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AS. No.1127 of 2015 etc. batch of cases

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.06.2023

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

AS. Nos.1127, 1129, 1150, 1156, 1157, 1158, 1159, 1170, 1171, 1174,
1192, 1193, 1194, 1200, 1201, 1204, 1207 and 1208 of 2015
and MP.Nos.1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1 and 1 of 2015

The Secretary,
Corporate Office,
Neyveli Lignite Corporation Limited,
Neyveli -1.

.. Appellant in AS.No.1127 of 2015

Versus

1. Jagarabevi
2. The Special Tahsildar,
No.20, Land Acquisition,
Neyveli 2.

.. Respondents in AS.No.1127 of 2015

PRAYER in AS.No.117 of 2015: First Appeal filed under Section 54 of Land Acquisition Act, 1894, against the judgment and decree passed in L.A.O.P.No.49 of 2013 on the file of the Special Sub Court for LAOP Cases, Cuddalore, dated 29.06.2015.



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For appellant : Mr.N.Nithianandam
For respondents :
for R1 : Mr.V.Anand
for R2 : Mr.T.Chandrasekaran, Spl.G.P.

COMMON JUDGMENT

(Judgment of the Court was delivered by S.S.SUNDAR, J)

These appeals arise out of the judgments and decrees dated 29.06.2015 passed by the Special Sub Court for LAOP Cases, Cuddalore in a batch of cases namely, LAOPs.No.49, 217, 360 and 346 of 2013, 8, 10, 23, 25, 331, 332, 337, 26, 28, 30, 57, 65, 190 and 336 of 2014.

2. The Government of Tamiladu initiated proceedings for acquisition of lands in Periyakurichi Village, Vridhachalam Taluk, Cuddalore District for expansion of existing Mines of Neyveli Lignite Corporation. It is to be noted that the lands were acquired by various notifications issued by the Industrial Department between 1991 and 1997. It is admitted that the lands in Periyakurichi Village were split into 14 blocks for administrative convenience and the lands covered in each blocks were sought to be acquired by different notifications under Section 4(1) of the Land Acquisition Act.



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3. From the awards passed by the Land Acquisition Officer, it is seen that the Land Acquisition Officer fixed compensation at Rs.2,15,384/- per hectare for the lands acquired under notification dated 21.02.1991 issued under Section 4(1) of the Act. The Land Acquisition Officer however fixed compensation at the rate of Rs.52,000/- per acre for the lands acquired for the same purpose under the notifications issued under Section 4(1) of the Act dated 18.10.1996 and 31.01.1997.

4. It is admitted that the Land Acquisition Officer referred the matter for fixing just compensation before the Reference Court on the petitions filed by the respective land owners and the Reference Court also enhanced the compensation in all cases uniformly. One of the grounds raised by the learned counsel for the appellant is that the Land Acquisition Officer had erroneously referred for higher compensation by allowing petitions, which were filed beyond the period of limitation.

5. It is admitted that the petitions filed by the appellant under Order 7 Rule 11 long after commencement of trial were dismissed by the Trial Court for want of merits. The learned counsel appearing for the first respondent submitted that in many cases, the appellant also filed an application under



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Order 14 Rule 2 seeking permission to raise their objection as a preliminary issue. Since the appellant did not cooperate, it is stated that the Reference Court dismissed all the applications with the observation that the same can be gone into at the time of trial.

6. The learned counsel appearing for the first respondent submitted that the appellant has not produced any document to sustain their objection that the Land Acquisition Officer referred the matters ignoring the fact that the petition under section 18 seeking reference were filed beyond the period of limitation. It is in these circumstances, the learned counsel appearing for the first respondent objected for the issue being raised and canvassed by the appellant in these batch of cases. An objection questioning the reference should be based on materials. Even before trial Court, the learned counsel for the appellants has not furnished the factual details to sustain his argument. However, this issue was considered by the Reference Court and held in favour of claimants accepting their case that the claimants had sought for reference to Civil Court immediately after Award and that the Land Acquisition Officer failed to act on their immediate request.



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7. This Court finds that the Reference Court has erroneously clubbed all the cases and fixed the same compensation of Rs.25,000/- per cent that is Rs.25,00,000/- per acre in all cases irrespective of the date of notification under section 4[1] of the Act. The notifications under section 4[1] of the Act were issued between 1991 and 1997 and they were in respect of different parcel of lands in the same village. Therefore, the value of the lands has to be fixed with reference to the date on which the notifications under Section 4(1) of the Act were issued. However, the compensation was fixed without reference to the specific provisions of the statute particularly, Section 23 of the Act, which mandates that the Court shall fix the market value as on the date of publication of notification under Section 4(1) of the Land Acquisition Act. Therefore, arriving same compensation for all the lands covered under different notifications issued between 1991 and 1997 cannot be sustained.

8. It is admitted that the compensation payable to the claimants in this batch for every parcel of lands are covered under different notifications. Therefore, this Court finds that there is no other option except to allow these appeals and remit the matter to the Reference Court for determining the



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compensation payable for every parcel of lands taking into account the date of notification under Section 4(1) of the Act and the sale statistics and the evidence available with reference to each parcel of lands under different notifications. Though serious prejudice is caused to the first respondent / claimants in view of the time lag, this Court is helpless as it will be against the principles of law. This court gave sufficient time for the parties to negotiate for settlement as it is reported that the appellant has settled almost all cases except the cases under these batch of appeals. However, there is no consensus for a settlement.

9. It is pointed out by the learned counsel appearing for the first respondent (claimants) that the appellant has not come before this Court with a specific pleading as to the date of award and the bare facts which are required to sustain the plea that the Land Acquisition Officer has referred the matter without considering as to whether the petition under Section 18 of the Act by the land owners have been filed within the period of limitation as prescribed under Section 18 of the Act. In the said circumstances, this Court is not inclined to preserve any liberty to the appellant to raise the objection with regard to the reference. In the absence of an attempt to challenge the



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reference on the basis of records, this Court is unable to interfere with the conclusion of reference Court on this issue.

10.The Reference Court, viz., Special Sub Court for LAOP Cases, Cuddalore is directed to dispose of the batch of cases, considering the fact that the lands in question are covered by different notifications and the compensation should be determined taking into account the market value as on the date of notification issued under Section 4(1) of the Act in each case. The parties are directed to report before the Reference Court on 04.07.2023 and thereafter, the Reference Court is directed to dispose of all the LAOPs as expeditiously as possible, preferably within a period of three months from the date of appearance of the parties as directed by this Court.

11. At this juncture, it is pointed out by the learned Special Government Pleader appearing for the second respondent that in respect of the lands in question, which were acquired during the period 1991 - 1997, the requisition body had paid a sum of Rs.20,50,000/- per acre to the land owners by way of settlement. Considering the fact that the lands were acquired from its owners at least 25 years back, this Court is inclined to give a direction to the appellant to pay each of the land owners an interim



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compensation at the rate of Rs.20,00,000/- [Rupees twenty lakhs only] per acre, after deducting whatever amount they had already deposited or paid pursuant to the award of the Land Acquisition Officer or pursuant to the judgment of Reference Court.

12. With the above observations and directions, these appeals are allowed and the orders impugned in these appeals are set aside and the matter is remitted to the Reference Court for fresh consideration as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

(S.S.S.R.J.) (C.K.J.)
13.06.2023

Speaking Order : Yes / No
Index : Yes / No
pvs

To
1. The Special Sub Court for LAOP Cases,
Cuddalore
2. The Section Officer,
V.R.Section, High Court, Madras



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C.KUMARAPPAN, J.

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