

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.11.2019

PRONOUNCED ON : 28.11.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition Nos.28790 & 29268 of 2018

C.Rajakumari ... Petitioner in W.P.No.28790 of 2018

V.Chinnasamy Petitioner in W.P.No.29268 of 2018

Vs

1.The State of Tamil Nadu rep. by
The Secretary to Government,
Department of Industries (MIA),
Fort St. George,
Chennai - 600 009.

2.The District Collector,
Cuddalore District,
Cuddalore.

3.The Special Tahsildar,
Land Acquisition - III,
Neyveli,
Cuddalore District.

4.NLC India Ltd.,
(Formerly M/s.Neyveli Lignite
Corporation Limited),
Rep. by its Chairmain cum
Managing Director,
Neyveli - 1,
Cuddalore District.

(R.4 impleaded vide order
dated 21.12.2018 made in
W.M.P.No.38815 of 2018 in
W.P.No.28790 of 2018 by VBDJ)

... Respondents in both W.Ps

Prayer in W.P.No.28790 of 2018:- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of Mandamus directing the respondents to refer the Award No.69/07 Na.Ka.L2/58148/04, date 24.09.2007 passed by the 2nd respondent to the Special Sub Court for Land Acquisition Cases, Cuddalore forthwith, for the purpose of determining the just compensation in respect of the petitioner's lands acquired measuring 4.18 acres in S.F.No.107/1, Kammapuram Village, Virudhachalam Taluk, Cuddalore District by considering her representations dated 21.01.2008, 26.05.2008 and 12.11.2009.

Prayer in W.P.No.29268 of 2018:- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of Mandamus directing the respondents to refer the Award No.74/07 Na.Ka.L2/58149/04, dated 08.10.2007 passed by the 2nd respondent to the Special Sub Court for Land Acquisition Cases, Cuddalore forthwith, for the purpose of determining the just compensation in respect of the petitioner's lands acquired measuring 4.00 acres in S.F.No.105/2B, Kammapuram Village, Virudhachalam Taluk, Cuddalore District by considering his representations dated 25.07.2007, 24.01.2008, 20.03.2008, 26.05.2008, 11.11.2009 and 12.11.2009.

For Petitioners
in both cases

:Mr.N.Manokaran

For Respondents 1 to 3
in both cases

:Mr.D.Raja,
Additional Government Pleader

For 4th Respondent
in both cases

: Mr.N.Nithianandam

COMMON ORDER

The facts and the relief sought by the petitioners in these two writ petitions are similar. Hence, heard together and common order is passed.

2.The case of V.Chinnasamy / the petitioner in WP 29268/2018 is that, his land in survey number 105/2B, measuring 4.00 acres at Kammapuram Village, Virudhachalam Taluk, Cuddalore District was acquired by Neyveli Lignite Corporation under the Tamilnadu Acquisition of Land for Industrial Purpose Act, 1997. During the award enquiry, his representation for compensation at market value was not considered and without proper notice and

hearing, award was passed on 08/10/2007 in Award No. 74/07 in Na.Ka. L2/58149/04. A sum of Rs. 4,08,812/- was fixed as compensation for his land and the same was received by him on 24/01/2018 and sought for reference to Court for enhanced compensation. After several repeated representations to refer the matter to the Court, he received notice from the Sub-court, Viruthachalam in LAOP No.34/2009 on 29/01/2010. Accordingly, he appeared and filed his claim statement. On transfer of this case to Cuddalore the petition was re-numbered as LAOP No.571/2013 and trial was proceeding. While so, NLC filed CRP.No.2902/2017 before the High Court to strike LAOP No.571/2013 on the file of Sub-Court Cuddalore on the ground that without reference order, the Court has entertained the LAOP. The High Court allowed CRP.No.2902/2017 and strike of LAOP No.571/2013 on 03/08/2018 for want of reference order. Hence, in this writ petition (W.P.No.29268 of 2018) he seeks issuance of mandamus to direct respondents to refer the award passed by the 2nd respondent to the Special Sub-Court for Land Acquisition cases, Cuddalore for the purpose of determination of compensation.

3. Similarly, the case of C.Rajakumari w/o V.Chinnasamy / the petitioner in WP No.28790/2018 is that, her land in survey number 107/1, measuring 4.18 acres at Kammapuram Village, Virudhachalam Taluk, Cuddalore District was acquired by Neyveli Lignite Corporation under the Tamilnadu Acquisition of Land for Industrial Purpose Act, 1997. During the award enquiry her representation for compensation at market value was not considered and without proper notice and hearing, award was passed on 24/09/2007 in Award No.69/07 in Na.Ka. L2/58148/04. A sum of Rs.4,04,232/- was fixed as compensation for her land and the same was received by her on 21/01/2018 and sought for reference to court for enhanced compensation. After several repeated representations to refer the matter to the Court, she received notice from the Sub-court, Viruthachalam in LAOP No.35/2009 on 16/11/2010. She appeared and filed her claim statement. On transfer of this case to Cuddalore, the petition was re-numbered as LAOP No.572/2013 and trial was proceeding. While so, NLC filed CRP No.2903/2017 before the High Court to strike LAOP No.572/2013 on the file of Sub-Court, Cuddalore on the ground that without reference order, the Court has entertained the LAOP. On 03/08/2018 the High Court allowed the CRP No.2903/2017 and strike of LAOP No.572/2013 for want of reference order. Hence in this writ petition, she seeks issuance of mandamus to direct respondents to refer the award passed by the 2nd respondent to the Special Sub-Court for Land Acquisition cases, Cuddalore for the purpose of determination of compensation.

4. According to the learned counsel for the petitioners, the livelihood of the petitioners was depending on their agricultural lands which were acquired by the Government for industrial purpose. When they sought for reference, the Acquisition Authority ought to have referred the matter to the reference Court. The petitioners were under the impression that the reference Court has caused notice in LAOP Nos. 34 and 35 of 2009 respectively only on the reference by the Acquisition Authority. Even otherwise, for the fault of the Court taking the matter without reference, the petitioners cannot be faulted and deprived of their valuable constitution right of getting fair and adequate compensation for the acquisition of their lands.

5. The 3rd and 4th respondents have filed counter praying to dismiss the writ petitions on the ground that, the petitioners never made request for reference and LAOPs were not pursuant to the request of petitioners by filing petitions before the concern Court or by the reference by the respondents. On verification, it was found that the Court has caused notice in LAOP Nos. 34 and 35 of 2009 without any reference as contemplated under section 18 of the Land acquisition Act, 1894. Hence, the same was challenged in CRP Nos. 2902 and 2903 of 2017 and after verifying the Court records, the High Court has struck down the claim petitions. The petitioners have indulged in the act of malfeasance and misfeasance. This disentitles them to maintain the present petitions. Even otherwise, the prayer in the writ petitions cannot be entertained on the ground of laches, since, the writ petitions are filed to refer the matter to the reference Court for enhanced compensation against the award passed in the year 2007.

6. The learned counsel for the 4th respondent would strongly oppose the maintainability of the writ petitions on the ground that the petitioners have committed serious act of abuse of process of Court and deserve no sympathy or equity. V. Chinnasamy the petitioner in WP No. 29268/2018 is the husband of C. Rajakumari the petitioner in WP. No. 28790/2018. He was employed as Court staff in the Courts of Virudhachalam. He participated in the award enquiry and received the award amount. He was able to get the LAOP numbered without reference by the District collector or claim petition. This was verified by the High Court during the proceedings in Civil Revision Petition filed by the 4th respondent which resulted in striking of the petitions. What the petitioners failed to achieve by manipulation cannot be achieved indirectly through the writ petition.

7. In this regard, it is relevant to extract the finding of this Court in the common order passed in CRP Nos. 2902 and 2903 of 2017 dated 03/08/2018 which throw enough light about the facts:-

".....When the matter came up on 29.06.2018, this Court directed the Registrar (Vigilance) to make enquiry and file a report as to whether any reference was made before the Special Sub-Judge for Land Acquisition Cases, Cuddalore. This Court received the report from the Registrar (Vigilance) which shows from the enquiry report, there was no reference from the first respondent. The report finds that there was no reference before the Subordinate Judge, Land Acquisition. Though the respondent says that reference made by the first respondent, he received notice from the Sub Court, Virudhachalam thereafter only he made his appearance before the lower Court."

8. On considering the rival submissions and the records, this Court is in total agreement with the submission made by the 4th respondent. Whatever said about the lawful right of the land owner, just compensation for the land acquired, sympathy or equity, it all subject to law and certainly cannot be extended to persons who have come to Court with unclean hands. Legally speaking, the request of the petitioners to refer the matters after lapse of more than 10 years is hopelessly hit due to laches. Courts have held that inordinate delay destroy the remedy which includes statutory remedy. Further, the reference taken on file has already been struck off by this Court and the same cannot be revived indirectly through writ petition. Alternatively, if the plea of the petitioners is viewed on equity, then again, the petitioners have no locus to get relief in view of their misfeasance.

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9.For the reasons stated above, the Writ Petitions are dismissed. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/
Sub Asst. Registrar

jbm
To

1.The Secretary to Government
The State of Tamil Nadu
Department of Industries (MIA),
Fort St. George,
Chennai - 600 009.

2.The District Collector,
Cuddalore District,
Cuddalore.

3.The Special Tahsildar,
Land Acquisition - III,
Neyveli,
Cuddalore District.

4.The Chairman cum Managing Director
NLC India Ltd.,
(Formerly M/s.Neyveli Lignite
Corporation Limited),
Neyveli - 1,
Cuddalore District.

+1 cc to M/s.N.Nithianandham Advocate sr99537
+3 ccs to Mr.N.Manokaran Advocate sr99661 & 99662
+1 cc to the Government pleader sr99978,99977

W.P.No.28790 & 29268 of 2018

rj(co)
aa10/01/2020