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A.S.No.602 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2022

CORAM:

THE HONOURABLE **MS.JUSTICE V.M.VELUMANI**

and

THE HONOURABLE **MR.JUSTICE S.SOUNTHAR**

A.S.No.602 of 2016

and CMP.No.16213 of 2016

The Chairman,
Neyveli Lignite Corporation Limited,
Neyveli.

...Appellant/3rd respondent

Vs

1.Alamelu

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

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

... Respondents

Prayer: First Appeal filed under Section 96 of Civil Procedure Code, R/w Section 54 of Land Acquisition Act, 1894, praying to set aside the judgment and decree dated 31.01.2013 passed in L.A.O.P.No.4 of 2010, on the file of the Special Court No.I, Jayamkondam.



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For Appellant : Mr.N.Nithianandam

For Respondents :Mr.T.Chandrasekaran
Special Government Pleader for R2
Mr.M.Vijayan
for M/s.King and Patridge for R3
No Appearance for R1

JUDGMENT

S.SOUNTHAR,J.,

The appellant/Neyveli Lignite Corporation Limited, filed this appeal, challenging the award passed by the Land Acquisition Tribunal, Special Court No.I, Jayamkondam, in LAOP.No.4 of 2010, dated 31.01.2013, enhancing the compensation payable to first respondent for the lands acquired from first respondent for Jayamkondam Lignite Power Plant.

2. The appeal was filed by the appellant Corporation questioning the fixation of liability on the appellant and also quantum of compensation.

3. The learned counsel for the appellant submitted that the lands



were not acquired for the benefit of appellant Corporation and the 4(1) notification under the Land Acquisition Act was not issued showing the appellant as the requisition body. The acquisition in this case was not made for the benefit of appellant and the appellant was roped in only midway, in order to save the State Corporation. Therefore, fastening of liability on the appellant to pay the enhanced compensation is untenable in law.

4. The learned counsel for the appellant also cited the judgment passed by a Coordinate Bench of this Court in A.S.Nos.233 to 239 of 2015, filed by the appellant Corporation, wherein, it was held as follows:

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



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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.



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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.

5. From the above decision, it is clear, a Coordinate Bench of this Court in an appeal filed by appellant questioning the fastening of liability on it in cases involving other land owners, already held that the appellant is not liable to pay compensation payable to land owners in respect of land



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acquisition made for same project.

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6. In view of the fact that the issue involved in this appeal is already covered by the decision cited above, we allow the above appeal by setting aside the award passed in LAOP.No.4 of 2010, on the file of Special Court No.I, Jayamkondam, dated 31.01.2013, insofar as the present appellant is concerned. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

(V.M.V.J) (S.S.J)

04 .07.2022

Internet : Yes / No

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To

The Special Court No.I,

Jayamkondam.

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