



Rev.Appl.Nos.162 to 199 of 2022 and 34 to 39 and 41 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 07.02.2023

Date of Order : 03.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE G.K. ILANTHIRAIYAN

Rev.Appl.Nos.162 to 199 of 2022 and 34 to 39 and 41 of 2023

Rev.Appl.No.162 of 2022

Powergrid Corporation of India Limited,
Rep.by its Assistant Manager,
400 KV SS, Myvadi,
Udumalpet, Coimbatore District.

... Petitioner

Versus

1. M.Thangasamy Gounder
2. Neyveli Lignite Corporation Ltd.,
Rep.by its Supervisor/Engineer,
400 KV Transmission System,
Museum Road,
Neyveli.
3. The Assistant Executive Engineer,
Neyveli Lignite Corporation Ltd.,
400 KV Transmission System,
Udumalpet,
Coimbatore District.
4. The Collector,
Coimbatore District,
Coimbatore.



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5. The Tahsildar,
Pollachi Taluk,
Pollachi,
Coimbatore District.

... Respondents

Review Application filed under Order 47 Rule 1 CPC r/w Section 114 of C.P.C, to review its common final order and decree passed in C.R.P.(NPD).No.657 of 2005 dated 11.02.2019.

For Petitioners
in Rev.Appl.Nos.162 to
199 of 2022

: Mr.AR.L.Sundaresan,
Senior Counsel and
Additional Solicitor General of India
for Mr.R.Ravi

For Respondents
in Rev.Appl.Nos.162 to
199 of 2022

: Mr.T.V.Ramanujam,
Senior Counsel for
Mr.C.Prakasam for R1

Mr.C.Sathish,
Government Advocate
(for R4 & R5)

For Petitioner
in Rev.Appl.Nos.34 to
39 & 41 of 2023

: Mr.T.V.Ramanujam,
Senior Counsel for
Mr.C.Prakasam

For Respondents
in Rev.Appl.Nos.34 to
39 & 41 of 2023

: Mr.AR.L.Sundaresan,
Senior Counsel and
Additional Solicitor General of India
Mr.R.Ravi (for R1)

Mr.C.Sathish,



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Government Advocate (for R3 & R4)

COMMON ORDER

These review applications are filed to review the common order dated 11.02.2019 passed in C.R.P. (NPD). No.657 of 2005 etc., batch.

2. The petitioner, viz., the Power Grid Corporation of India Limited is a Government of India Enterprises, which is entrusted with the duty of distribution and transmitting power supply throughout the country from various generation points. It has been carrying out various projects and one such project relates to formation of transmission line from Pollachi to Trichur. Under the said project, the transmission lines were tracked through certain Villages in Pollachi and Anamalai Taluk in Coimbatore District. During the drawing of lines, some of the trees have to be cut to maintain efficiency and safety of the general public, which belong to respective owners of the lands in which the transmission lines were drawn. The evaluation of the value of trees and assessment of compensation were entrusted with the District Collector, Coimbatore District, viz., the fourth respondent. Based on his evaluation and recommendation, compensation was paid to the respective land owners for



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damages caused to their plantation. Having been not satisfied with the compensation awarded for damages caused to their trees, the land owners filed petition in Tele. O.P. No. 193 of 1990 before the I Additional District Judge, Coimbatore, claiming enhancement of compensation towards the cutting of trees in their respective lands for forming the power line. By order dated 30.04.2004, the I Additional District Judge, Coimbatore determined the compensation by adopting 10 multiplier and fixed compensation per coconut tree at Rs.500/- after deducting the development charges and awarded a sum of Rs.5,000/- per coconut tree.

3. Challenging the enhancement of compensation, batch of Civil Revision Petitions were filed by this Court. Simultaneously for further enhancement, the land owners also filed Civil Revision Petitions before this Court for claiming diminution value for the land and also solatium. This Court by common order dated 06.04.2011 in the Civil Revision Petitions filed by the petitioner as well as the land owners held that the land owners are not entitled to the solatium and reduced the multiplier from 10 to 8. Based on such modification, all the Civil Revision Petitions were dismissed. Aggrieved by the same, the owners of the land preferred appeals before the Hon'ble Supreme



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Court of India in Civil Appeal Nos.8319-8341 of 2014. The Hon'ble Supreme

Court of India by order dated 28.08.2014 disposed of the said appeals without expressing any opinion on merits of the case and remanded the matter back to this Court for considering the question as to whether the coconut trees are undervalued in the context of argument and there is diminution of value of entire land having regard to the fact that the multiplier method is applied. Further, the Hon'ble Supreme Court of India has made it clear that the remand is only for the limited purpose as stated above and the scope of remand shall not be expanded.

4. On remand, this Court by order dated 11.12.2019, Court allowed the Civil Revision Petitions and determined the value of each coconut trees at Rs.20,000/- with interest at the rate of 9% with 30% of solatium. Aggrieved by the said order, the Power Grid Corporation of India Limited and the claimants have been filed these Review Applications.

5. Mr. AR. L. Sundaresan, learned Senior Counsel and Additional Solicitor General of India appearing on behalf of the Review Applicants, viz., the Power Grid Corporation of India Limited submitted that the Hon'ble



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Supreme Court of India had remitted the matter back to this Court to consider

the question whether the coconut trees are undervalued in the context of argument and there is diminution of value of entire land having regard to the fact that the multiplier method was applied. It specifically limited the remand only to the appellants, viz., the land owners. However, this Court had gone beyond the direction issued by the Hon'ble Supreme Court of India and passed orders in favour of all the petitioners, other than the land owners, who approached the Hon'ble Supreme Court of India. This Court completely deviated from the approved finding of the Hon'ble Supreme Court of India while passing the order. This Court also failed to answer the arguments, which were advanced by the petitioner's counsel. This Court ought not to have ordered solatium and diminution of value of the land since the Hon'ble Supreme Court of India remanded the matters for limited purpose in order to determine the value of the coconut trees and no scope was provided by the Hon'ble Supreme Court of India to reopen the issue of solatium. Thus, by the impugned judgement 30% of solatium was granted over and above the award amount. There is no procedure under the Indian Telegraph Act, 1885 or Indian Electricity Act to decide payment of compensation for erecting tower lines and hence, the Land Acquisition Act, 1894 comes into rescue wherein 30%



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solatium is granted and therefore, this Court granted 30% solatium.

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6. He further submitted that the Civil Revision Petitions were remanded in order to resolve the issue as to why this Court agreed with the exercise of District Court fixing 25 years of yield capacity after holding the yield is for 40 years. The average age of coconut trees without controversy is held as 50 years and therefore out of the prime yield phase of 40 years, 15 years is reduced and balance prime yield phase is arrived at 25 years. This issue has not at all been considered by this Court. He also submitted that even the land owners admitted before the Hon'ble Supreme Court of India since the solatium is not granted they will consent if the yield of coconut tree arrived by the District Judge as 25 years and the compensation is fixed at Rs.12,500/-. He further submitted that this Court awarded compensation based on the principle laid under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and awarded solatium at 30%. Whereas, the said Act has over and again emphasized that the said Act will be applicable to all the land acquisition enhancement specified in 4th



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schedule of the of the said Act. Therefore, the principle of solatium is not applicable to awarding compensation for user right. Admittedly, the petitioners are using the land after drawing wires and erecting towers. Hence, he prayed to review the order passed this Court.

7. Per contra, Mr. T.V. Ramanujam, learned Senior Counsel appearing on behalf of the land owners submitted that they have also filed Review Applications against the order passed by this Court and seeking further enhancement. Insofar as the solatium is concerned, as per the New Act, Act 30 of 2013, they are entitled to get 100% solatium. Whereas, this Court awarded only 30% of solatium. Though this Court accepted the plea of the petitioner's request for payment of compensation for the land at the rate of Rs.2,00,000/- per cent it has not been incorporated in the order. Therefore, there is an error apparent on the face of record. He further submitted that in respect of the review applications filed by the Power Grid Corporation of India Limited, the review cannot be permitted unless there is mistake or error apparent on the face of records requiring correction or mistake of an error in judgment. The grounds raised by the petitioners are all on merits and as such, it cannot be reviewed by this Court. Admittedly, the petitioners also did not chose to file



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any appeal as against the order passed by this Court.

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8. Heard both sides and perused the materials placed on record.

9. The Review Applications filed by the Power Grid Corporation of India Limited as against the order passed by this Court in batch of Civil Revision Petitions, thereby allowing those Civil Revision Petitions and awarded compensation of Rs.20,000/- for each coconut tree with interest at the rate of 9% with 30% of solatium. Originally, this Court passed an order in all the Revision Petitions filed by the land owners as well as the Power Grid Corporation of India Limited by order dated 06.04.2011 reducing the multiplier from 10 to 8 and refused to grant any solatium. Aggrieved by the same, the land owners preferred Civil Appeal Nos. 8319-8341 of 2014 before the Hon'ble Supreme Court of India and the Hon'ble Supreme Court of India by order dated 29.08.2014 remanded the matter back to this Court to consider the question whether the coconut trees are undervalued in the context of arguments that there is diminution of value of entire land having regard to the fact that the multiplier method is applied.

10. The learned counsel for the land owners argued before this Court,



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that solatium has not been granted, inspite of applying multiplier, the District

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11. Admittedly, through the land, high volume power lines have been erected by the Power Grid Corporation of India and because of the same, the coconut trees and other trees standing over it has been removed and certain trees were damaged. Because of erection of high volume tower the market value of fertile cultivation land of the petitioner has become diminished. Though it has been found the yielding life of coconut trees are more than 40 years as against the expert opinion had 75 years, the learned District Judge take into account the life of the coconut trees only for 25 years. Therefore, the



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District Judge fixed the compensation per coconut tree at Rs.12,500/- for 25

years. After taking into account of notional wastage, applied multiplier method of 10% and fixed the compensation at Rs.5,000/- per coconut tree. However, this Court reduced the multiplier from 10 to 8 and fixed at the rate of Rs.4,000/- per coconut tree. Therefore, the Hon'ble Supreme Court of India, while remanding the matter observed that while deciding the value per coconut tree considered the diminution value of the land along with other relevant factors. Therefore, this Court concluded that after erection of high tension tower line over the land, the value of the land will be reduced compared with the other lands and they cannot do any agricultural operation in between the high voltage tower. However, the learned District Judge failed to consider the factum of diminution of market value of the land of the petitioner. Considering all the aspects, this Court fixed the compensation at Rs.20,000/- per coconut tree with interest at the rate of 9% with 30% of solatium.

12. The learned Senior Counsel and Additional Solicitor General of India appearing for the Power Grid Corporation of India mainly contented that the Hon'ble Supreme Court of India remanded those Civil Revision Petitions for very limited purpose to decide whether the coconut trees are undervalued



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in the context of diminution value of entire land with regard to the factum of multiplier. Therefore, this Court ought not to have granted solatium of 30% when the Indian Telegraph Act, 1885 itself does not provide for solatium.

13. The grounds available for filing the Review Applications against the judgement have been set in Order XLVII of the Civil Procedure Code in the following words:-

“1. Application for review of judgment-(1) Any person considering himself aggrieved-

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed,

or

(c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account



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of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or Order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.

1[Explanation-The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for review of such judgment.]”

14. Thus, it makes it clear that the Review Applications would be maintainable on (i) discovery of new and important matters or evidence which,



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after the exercise of due diligence, were not within the knowledge of the applicant or could not be produced by him when the decree was passed or the order made; (ii) on account of some mistake or error apparent on the face of the record; or (iii) for any other sufficient reason. Therefore, the review of earlier order cannot be done unless this Court is satisfied that there is material error manifest on the face of the order, which would result in miscarriage of justice or undermine its soundness. A review is not a routine procedure. An error that is not self-evident and the one that has to be detected by the process of reasoning, cannot be described as an error apparent on the face of the record for the Court to exercise the powers of review.

15. Therefore, this Court finds no error apparent on the face of the record except the order of solatium. As directed by the Hon'ble Supreme Court of India, this Court dealt with the issue as to whether the coconut trees are undervalued in the context of diminution of value of entire land with regard to the factum of multiplier and fixed the compensation at the rate of Rs.20,000/- considering the over all circumstances. However, insofar as the award of solatium is concerned, the Hon'ble Supreme Court of India agreed with the order passed by this Court dated 06.04.2011, wherein, it has held that fresh



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demand made by the land owners at the stage of Civil Revision Petition for

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solatium and diminution of value of land is not acceptable as land is not acquired but only used for erecting high tension wires. So far no similar nature cases ordered for solatium under the Indian Telegraph Act, 1885. Therefore, this Court ought not to have reckoned the issue of solatium once again that too without any reason and awarded 30% solatium over the award amount. In fact, this Court considered over all aspects, viz., after erection of high tension line over the land, the value of the land will be reduced comparing with other lands and the land owners cannot do any agricultural operation in between the high voltage tower. Therefore, considering the said factor of diminution of land value, this Court awarded the compensation at Rs.20,000/- per coconut tree.

16. However, this Court ordered solatium beyond the scope of remand. That apart, the land of the lands owners were not acquired, but only used for erecting high tension wires. Therefore, no solatium can be awarded to the land owners. When the Hon'ble Supreme Court of India remanded the matter back to this Court only for consideration of diminution of value of land having regard to the extent of land, while laying or erecting the transmission line, the land is not acquired by the Power Gird Corporation of India Limited. They have used the lands only for laying lines over the land and the procedure



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prescribed under the Land Acquisition Act and Land Acquisition Manual can be followed while granting compensation.

17. Even according to the land owners when the solatium has not been granted while applying multiplier, the Courts below could have granted the minimised cost of compensation as per the yield of the tree by applying multiplier method. Therefore, this Court ought not to have granted any solatium when the compensation has been awarded by applying multiplier method with interest at the rate of 9% and considering the yield of the coconut trees and diminution of value of the land. Therefore, there is an error apparent on the face of record, insofar as the solatium is concerned and it can be corrected by exercising the review jurisdiction. However, under Order 47 Rule 1 of CPC for reviewing the judgement has been described as for any other sufficient reason. This phrase has been explained to mean a reason sufficient grounds atleast analogues to those specified in the Rule. This error apparent on the face of proceeding is an error which is based on clear ignorance or disregard of the reason for what ground the Hon'ble Supreme Court of India remanded the matter back to this Court. Therefore, this Court is inclined to



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review the order passed by this Court insofar as ordering the solatium alone.

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18. Accordingly, the order granting solatium is hereby recalled and the Review Applications filed by the Power Grid Corporation of India are disposed of. In view of the above order, all the Review Applications filed by the land owners are hereby dismissed. No costs.

03.03.2023

Index : Yes / No
Speaking / Non Speaking order
Neutral Citation: Yes/No
kv

To

1. The Supervisor/Engineer,
Neyveli Lignite Corporation Ltd.,
400 KV Transmission System,
Museum Road,
Neyveli.
2. The Assistant Executive Engineer,
Neyveli Lignite Corporation Ltd.,
400 KV Transmission System,
Udumalpet,
Coimbatore District.
3. The Collector,



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Coimbatore District,
Coimbatore.

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4. The Tahsildar,
Pollachi Taluk,
Pollachi,
Coimbatore District.



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G.K.ILANTHIRAIYAN, J.

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**Common order in
Rev.Appl.Nos.162 to 199 of 2022
and 34 to 39 and 41 of 2023**

03.03.2023