

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP PD. Nos. 424, 425 & 571 of 2018
and CMP Nos. 2266, 2267 & 3073 of 2018

Neyveli Lignite Corporation Limited,
Rep. By its Secretary,
(Presently M/s. NLC India Ltd.)
Neyveli 607 801
Cuddalore District.

.. Petitioner in all the petitions

Vs.

1. The Special Tahsildar No.15,
Land Acquisition,
Neyveli 607 802.

...1st Respondent in all the petitions

2. Mr.Aruljothi

.. 2nd Respondent in CRP 424/18

Abdul Jabbar (Died)
Ayesha Beegam
Mohamed Rasul
Mohamed Salim
Abdul Raghman
Abdul Akbar

... Respondents 2 to 6 in CRP 425/18

R.Velmurugan

.. 2nd Respondent in CRP 571/18

PRAYER in CRP 424/18: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order and decreetal order dated 01.11.2017 passed in I.A.No.1417 of 2015 in LAOP No.225 of 2014 on the file of the Special Subordinate Judge for LAOP cases, Cuddalore.

PRAYER in CRP 425/18: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order and decreetal order dated 01.11.2017 passed in I.A.No.1444 of 2015 in LAOP No.454 of 2014 on the file of the Special Subordinate Judge for LAOP cases, Cuddalore.

PRAYER in CRP 571/18: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order and decreetal order dated 20.09.2017 passed in I.A.No.1278 of 2015 in LAOP No.278 of 2008 on the file of the Special Subordinate Judge for LAOP cases, Cuddalore.

For Petitioner : Mr. N.Nithianandam
in all the petitions

For 1st Respondent : Mr. Y.T.Aravind Gosh
in all the petitions Additional Govt. Pleader

For R2 in CRP 424/18
and R2 to R6 in
CRP 425/18 : Mr.V.Anand

For R2 in CRP571/18 : No Appearance

COMMON ORDER

This matter is taken up for hearing through Video-Conferencing.

All these three Civil Revisions have been filed by the Neyveli Lignite Corporation Limited, the requisitioning body, challenging the orders of the Sub Court (Special Court, Land Acquisition) Cuddalore, restoring the references made under Section 18 of the Land Acquisition Act, 1894. The references that were made under Section 18 of the Land Acquisition Act, were dismissed for non-appearance of the claimant/s on 15.10.2014, 28.11.2014 and 27.01.2012. The land owners filed applications seeking restoration of the LAOPs that were dismissed for default.

2. This was opposed by the Neyveli Lignite Corporation Limited contending that these applications that were filed after lapse of 30 days from the date of the order are not accompanied by an application under Section 5 of the Limitation Act, seeking condonation of delay. Therefore, these applications are not maintainable. It was further contended that the corporation will be prejudiced as it will be made liable to pay interest at 15% per annum even for the period of delay.

3. The learned Subordinate Judge concluded that the dismissal of the very LAOPs for non appearance is flawed, inasmuch as, the Hon'ble Supreme Court had in ***Khazan Singh Vs. Union of India (UOI)***, reported in ***2002 (3) LW 453***, held that a Reference Court cannot close the reference or dismiss it for default. A reference under Section 18 has to be disposed of on merits. In view of the statement of law made therein, the learned Subordinate Judge has undone the error and restored the LAOPs. It was argued on behalf of the Neyveli Lignite Corporation Limited, that the Court must not grant interest to the claimants for the period of delay. The said request was rejected by the Court on the ground that it is the mistake of the Court and no party should suffer for such mistake.

4. I have heard Mr.N.Nithianandam, learned counsel appearing for the petitioner/ Neyveli Lignite Corporation Limited, Mr.Y.T.Aravind Gosh, learned Additional Government Pleader appearing for the first respondent in all the petitions and Mr.V.Anand, learned counsel appearing for the other respondents/land owners.

5. Mr.N.Nithianandam, learned counsel appearing for the petitioner would vehemently contend that the Reference Court erred in rejecting his claim for disallowance of interest for the default period. He would point out that in CRP Nos.424 and 425 of 2018, the applications were filed nearly after nine months from the date of the dismissal of the LAOPs. As far as CRP No.571 of 2018 is concerned, the learned counsel would point out that the LAOP No.278 of 2008 subject matter of the said Revision was dismissed as early as on 27.01.2012 and the application to restore was filed on 01.06.2015 i.e., nearly 3½ years after the dismissal of the LAOP. Therefore, according to him, the Neyveli Lignite Corporation Limited cannot be saddled with the liability of payment of interest, that too at 15% per annum as provided under Section 34 of the Land Acquisition Act 1894.

6. Contending contra, Mr.V.Anand, learned counsel appearing for the land owners would submit that the Sub Court was right in concluding that it cannot disallow interest, since it was the mistake of the Court. I am unable to concur with the submissions of the learned counsel for the land owners.

The maxim '*actus curiae neminem gravabit*' would equally apply to both parties to the lis.

7. No doubt the order dismissing the applications was a mistake committed by the Court but if the Court had proceeded to determine the compensation on merits in the absence of any evidence from the land owners their position would have been still worse. The delay in seeking restoration was not a mistake of the Court. Therefore I find that, though the Trial Court was right in restoring the LAOPs, it was not justified in rejecting the request of the Corporation to disallow interest for the delay period. I am therefore of the considered opinion that these Civil Revision Petitions should be partly allowed, setting aside the observation of the Trial Court rejecting the claim for disallowance of interest for the delay period by the Corporation.

8. In view of the above, these Civil Revisions are **partly allowed**, the order restoring the LAOPs would stand and it is made clear that the claimants would not be entitled to interest for the period of delay. In Civil

Revision Petition No.424 of 2018, the claimant will not be entitled to interest for the period from 15.10.2014 to 29.07.2015. In Civil Revision Petition No.425 of 2018 the claimant will not be entitled to interest for the period from 28.11.2014 to 29.10.2015. In Civil Revision Petition No.571 of 2018 the claimant will not be entitled to interest for the period from 27.01.2012 to 30.05.2015. No costs. Consequently, the connected miscellaneous petitions are closed.

11.12.2020

jv
Index:No
Internet:Yes
Speaking order

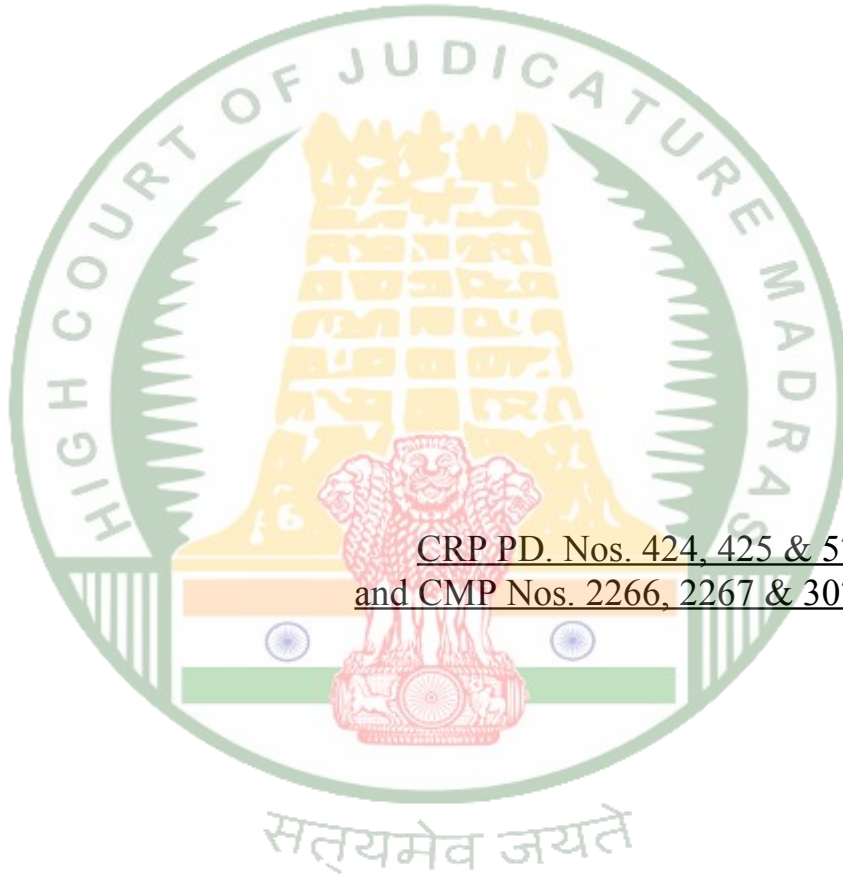
To

1. The Special Subordinate Judge for LAOP cases, Cuddalore.
2. The Section Officer, V.R.Section, High Court of Madras.

CRP PD. Nos.424, 425 & 571 of 2018
and CMP Nos.2266, 2267 & 3073 of 2018

R.SUBRAMANIAN, J.

jv



CRP PD. Nos. 424, 425 & 571 of 2018
and CMP Nos. 2266, 2267 & 3073 of 2018

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