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WP No.22745 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07-08-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.22745 of 2023

And

WMP No.22201 of 2023

Murugan

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Revenue and Disaster Management Department,
Fort St. George,
Secretariat,
Chennai – 600 009.

2.The District Collector,
Cuddalore,
Cuddalore District.

3.The Special Tashildhar – II,
Land Acquisition,
Neyveli Lignite Corporation Limited,
Cuddalore District.



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4.The District Revenue Officer,
Cuddalore,
Cuddalore District.

5.The Neyveli Lignite Corporation Limited,
Represented by its Chairman,
No.135, EVR Periyar High Road,
Kilpauk, Chennai – 600 010.

6.The Superintendent of Police,
Cuddalore,
Cuddalore District.

7.The Inspector of Police,
Sethiyathope Police Station,
Cuddalore District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the respondents and their subordinates from interfering and disturbing the peaceful possession of the petitioner till harvest of the paddy grown in the agriculture field of petitioner in S.Nos.60/1A, 60/1B, 60/3 and 60/A, situated at Valayamadevi Melpathi Village, Bhuvanagiri Taluk, Cuddalore District, and consequently direct the respondents 1 to 5 to consider grievances of the petitioner to return his lands under Section 101 of Right To Fair Compensation in Land Acquisition Resettlement and Rehabilitation Act 2013.

For Petitioner

: Mr.T.Mohan, Senior Counsel for
Mr.K.Balu



For Respondents-1 to 4, : Mr.J.Ravindran,
6 and 7 Additional Advocate General,
Assisted by Mr.D.Ravichander,
Special Government Pleader

For Respondent-5 : Mr.AR.L.Sundaresan,
Additional Solicitor General of
India,
Assisted by Mr.N.Nithianandam

ORDER

The writ on hand has been instituted to forbear the respondents and their subordinates from interfering and disturbing the peaceful possession of the petitioner till harvest of the paddy grown in the agriculture field of petitioner in S.Nos.60/1A, 60/1B, 60/3 and 60/A, situated at Valayamadevi Melpathi Village, Bhuvanagiri Taluk, Cuddalore District, and consequently direct the respondents 1 to 5 to consider grievances of the petitioner to return his lands under Section 101 of Right To Fair Compensation in Land Acquisition Resettlement and Rehabilitation Act 2013.



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2. The petitioner states that he owns agricultural lands at Valayamadevi Melpathi Village, Bhuvanagiri Taluk, Cuddalore District. The lands that belonged to the petitioner were acquired admittedly by the Government of Tamil Nadu for the benefit of the fifth respondent-Neyveli Lignite Corporation Limited. Even after acquisition, the petitioner continued to be in possession of the subject property and has been cultivating the lands for many years. The acquisition was kept in cold storage for the past about 16 years. Thus acquisition proceedings were deemed to be lapsed under the New Acquisition Act of the year 2013.

3. The respondents suddenly entered into the agricultural lands and started damaging standing crops viz., paddy, which would be ripe for harvest in two months. The petitioner states that no notice was given to him and his protest to prevent the respondents from damaging standing crops went in vain.



4. In view of the facts and circumstances, the petitioner claims that the unutilised acquired land is to be returned back to him, enabling him to continue cultivation.

5. The learned Senior Counsel appearing on behalf of the petitioner mainly contended that standing crops viz., paddy were mercilessly damaged by the respondents without even considering the fact that standing crops were ripe for harvest. Though the lands were acquired long back, the fifth respondent has not taken possession of the acquired lands and permitted the petitioner and other agriculturists for cultivating the same.

6. That being the factum, the sudden intervention and damaging standing crops caused unrest in that locality and therefore, the petitioner is constrained to move the present writ petition.

7. The learned Senior Counsel appearing on behalf of the petitioner mainly contended that the acquired agricultural land was not utilised for the purpose for which it was acquired and therefore, the



petitioner is entitled for the relief to get back his agricultural land. The land was acquired for a meagre amount of compensation and the enhanced compensation agreed in a meeting convened before the Chief Secretary to Government of Tamil Nadu, was not paid to the agriculturists in time and even now the said compensation agreed i.e., Rs.25 lakhs per acre has not been settled in favour of the farmers in that locality. Thus, the fifth respondent is in the habit of violating their own promises and thus the present writ petition is to be considered.

8. The arguments advanced in respect of the environmental clearances from the concerned Ministry, Government of India, as advanced on behalf of the petitioner may not be relevant in order to consider the issues raised in the present writ petition. Since the acquisition has not been denied and more-so, the acquisition proceedings ended long before and the acquired land vests absolutely with the Government.

9. This being the admitted position of the fact, there is no reason at this length of time, to consider those issues raised relating to environmental aspects.



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10. The learned counsel Mr.K.Balu appearing on behalf of the petitioner insisted that the right of the farmers need not be denied unnecessarily. Farming, being their livelihood and having allowed the farmers to cultivate their lands for many years, sudden intervention caused great prejudice to the farmers and they became agitated.

11. That being the factum, the attempt taken by the Neyveli Lignite Corporation Limited, cannot be construed as in consonance with the established principles.

12. At the time of admission of the present writ petition, this Court passed an interim order, directing the fifth respondent-Neyveli Lignite Corporation Limited to settle a sum of Rs.40,000/- per acre as compensation towards damages caused to standing crops. The said compensation had already been settled in favour of 88 beneficiaries through District Collector, Cuddalore District, within a period of four days from 02.08.2023.



13. The learned Additional Solicitor General of India, appearing on behalf of the fifth respondent strenuously raised an objection by stating that the present writ petition is not entertainable in view of the fact that the land acquired long before absolutely vests with the Government, which was handed over for industrial purposes to the fifth respondent-Neyveli Lignite Corporation Limited. The petitioner and other agriculturists are trespassers and they have cultivated the lands without any consent or permission from the fifth respondent and thus they cannot claim any relief from the hands of this Court.

14. The learned Additional Solicitor General of India, appearing on behalf of the fifth respondent, reiterated that uninterrupted mining activities and generation of power by Neyveli Lignite Corporation Limited requires large extent of land in and around Neyveli. Land is the raw material of Neyveli Lignite Corporation Limited. Annually, Neyveli Lignite Corporation Limited requires about 500 acres of land for its mining activities. The required patta lands are acquired under the provisions of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 by the Government of Tamil Nadu from time to time for Neyveli Lignite



Corporation Limited.

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15. The Government lands are handed over to Neyveli Lignite Corporation Limited by the Government of Tamil Nadu through necessary orders and on payment of market value of the lands directly by Neyveli Lignite Corporation Limited. The acquisition of land for Neyveli Lignite Corporation Limited is the continuous process and it is not an one-time measure. The compensation being determined and settled by the Land Acquisition Officer in terms of the provisions of the Land Acquisition Act and enhanced compensation, if any, determined also had been settled.

16. Apart from paying the statutory compensation, Neyveli Lignite Corporation Limited extends certain rehabilitation and re-settlement measures such as alternate site, dismantling charges etc., to the landowners subject to the satisfaction of the terms of the applicable policy under the Schemes framed in consultation with the Government of Tamil Nadu from time to time on various grounds.



17. The subject lands and the adjoining lands situated in the villages of Valayamadevi Kilpathi, Valayamadevi Melpathi, Mummudicholagan, Kathazhai, Thenkuthu, Vadakkuvellore, Vanatharayapuram, Kammapuram, Siruvarapur, Sathapadi, U.Adhanur of Bhuvanagiri Taluk, Cuddalore District measuring about a total extent of 602 Hectares were acquired invoking the provisions of Land Acquisition Act, in force from time to time between 2006 and 2023. The details of the acquired lands as stated in the counter-affidavit of the fifth respondent reads as under:-

S.No.	Period of Awards passed by LAO	Extent in Hectares	Compensation paid by LAO	Enhanced Compensation paid	No. of Awardees
1.	Awards passed between 2000 and 2005	77	1.45 Cr.	7.56 Cr.	301
2.	Awards passed between 2006 and 2013	104	5.13 Cr.	23.73 Cr.	382
3.	Awards passed between 2006 and 2013	83	3.09 Cr.	Yet to be paid	405
4.	Consent Awards passed from 2014 onwards @ the rate of Rs.25 Lakhs per	338	Rs.181 Cr. Was paid to 844 Awardees for 294		981



S.No.	Period of Awards passed by LAO	Extent in Hectares	Compensation paid by LAO	Enhanced Compensation paid	No. of Awardees
	Acre		Hectares. Balance extent of 44 Hectares to 137 Awardees is in the process of making payment		

18. The acquisition in respect of all the above lands were completed in all respects and those acquired lands absolutely vest with the fifth respondent. Some of the erstwhile land owners, who had received the statutory compensation and the enhanced compensation without any rights over the acquired lands trespassed into the said lands and are cultivating the same despite the objections raised by the fifth respondent-Neyveli Lignite Corporation Limited Authorities. It is contended that the erstwhile landowners have no authority or right to occupy or cultivate the subject lands acquired that vest with the fifth respondent.



19. Consequent to the negotiations and considering the case of the landlosers, sympathetically, Neyveli Lignite Corporation Limited agreed to settle ex gratia payment in favour of the landlosers based on the year of acquisition and based on the market value prevailing during the relevant point of time. Accordingly, in respect of the category falling under Serial No.1 in the above column, a sum of Rs.6 lakhs per acre, in Serial No.2, a sum of Rs.10 lakhs per acre and Serial No.3, a sum of Rs.14 lakhs per acre were agreed to be settled as ex gratia, though there is no legal compulsion for the fifth respondent to pay under the provisions of the Land Acquisition Act.

20. The learned Additional Solicitor General of India appearing on behalf of the fifth respondent, emphasised that beyond the statutory compensation and the enhanced compensation, Neyveli Lignite Corporation Limited agreed to settle ex gratia payment to the landlosers. That apart, other rehabilitation measures are also taken and the benefits under those Schemes will be extended to the landlosers. Thus, there is no reason to claim any further benefit from the hands of the fifth respondent and the present writ petition is liable to be rejected.



21. The learned Additional Advocate General, appearing on behalf of the Government of Tamil Nadu made a submission that the State acquired the land by invoking the provisions of Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 for industrial developments through Neyveli Lignite Corporation Limited. The Land Acquisition Officer determined the quantum of compensation to be paid and the compensation due to the landlosers are being settled periodically and without causing any delay. For the lands acquired from the year 2006, negotiations happened between the landlosers and the fifth respondent and it was agreed between the parties to settle ex gratia payment to the erstwhile landowners. And accordingly, the said amount will be paid as decided by the fifth respondent.

22. The learned Additional Advocate General made a submission that on account of urgent circumstances, the land acquired was utilised for the purpose of Paravanar Canal Diversion Project, which is imminent on account of certain emergency, which creates law and order issues in that locality. The Government initiated action to bring peace and in this regard, agreed to settle compensation for the damages caused to



standing crops, which was already settled pursuant to the interim orders passed by this Court.

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23. As far as ex gratia payment is concerned, the Government of Tamil Nadu constituted separate Teams consisting of Government Officials in each of the villages and schedule for disbursement and allocation of ex gratia payment to the eligible Awardees as determined as per the submissions now made on behalf of the fifth respondent and the said payments will be made before 15th September, 2023 and by that time, the farmers have to hand over the acquired lands to the fifth respondent for the purpose of continuing their mining operation activities or otherwise in that locality.

24. Since there is no dispute regarding acquisition proceedings and it was completed in all respects long before, the lands acquired absolutely vest with the Government, which was handed over to the fifth respondent for industrial purposes.



25. In the case of **Land and Building Department Through Secretary and Another vs. ATTRO Devi and Others [2023 LiveLaw (SC) 302]**, the Apex Court made the following observations:-

“When the State has acquired the land and award has been passed, land vests in the State Government free from all encumbrances. The act of vesting of the land in the State is with possession, any person retaining the possession, thereafter, has to be treated as trespasser and has no right to possess the land which vests in the State free from all encumbrances.”

26. The above position has been enumerated under the provisions of the Land Acquisition Act itself. Thus it is needless to state that on completion of acquisition proceedings and passing of Award, the lands absolutely vest with the Government and any person thereafter continuing in possession is to be construed as trespasser.

27. In the present case, it is not in dispute that the lands were acquired and compensation due to the erstwhile landowners were also settled and thus the cultivation made after acquisition is at the risk of the



farmers and therefore, the fifth respondent cannot be faulted.

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28. It is not in dispute that Neyveli Lignite Corporation Limited commenced the works of Paravanar Canal Diversion Project on account of an imminent urgency. The Paravanar Canal Diversion Project is an urgent requirement for the purpose of protecting the mining operations in that locality and in the event of any rain or flood, there is a likelihood of serious damage to the mining operations. Under those circumstances, the acquired lands are utilised for the purpose of the said Paravanar Canal Diversion Project by Neyveli Lignite Corporation Limited and the heartburning issue raised amongst the farmers is that standing crops are damaged mercilessly by Neyveli Lignite Corporation Authorities.

29. The Authorities of Neyveli Lignite Corporation Limited directly or indirectly, knowingly or unknowingly permitted the farmers to cultivate the lands for many years. While-so, they should have informed the farmers not to cultivate the present crops or prevented them from cultivating the lands by planning the implementation of the Paravanar Canal Diversion Project. To that extent, the Authorities also failed in their duty.



30. However, an unrest situation had been created on account of serious agitation by farmers and the political parties also joined in support of the farmers' claim. The strikes, dharnas and agitations were conducted. No doubt, every citizen has got right to strike in the manner known to law and to conduct dharna in a peaceful manner under the Constitution of India. But causing damages to public properties is an offence and at no circumstances be encouraged by the Courts. Causing financial loss to public properties is causing financial loss to 'We, The People of India'. Public properties are belonging to 'We, The People of India' and acquired through the contribution of the taxpayers and all other citizen.

31. It is needless to state that even a last grade coolie in our Great Nation is contributing for the public money. While-so, causing damage to public properties is not only an unconstitutionality, but also causing financial loss to our own people of this Great Nation. Those persons, political parties, organisations, associations etc., causing public loss or causing damage to public properties, are liable to pay compensation for the damage caused by them to public properties.



32. In this context, the Government of Tamil Nadu is duty bound to invoke the provisions of the Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992. Under the said Act, actions are to be initiated for the purpose of recovery of financial loss caused to public properties. The Government is duty bound to maintain law and order and in the event of any damage caused to public properties, equally the Government is duty bound to recover the financial loss to safeguard public interest and public properties.

33. As far as the ex gratia payment agreed to be settled in favour of the erstwhile landowners are concerned, the respondents have categorically agreed in their counter-affidavits that a sum of Rs.6 lakhs per acre will be settled with reference to the Awards passed between the year 2000 and 2005. A sum of Rs.10 lakhs per acre will be settled in respect of the Awards passed between the year 2006 and 2013, in respect of Awards passed between the year 2006 and 2013, a sum of Rs.14 lakhs per acre will be paid. Regarding the consent Awards passed from the year 2014 onwards, a sum of Rs.25 lakhs per acre will be settled based on the New Acquisition



Act of the year 2013. The said ex gratia payments are decided to be settled over and above the compensation paid to the landowners.

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34. That apart, the fifth respondent/Neyveli Lignite Corporation Limited made a submission that rehabilitation Schemes applicable to the landlosers will be extended based on the terms and conditions stipulated therein and based on the eligibility and suitability of the candidates. The employment opportunities will be provided under the Schemes and based on the conditions stipulated therein.

35. The learned counsel for the petitioner raised yet another ground that all the erstwhile landowners are to be paid a sum of Rs.25 lakhs per acre based on the decision taken in a meeting headed by the Chief Secretary to Government of Tamil Nadu. In support of the said discussions and based on the Minutes of the meeting, the learned Additional Solicitor General of India, appearing on behalf of the fifth respondent, made a submission that the decision, which was taken on 29.12.2022 was with reference to the acquisitions made after 2014 and based on the provisions of the Land Acquisition Act of the year 2013. If the market value of the



acquired land is below to Rs.25 lakhs per acre, then a sum of Rs.25 lakhs per acre will be settled in favour of the landowners. Therefore, an amount of Rs.25 lakhs per acre decided in the meeting, cannot be extended to all erstwhile landowners towards ex gratia payment, who had suffered acquisition proceedings from the year 2000 onwards. If such a consideration is shown, the financial commitments of Neyveli Lignite Corporation Limited will be very huge and it may not be practically possible. That is the reason why Neyveli Lignite Corporation Limited has agreed to pay ex gratia payment proportionately based on the acquisition of the year and based on the other factors relating to acquisition proceedings. Thus the said contention deserves no merit consideration.

36. The petitioner by way of reply affidavit elaborated certain requirements to be followed by Neyveli Lignite Corporation Limited. Those aspects need not be considered in the present writ petition and it is beyond the scope of the relief sought for in the present writ petition. More-so, the landlosers are not expected to interfere with the policy decisions of the Government in industrial developments and other infrastructural developments.



37. No doubt under the provisions of the Land Acquisition Act, the landlosers are entitled to raise any such objections and in the present case, those objections if any raised were considered long back and the lands were acquired. The grounds, which were not raised during land acquisition proceedings, cannot be now raised after several years by landlosers, which will cause prejudice to the public interest and this Court is not inclined to consider those grounds raised by the petitioners in the form of a reply affidavit.

38. It is not in dispute that the petitions filed by the landlosers were considered by the Competent Authorities during the period of acquisition process and the Awards were passed. The compensation determined was paid after acquisition and certain farmers cultivated the lands knowing the fact that the lands vest with the Government. Therefore, the petitioners, now at length of time, are estopped from raising any other grounds relating to acquisition proceedings, which were completed long back. The ex gratia payment has been decided to be paid on sympathetic grounds and therefore the farmers cannot demand that Rs.25 lakhs ex gratia



is to be fixed per acre after lapse of many years from the completion of acquisition proceedings.

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39. The respondents have now agreed before this Court that the ex gratia payment of Rs.6 lakhs per acre, Rs.10 lakhs per acre , Rs.14 lakhs per acre and Rs.25 lakhs per acre will be settled respectively based on the category as described in their counter-affidavit on or before 15.09.2023. In this regard, the Government of Tamil Nadu also constituted separate Teams consisting of officials for each village and the petitioner and the erstwhile landowners are at liberty to approach the Competent Authorities specially constituted for the purpose settlement of ex gratia payment and the Authorities Competent are directed to settle the ex gratia payment as agreed by them in their counter-affidavit, on or before 15.09.2023.

40. The erstwhile landowners of the acquired lands are entitled to receive ex gratia payment as scheduled by the respondents. Receiving or refusal of ex gratia payment is the discretion of the erstwhile landowners. Even in case of refusal, the trespassers are bound to vacate the acquired lands, on or before 15.09.2023. Harvesting of standing crops must be



completed in all respects, on or before 15.09.2023 and certain standing crops even required some more days. The extension of time shall be given by Neyveli Lignite Corporation Limited, enabling the farmers to harvest the crops, within such period as fixed by Neyveli Lignite Corporation Limited. Thereafter, Neyveli Lignite Corporation Limited is expected to guard the acquired lands and initiate all appropriate steps not to permit the farmers to cultivate the lands. The trespass thereafter by any person, is actionable and such persons are liable to be prosecuted under law.

41. It is made clear that the existing crops, as on today, shall be allowed to be harvested. New cultivation from today is prohibited. Thus the Government of Tamil Nadu shall ensure that no cultivation activities are permitted after completion of the harvest in respect of standing crops as on today.

42. With the above directions, the present writ petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.



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Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

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To

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The State of Tamil Nadu,

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