

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2018

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

W.P.No.6035 of 2015

K.Chinnapparaj

... Petitioner

Vs.

1.The Secretary to the Government of Tamil Nadu
Industries Department
Fort St.George
Chennai - 600 009.

2.The Commissioner
Land Administration
Ezhilagam
Chennai - 600 005.

3.The District Collector
Cuddalore District
Cuddalore - 607 001.

4.Neyveli Lignite Corporation
Rep by its Company Secretary
Corporate Office, Block-1
Neyveli - 607 801
Cuddalore District.

5.The General Manager
Land Acquisition Department
NLC Limited, Neyveli - 7
Cuddalore District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to acquire the petitioner's lands having an extent of 1.84 acres in S.No.172/5, U.Kolapakkam Village, Kammapuram Sub-Division and pay compensation and extend other rehabilitation benefits under "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013)" besides payment of compensation to the tune of Rs.8,00,000/- being the loss and damages sustained by the petitioner, on account of the above unauthorised usage and encroachment by the respondents.

For Petitioner : Mr.S.Kadarkarai
For Respondents : Mr.Akhil Akbar Ali
Government Advocate [for R1 to R3]
Mrs.N.Nithianandam [for R4 & R5]

O R D E R

The petitioner's case is that he owned a piece of property in Survey No.172/5 of U.Kolapakkam Village, Kammapuram Sub-Division, Cuddalore District, that he was employed in Canara Bank, Neyveli, and that he was later posted at Agra in 1993, and that in 1994, he came to know that a road was laid by the fourth respondent, the Neyveli Lignite Corporation (NLC), on his property and that he immediately sent a representation dated 18.11.1994 objecting the unilateral interference of right to property by NLC authorities without resort to acquisition proceedings. This was followed by eight representations between 1995 to 14.12.2012 and finally he obtained a communication from the Neyveli Lignite Corporation, dated 28.01.2013, wherein it indicated that the road was laid in the property of the petitioner at the request of the State Government officials, and that the fourth respondent (NLC) is not using the road. However, NLC has indicated its interest for acquiring the said land for its future purposes. This was subsequently followed by a lawyer's notice and in response to the petitioner's application filed under Right to Information Act, Vide its communication dated 22.04.2014, the Neyveli Lignite Corporation has informed the petitioner about its proposal to acquire the additional lands for Mine-II Expansion at U.Kolapakkam and other villages, are awaiting approval of the Government.

2. Mr.Akhil Akbar Ali, learned Government Advocate enters appearance for the respondents 1 to 3 and Mr.N.Nithianandam, learned counsel for the respondents 4 and 5.

3. The third respondent/Neyveli Lignite Corporation has filed its counter. In paragraph No.4 of the said counter, it has conceded that the acquisition proceedings has to be initiated under the provisions of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 (Tamil Nadu Act 10 of 1999) and additional compensation too would be paid.

4. It emerges from the submission of Mr.N.Nithianandam that the Local Panchayat appeared to have made a request to the Government for laying a pathway and the Government in turn has requested the Neyveli Lignite Corporation to lay the pathway, and that the Neyveli Lignite Corporation has complied with the request of the Government, even though it has no interest to use the pathway.

5. In the final analysis it shocks the conscience of this Court that notwithstanding the plain, and shameful violation of petitioner's right to property, and denial of right to enjoy and hold property for the last 23 years, the Government is still only in a state of contemplation about acquiring the property. Needless to mention, it only multiplies the agony of the petitioner that he is being denied enjoyment at one level and also denied compensation at another level, which will have an unhappy impact on the quality of his life. At any rate, it is not given to Government to transgress upon the Constitutional right to property of the petitioner. How can the authorities at any level of the bureaucracy throw to wind the rule of law and the fairness in Governmental actions to wind, and stamp on the right of its own citizen in a country where democracy is proclaimed as vibrant. Atrocious is the attitude of those who are responsible for this state of affairs.

6. Today nobody uses the road. It is also submitted on behalf of the respondents that only gravels are spread over the petitioner's property and it is conceded no one is using the said property. There are only two options before the Government now: Either it should return the property to the petitioner in the same manner in which it was when it chose to spread the gravels through NLC, or to acquire the land forthwith to complete the process. It cannot infinitely sit over the right of the citizen and deny him the benefit he is entitled to.

7. Accordingly, this Court passes the following directions :

- a) The respondents 1 and 3 are directed to restore possession of the petitioner's property in Survey No.172/5 of U.Kolapakkam Village, Kammapuram Sub-Division, Cuddalore District, after removing all the gravels in the said property and restore possession in the same level as it was when the private property was unilaterally converted into a public road.
- b) In the alternative, the State shall forthwith come out with its necessary notification for acquiring the land.

The respondents are directed to consider either of the two options and it shall be complied within three months from the date of receipt of a copy of this order and shall submit compliance report before this Court on or before 06.06.2018. Any failure to comply with this will invite slapping damages on the authority concerned for violation of petitioner's right to property in gross violence to rule of law.

This writ petition is disposed of with the above directions. No costs.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

ds

To:

- 1.The Secretary to the Government of Tamil Nadu
Industries Department
Fort St.George
Chennai - 600 009.
- 2.The Commissioner
Land Administration
Ezhilagam, Chennai - 600 005.
- 3.The District Collector
Cuddalore District
Cuddalore - 607 001.
- 4.The Company Secretary
Corporate Office, Block-1,
Neyveli Lignite Corporation
Neyveli - 607 801
Cuddalore District.
- 5.The General Manager
Land Acquisition Department
NLC Limited, Neyveli - 7, Cuddalore District.

Copy to

The Section Officer, Writ Section, High Court, Madras.
(for posting the case on 08.06.2018
for reporting compliance)

+1cc to Mr.N.NITHIANANDAM, Advocate, S.R.No.11975
+1cc to Mr.S.KADARKARAI, Advocate, S.R.No. 11949
+1cc to the Government Pleader, S.R.No.12879

W.P.No.6035 of 2015

MR(CO)
TR(09/03/2018)