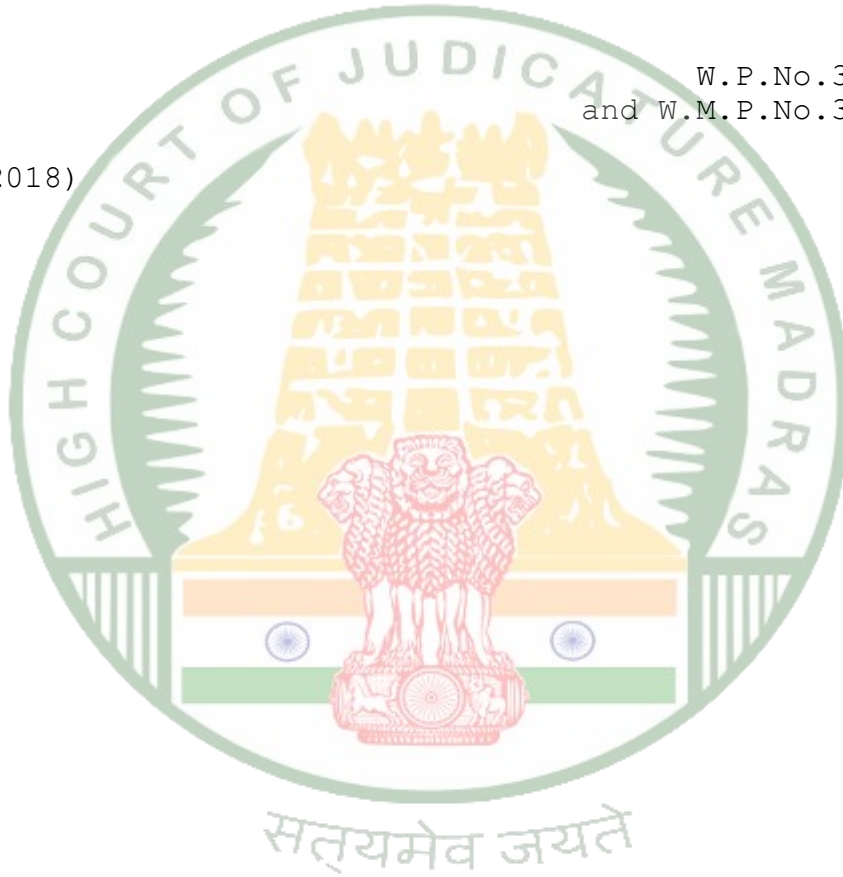
2. The Special Tahsildar,
Land Acquisition No.III, Neyveli-2,
Cuddalore District.

3. The Managing Director,
Neyveli Lignite Corporation,
Neyveli-II, Cuddalore District.

+1 CC to Mr.P. Karunakaran, Advocate sr 11051(07/06/2018)

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and W.M.P.No.3807 of 2017

SP(06/04/2018)



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