

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.Nos.882 and 884 of 2020

C.Rajakumari

...Appellant in
W.A.No.882/2020

V.Chinnasamy

...Appellant in
W.A.No.884/2020

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 Limited,
(formerly M/s.Neyveli Lignite Corporation Limited)
rep. by its Chairman cum Managing Director,
Neyveli-1, Cuddalore District.

...Respondents in
both appeals

Prayer: Appeals filed under Clause 15 of the Letters Patent against the order dated 28.11.2019 made in W.P.Nos.28790 and 29268 of 2018.

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 Appellants : Mr.M.Muthappan

For Respondents : Mr.Akhil Akbar Ali
Government Advocate
for Mr.E.Manoharan
Spl. Government Pleader
for respondent Nos.1 to 3

COMMON JUDGMENT

(Delivered by The Hon'ble Chief Justice)

Heard Mr.M.Muthappan, learned counsel for the appellants and Mr.Akhil Akbar Ali, learned Government Advocate for respondents 1 to 3.

2. The matter had been taken up by us yesterday (07.10.2020) and the following order was passed:

"Heard Mr.M.Muthappan, learned counsel for the appellants and Mr.Akhil Akbar Ali, learned Government Advocate holding brief of Mr.E.Manoharan, learned Special Government Pleader for respondents 1 to 3.

2. Mr.M.Muthappan, learned counsel for the appellants has vehemently urged that so far as the request/intimation is concerned, that was supported by evidence of sending a registered post with acknowledgment due and therefore, the substantial right to seek enhancement cannot be denied in the background that one of the appellants was an erstwhile Court employee.

3. Learned Government Advocate, however, urged that bereft of the aforesaid position, even otherwise, keeping in view the legal provisions that are applicable to the controversy, the appellants cannot be permitted to raise this issue through a writ petition more particularly when the matter has already engaged the attention of this Court in the original jurisdiction.

Arguments are concluded. Put up for orders on 08.10.2020."

3. The issue arises out of the entertaining of an application for enhancement of compensation in terms of Section 8(1) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 read with Section 18 of the Land Acquisition Act, 1894 [for brevity, "the 1997 Act and 1894 Act"]. The awards were passed on 24.9.2007 and 8.10.2007 respectively. It is urged that after repeated representations for reference to the Court, the appellants received notices, whereupon appearance was put in and claim statements were filed.

4. The fourth respondent, NLC India Limited, aggrieved by the same filed C.R.P.Nos.2902 and 2903 of 2017 before this Court to quash the proceedings on the ground that the reference had been undertaken without there being any referring order of the Collector. The said revisions were allowed on 3.8.2018.

5. The writ petitions giving rise to the present appeals have been filed for a mandamus to the respondents to refer the awards to the Special Sub Court for the purpose of determination of compensation.

6. While considering the pleas raised, it was also brought to the notice of the Court that this manner of proceeding in the reference was a serious affair, which was noted by the High Court when it dismissed the Civil Revision Petitions on 3.8.2018, that indicated the absence of reference, and for which one of the appellants, V.Chinnasamy, is said to have acted in a manner so as to gain favour by virtue of his clout of being a former Court staffer.

7. Learned counsel for the appellants contends that the appellant in W.A.No.884 of 2020, V.Chinnasamy, retired way back in 2001 and, therefore, there was no material or any adverse information through the Registrar Vigilance that was taken into account for dismissing the Civil Revision Petitions, but the same should not be a decisive factor in order to defeat the genuine claims of the appellants.

8. It is further submitted that the learned Single Judge has erroneously construed that ten years have lapsed and, therefore, it would not be possible to refer the matter on account of the limitation prescribed under Section 18 of the 1894 Act, in as much as the appellants had already reached the forum within time, and the absence of reference by the Collector does not affect the right of the appellants to pursue their applications.

9. We have considered the submissions raised and we find that the judgment of the learned Single Judge in C.R.P.Nos.2902 and 2903 of 2017 categorically records that the proceedings were surreptitiously sought to be concluded without there being any reference by the Collector. The contention on behalf of the appellants that they were in possession of a registered acknowledgment due about the applications having been sent, comes under a serious cloud and raises a doubt about the moving of such applications, on the basis whereof the alleged reference is said to have been sent. If there was no reference made by the Collector, there cannot be a presumption of a valid application having been moved, which is not available on the record of the Collector's file. This matter having been settled in the Civil Revision Petitions referred to above, we do not find any error in the conclusion drawn by the learned Single Judge in refusing to entertain the writ petitions to revive proceedings which have been offset and terminated by virtue of the judgment dated 3.8.2018. It would be virtually sitting in appeal over the said judgment by reopening the matter.

10. Apart from this, to treat the applications now to be within time would be inappropriate in order to revitalize a proceeding which otherwise does not survive, as indicated above, more so in the wake of the fact that the order passed in the Civil Revision Petitions does not appear to have been challenged before a higher forum.

The writ appeals fail and are hereby dismissed. No costs.

Sd/-

Assistant Registrar

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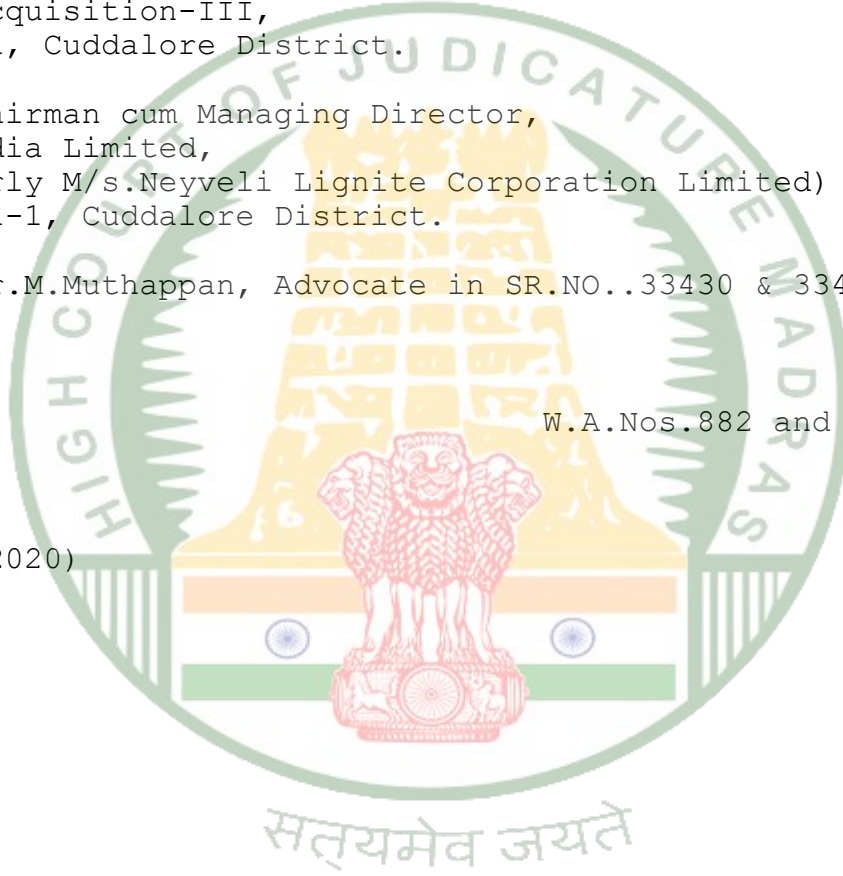
Sub Assistant Registrar

To:

1. The Secretary to Government
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 Limited,
(formerly M/s.Neyveli Lignite Corporation Limited)
Neyveli-1, Cuddalore District.
- +2cc to Mr.M.Muthappan, Advocate in SR.NO..33430 & 33431

W.A.Nos.882 and 884 of 2020

KK(CO)
RV(05/11/2020)



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