

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-12-2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

A.S.No.214 of 2017
and
C.M.P.No.9021 of 2017

The Chairman
Neyveli Lignite Corporation Limited,
Neyveli.

..Appellant/3rd Respondent

vs.

1.Thambusamy ..1st Respondent/Complainant

2.The Special Tahsildar(Land Acquisition)
Jayamkondam Lignite Power Project,
Jayamkondam.

3.The Executive Director,
Tamil Nadu Industrial Development
Corporation(TIDCO)
Egmore, Chennai - 600 008

..Respondents2&3/ Respondents1&2

Appeals under Section 54 of the Land Acquisition Act, 1894, to set aside the judgment and decree dated 30.01.2013 passed in L.A.O.P.No.4619 of 2008 on the file of the Special Court No.1, Jayamkondam and thus render justice.

For Appellant : Mr.N.Nithianandam

For Respondents : No-appearance for RR1 & 3
Mr.J.Bala Gopal
Special Government Pleader(AS) for R2.

O R D E R

This First Appeal is filed to set aside the judgment and decree passed by the Special Court, Jayamkondam in L.A.O.P.No.4619 of 2008 dated 30.01.2013.

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 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 this appeal are no more less integral. The Judgment of the Hon'ble Division Bench is to be followed in respect of this appeal as cited supra. Accordingly, as far as the appellant is concerned, the Judgment and decree passed by the Special Court, Jayamkondam in L.A.O.P.No.4619 of 2008 dated 30.01.2013 is set aside. Consequently, the First Appeal stands allowed. The appellant in the First Appeal is permitted to withdraw the amount, if any deposited at the time of admission of the First Appeal along with the interest accrued. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

ssb

To

1.The Special Tahsildar(Land Acquisition)
Jayamkondam Lignite Power Project,
Jayamkondam.

2.The Executive Director,
Tamil Nadu Industrial Development
Corporation(TIDCO)
Egmore, Chennai - 600 008

+1cc to Mr.N.Nithianandam , Advocate SR.No. 105196

A.S.No.214 of 2017

A.SK(07/12/2020)