

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P. (PD) No.1280 of 2021
and C.M.P. No.10039 of 2021

M/s.Neyveli Lignite Corporation Limited,
Represented by its Secretary
(Presently M/s.NLC India Limited)
Corporate Office,
Neyveli - 607 801.

Petitioner /
2nd Respondent

versus

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

Respondent /
1st Respondent

2.Mohammed Salim

Respondent /
Claimant

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the order and decretal order dated 30.07.2020 passed in I.A.No.321 of 2017 in L.A.O.P.No.352 of 2008 on the file of the Special Subordinate Judge for LAOP Cases, Cuddalore.

For Petitioner	:	Mr.N.Nithianandam
For Respondent No.1	:	Dr.S.Suriya Government Advocate
For Respondent No.2	:	Mr.D.Anand

ORDER

This Civil Revision Petition is filed to set aside the order dated 30.07.2020 in I.A.No.321 of 2017 in L.A.O.P.No.352 of 2008 passed by the learned Special Subordinate Judge for LAOP Cases, Cuddalore.

2. I.A.No.321 of 2017 was filed for restoration of LAOP, which was dismissed for default on 03.02.2012, on the failure of the respondent (claimant) to appear before the Court.

3. The learned counsel for the petitioner submitted that a reference cannot be dismissed for default. He is not in the way of setting aside the dismissal order and restoring the LAOP. His only concern is that, the payment of interest. The petitioner is not liable to pay the interest for the period of default. However, the learned Special Subordinate Judge remarked that, the claim of interest with regard to the default period will be decided in main reference. Against this particular observation by the learned Special Subordinate Judge, the learned counsel for the petitioner seeks modification. In this regard, he placed for the reference of this Court the order in C.R.P.(PD) Nos.424, 425 & 571 of 2018 dated 11.12.2020,

wherein, in similar circumstances, this Court held that, "may be the Court committed a mistake in dismissing the reference, but the delay in seeking the restoration, was not a mistake of the Court. The trial Court was not justified in rejecting the request of the Corporation to disallow the interest for the default period".

4. The learned counsel for the second respondent prays this Court to pass order in terms of the order passed in C.R.P.(PD) Nos.424, 425 & 571 of 2018 dated 11.12.2020.

5. As rightly pointed out by the learned counsel for the petitioner in a judgment of this Court in C.R.P.(PD) Nos.424, 425 & 571 of 2018, this Court confirmed the order of the learned Special Subordinate Judge for LAOP Cases, Cuddalore, in setting aside the default order and at the same time, the finding of the learned Special Subordinate Judge that the claim of interest for the default period will be decided in the main reference, was found not correct and accordingly, that part of the order was set aside.

6. In this case also, there is an observation by the learned Judge that the claim of interest for the default period will be decided in main reference. This particular observation is not correct and not in accordance with law. In law and equity, a person cannot be permitted to enrich for the fault of his own. Though the claim was wrongly dismissed, the claimant alone responsible for the delay in filing the restoration petition. Therefore, this Court is of the considered view that the claimant is not entitled for interest during the default period. Thus, the Civil Revision Petition, is allowed in part. The order of the learned Judge in setting aside the dismissal of L.A.O.P.No.352 of 2008 and restoring, it is confirmed. The observation that "interest for default period will be decided in main reference", is set aside. Claimant is not entitled for interest during the default period. Ordered accordingly. Consequently, connected Miscellaneous Petition is closed. However, there is no order as to costs.

सत्यमेव जयते

06.08.2021

Speaking order / Non-speaking order
Index : Yes / No

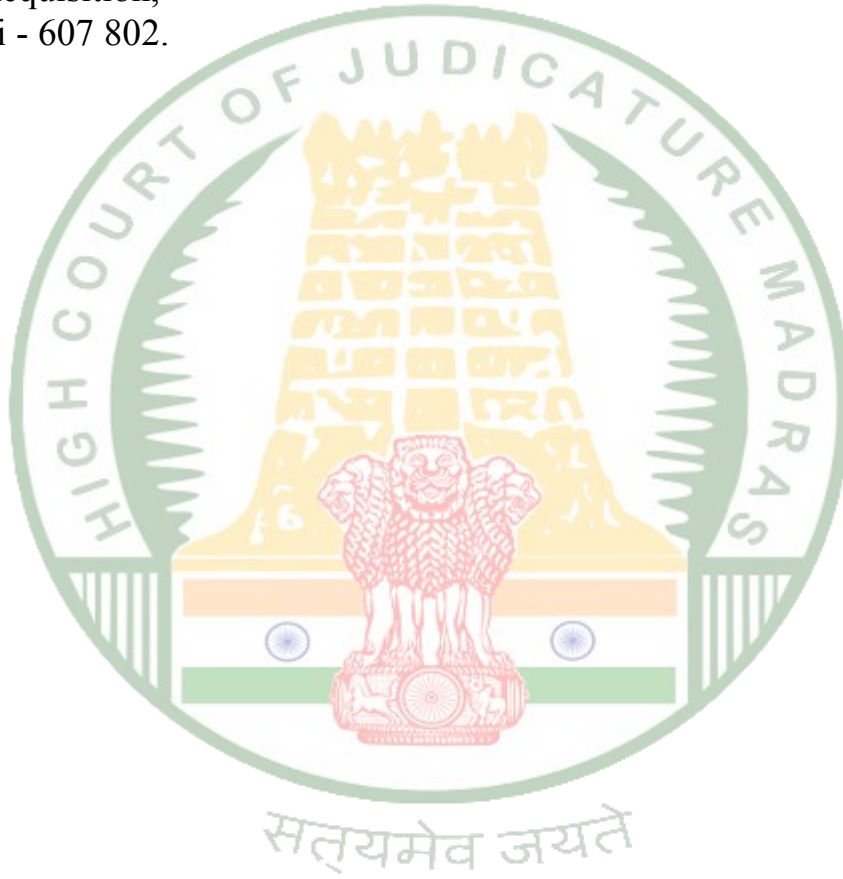
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To

1.The Special Subordinate Judge for LAOP Cases,
Cuddalore.

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



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G.CHANDRASEKHARAN, J.

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