

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 18.12.2019
CORAM:
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
A.S.Nos.990 to 999 of 2015

A.S.No.990 of 2015

The Chairman
Neyveli Lignite Corporation Limited,
Neyveli.

...Appellant/3rd respondent in
all the appeals

Vs..

- 1.MRS.LATHA ...1st Respondent/claimant
Mr.NEDUMARAN ..R1 in A.S.No.991/2015
Mr.MAYAVEL ..R1 in A.S.No.992/2015
Mrs.CHELLAMMAL ..R1 in A.S.No.993/2015
Mr.RAJAMANI ..R1 in A.S.No.994/2015
Mr.KALIYAPERUMAL ..R1 in A.S.No.995/2015
Mr.RAMASAMY ..R1 in A.S.No.996/2015
Mr.SINGARAM ..R1 in A.S.No.997/2015
Mr.KANNAIYA NAIDU ..R1 in A.S.No.998/2015
Mr.SAMIDURAI ..R1 in A.S.No.999/2015
- 2.The Special Tahsildar (Land Acquisition),
Jayamkondam Lignite Power Project,
Jayamkondam.2nd respondent/Referring Officer
in all the appeals
- 3.The Executive Director,
Tamil Nadu Industrial Development Corporation,
Egmore, Chennai - 600 008.
...3rd Respondent/2nd Respondent
in all the appeals

Appeal Suit filed under Section 96 C.P.C., 1908 against the
Judgement and Decree dated 31.01.2013 in L.A.O.P.No.645 of 2010
on the file of the Special Court No.I, Jayamkondam.

For Appellant : Mr.N.Nithianandam
(in all cases)

For Respondent : Mr.J.Balagopal
Special Government Pleader (AS)
for second respondent
(in all cases)

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COMMON JUDGMENT

The issues involved in the First Appeals are one and the same and hence, they are disposed of by this common order. These First Appeals are filed to set aside the judgment and decree passed by the Special Court I, Jayamkondam in the following L.A.O.Ps:

L.A.O.P.Nos	Dated	Special Court No.	IN A.S.Nos
L.A.O.P.No.645 of 2010	31.01.2013	I	A.S.No.990 of 2015
L.A.O.P.No.646 of 2010	31.01.2013	I	A.S.No.991 of 2015
L.A.O.P.No.648 of 2010	31.01.2013	I	A.S.No.992 of 2015
L.A.O.P.No.4612 of 2008	30.01.2013	I	A.S.No.993 of 2015
L.A.O.P.No.4616 of 2008	30.01.2013	I	A.S.No.994 of 2015
L.A.O.P.No.4614 of 2008	30.01.2013	I	A.S.No.995 of 2015
L.A.O.P.No.4620 of 2008	30.01.2013	I	A.S.No.996 of 2015
L.A.O.P.No.682 of 2008	21.03.2013	I	A.S.No.997 of 2015
L.A.O.P.No.688 of 2008	21.03.2013	I	A.S.No.998 of 2015
L.A.O.P.No.713 of 2008	21.03.2013	I	A.S.No.999 of 2015

2. The learned counsel appearing on behalf of the appellant, at the first instance, brought to the notice of this Court that the similar issues in respect of the same acquisition proceedings were concluded and the Hon'ble Division Bench of this Court passed a judgment on 27.08.2015 in A.S.Nos.233 to 239 of 2013 & etc., batch and the relevant paragraphs of the judgment of the Hon'ble Division Bench in Paragraphs 18 to 23 are extracted hereunder:

"18.As rightly contended by the learned counsel for the appellant, the lands were not acquired for the

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benefit of the appellant at the beginning. The Notifications under Section 4(1) of the Act, whatsoever, were not issued, showing the appellant as the requisitioning body. The original Notifications were issued only for the purpose of implementing the power project at the behest of TIDCO. As a matter of fact, TIDCO associated itself with a company by name McNally Bharath Engineering Company Limited and four other German companies as equity partners. This partnership gave birth to a new company called Jayamkondam Lignite Power Corporation Limited. If at all, any one could be called the requisitioning body, it could either be TIDCO or at least Jayamkondam Lignite Power Corporation Limited. NLC was nowhere in the picture from the year 1993 till the year 2004. NLC came into picture to rescue the State of Tamil Nadu, the Tamil Nadu Electricity Board as well as TIDCO, which got caught into a project that became a non-starter. But they have now become the victim.

19.The State of Tamil Nadu, by Tamil Nadu Amendment Act 16/97 inserted Section 25A into the Land Acquisition Act, 1894. This Section starts with a non-obstante clause. This Section makes the compensation awarded in excess of the amount awarded by the Collector, payable by the party for whom the acquisition is made. The acquisition in this case was not made for the benefit of NLC. NLC was roped in to save the State Corporation as well as the State of Tamil Nadu. Therefore, in no way, the liability can be fastened upon them.

20.However, bringing our attention to two more amendments made by the State of Tamil Nadu, one to Section 19 and another to Section 20, Mr.M.Vijayan, learned counsel for TIDCO contended that the appellant was dragged into the picture only because of the hopes that they gave and the agreements that they have entered into from the year 2005 up to the year 2012 when they finally withdrew from the picture. Therefore, he vehemently opposed the stand taken by the appellant that they are not liable to pay any compensation.

21.We have carefully considered the above submissions. Under Section 19(1) of the Act, the State of Tamil Nadu inserted clause (bb), which made it mandatory for the impleadment of the third parties, if the acquisition was not for the Government. Similarly,

by the Amendment Act 14/90, clause (d) was inserted under Section 20 to enable the Court to serve notice upon all the parties for the benefit of whom, the acquisition was made. These amendments were necessitated in view of a controversy that was prevailing at that time as to whether the requisitioning body would have a right to be heard in the matter of determination of compensation at all.

22. But the fact that NLC was a necessary party, is different from the question as to whether they have any liability to pay the compensation or not. NLC was not the requisitioning body when the project was contemplated. It was roped in half way through when the joint venture floated by the Government failed and after Reliance Industries Limited backed out, after participating in the international competitive bidding. A person, who came to rescue the Government, cannot be made a victim. Therefore, the first contention of the learned counsel for the appellant deserves to be upheld.

23. In view of our finding that the appellant does not have any liability, the second question as to whether the quantum of compensation was correct or not is not answered by us."

3. In view of the fact that the issues raised in these appeals are no more less integral. The Judgment of the Hon'ble Division Bench is to be followed in respect of these appeals as cited supra. Accordingly, as far as the appellants are concerned, the Judgment and decree passed by the Special Court I, Jayamkondam in the following L.A.O.Ps are set aside:

L.A.O.P.Nos	Dated	Special Court No.	IN A.S.Nos
L.A.O.P.No.645 of 2010	31.01.2013	I	A.S.No.990 of 2015
L.A.O.P.No.646 of 2010	31.01.2013	I	A.S.No.991 of 2015
L.A.O.P.No.648 of 2010	31.01.2013	I	A.S.No.992 of 2015
L.A.O.P.No.4612 of 2008	30.01.2013	I	A.S.No.993 of 2015

L.A.O.P.Nos	Dated	Special Court No.	IN A.S.Nos
L.A.O.P.No.4616 of 2008	30.01.2013	I	A.S.No.994 of 2015
L.A.O.P.No.4614 of 2008	30.01.2013	I	A.S.No.995 of 2015
L.A.O.P.No.4620 of 2008	30.01.2013	I	A.S.No.996 of 2015
L.A.O.P.No.682 of 2008	21.03.2013	I	A.S.No.997 of 2015
L.A.O.P.No.688 of 2008	21.03.2013	I	A.S.No.998 of 2015
L.A.O.P.No.713 of 2008	21.03.2013	I	A.S.No.999 of 2015

4. In view of the reasons stated in the aforementioned paragraphs, the Appeal Suits stand allowed. No costs.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

mrm
To

1.The Special Court No.I,
Jayamkondam.

2.The Section Officer
VR Section High Court, Madras

+1 cc to Mr.N.Nithinandam Advocate sr106483

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