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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.11.2024

PRONOUNCED ON : 11.12.2024

CORAM:

**THE HON'BLE DR.JUSTICE ANITA SUMANTH
AND
THE HON'BLE MR.JUSTICE G.ARUL MURUGAN**

**W.A.No.1321 of 2023
and C.M.P.No.13020 of 2023**

1.The Chairman,
Tamil Nadu Electricity Board,
N.P.K.K.R.Maligai,
Anna Salai, Chennai - 600 002.

2.The Managing Director,
Tamil Nadu Generation and
Distribution Corporation,
N.P.K.K.R.Maligai,
Anna Salai, Chennai - 600 002.

3.The Chief Engineer,
North Chennai Thermal Power Project,
North Chennai,
Chennai - 600 057.

...

Appellants /
Respondents

versus

Murali

...

Respondent /
Petitioner



PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 27.07.2022 in W.P.No.32333 of 2018.

WEB COPY For Appellants : Mr.Anand Gopalan
Standing Counsel
for M/s.T.S.Gopalan and Co.

For Respondent : Mr.V.Prakash
Senior Counsel
for Mr.K.Krishnamoorthy

J U D G M E N T

[*Judgment* of the Court was made by **G.ARUL MURUGAN, J.**]

The Writ Appeal is directed against the order dated 27.07.2022 made in W.P.No.32333 of 2018, whereby the appellants were directed to consider the claim for giving a job to the respondent being a member of the family of the displaced persons in view of the acquisition of lands.

2. The short facts to be noted in the appeal is that the Government had issued G.O.(Ms.)No.656, Labour and Employment Department, dated 29.06.1978, by extending employment assistance to families displaced on account of the acquisition of lands, which was later made applicable to the Tamil Nadu Electricity Board also. The appellants towards implementing North Chennai Thermal Power Project, in view of B.P.Per(FB)No.3, Administrative Branch dated 25.01.1990, extended employment assistance



to one member in each family from whom lands were acquired for acquisition for the thermal project.

3. It is the case of the respondent/petitioner that his mother, M/s.Prema @ Premavathy was the owner of the lands bearing Survey Nos.154/1A and 154/3A1 at Cheppakkam Village, Thiruvallur District, which was acquired for putting up the North Chennai Thermal Power Project. However, no such benefit was extended to the petitioner's family by providing job for any member of the family. Since the petitioner came to know only at a later point of time about the scheme of employment when some of the persons from the displaced families were provided with employment, the petitioner through his counsel had sent legal notice on 27.07.2018 to provide employment. But it was not considered and the petitioner had preferred the writ petition for a direction to the appellants/respondents to accord the benefit of rehabilitation of job assistance to the petitioner in view of the scheme issued by the respondents in B.P.Per(FB)No.3, Administrative Branch dated 25.01.1990.



4. The writ court on considering the fact that an award was passed in respect of acquiring various lands for the Project wherein the lands belonging to the petitioner's family was also included and the compensation for acquisition of the lands were awarded in favour of one Munusamy and Premavathy Ammal jointly, held that the respondents ought to have taken steps to verify the identity of the petitioner's family by referring the matter to the District Collector and accordingly a job ought to have been offered to the petitioner. Thereby the writ petition was disposed of by order dated 27.02.2022, directing the respondents to verify the identity of the petitioner as to whether he belongs to the family of M/s.Prema @ Premavathy and extend the benefits for giving a job to the petitioner. Assailing the impugned order, the appellants / TANGEDCO are before this Court on appeal.

5. Mr.Anand Gopalan, learned Standing Counsel for the appellants argued that no right has been conferred on the respondent for employment, simply in view of the scheme implemented by the appellants for providing employment. When the scheme was extended by the appellant Board, the same was only subject to certain criteria to be fulfilled and the extension of benefits is not automatic. It is his further contention that, in fact, as per the Clauses in the scheme under Board Proceedings dated



25.01.1990, other male members are available in the petitioner's family, including his father and elder brother, who have not applied seeking benefits under the scheme.

6. It is the contention of the Standing Counsel for the appellants that even as per the affidavit filed by the respondent, his father was in employment till 1996 and his brother was also employed and only since they have been in better employment and had not been affected or displaced by the land acquisition, they have not sought for any employment assistance. He also contended that in fact the respondent, who had been able to complete his schooling in a private educational institution and also completed his U.G. and P.G. degrees from a reputed engineering college, has also been employed for the past 12 years and is earning a sum of Rs.30,000/- per month and in such circumstances, the respondent is not entitled to any employment assistance under the scheme.

7. It is his further contention that when the lands of the respondent were acquired in the year 1992, the respondent had come up with the claim in the year 2018 after a period of 26 years and thereby the claim is hit by



delay and laches. He further contended that having remained silent for such a long period and when he was employed in private employment for all these years, the claim of the petitioner is hit by acquiescence.

8. It is his further contention that as per the scheme, it is the District Collector who is the authority to identify the eligibility of the person for appointment. While so, the learned Judge had not considered these aspects and had directed to identify the identity of the respondent now and provide employment, which is not in tune with the scheme and as such erroneous he contended and sought for interference of this Court.

9. In support of his submissions, the learned Standing Counsel for the appellants relied on the following decisions:-

- i. *Tamil Nadu Electricity Board Vs. Arulnathan* [2003 SCC Online Mad 398]
- ii. *Ravindra Kumar Vs. District Magistrate And Ors.* [2004 SCC Online All 1514]
- iii. *The Chairman, The Tamil Nadu Electricity Board, Vs. Vada Chennai Anal Min Nilayam* [W.A.No.235 of 2021 dated 28.06.2024]
- iv. *M.Jayachandran Vs. The Chief Engineer, North Chennai Thermal Power Station and other* [W.P.No.4411 of 2013 dated 15.10.2019]
- v. *LIC of India Vs. R.Dhandapani* [(2006) 13 SCC 613].
- vi. *The Tamil Nadu Generation and Distribution Corporation Limited Vs. R.Karthikeyan and others* [W.A.No.58 of 2018 dated 24.08.2018]



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10. Per contra, Mr.V.Prakash, learned Senior Counsel for the respondent, by relying on the affidavit filed by the respondent, submitted that the lands belonging to the respondent's mother were acquired by award dated 17.03.1992 and only since he was not aware of the rehabilitation scheme under B.P.Per(FB)No.3, Administrative Branch dated 25.01.1990 and as no further steps were taken by the District Collector or the appellants to identify those eligible for rehabilitation, only when some of the affected families in the neighbouring village were provided with job assistance, he had came to know of the same and made a claim before the appellants.

11. The learned Senior Counsel further contended that when the Government had issued G.O.(Ms.)No.656, Labour and Employment Department dated 29.06.1978, by providing employment assistance to families displaced on account of acquisition and the appellant Board had implemented the scheme, then it was incumbent on the appellants to identify the eligible persons and provide them with employment assistance. It is his further contention that when admittedly the lands were acquired from the respondent's mother, then the dereliction on the part of appellants in identifying the suitable person for providing employment cannot be put



against the respondent and the claim cannot be rejected on the ground of delay and laches.

12. The learned Standing Counsel by placing reliance on the decision of the Hon'ble Supreme Court in the case of ***K.Krishna Reddy Vs. Spl. Dy. Collector*** reported in ***(1988) 4 SCC 163*** contended that generally the agriculturists in India have no avocation and they totally depend upon the land and if they are uprooted and they will find themselves nowhere and will be left high and dry.

13. He further contended that in respect of the claim made by the similarly placed persons under the same scheme, the claims were allowed by the learned single Judge in W.P.Nos.17874 to 17880 of 2013 vide order dated 26.10.2016 and the appeal preferred by the appellants in W.A.Nos.1693 to 1699 of 2017 came to be dismissed by the Division Bench vide order dated 14.12.2017, which was confirmed by the Hon'ble Supreme Court in its order dated 23.01.2024 in S.L.P.(Civil)Nos.33081 to 33087 of 2018.



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14. The learned Standing Counsel, by placing reliance on the decision of the Hon'ble Supreme Court in the case of ***Kukreja Construction Company and Others Vs. State of Maharashtra*** reported in ***2024 SCC Online SC 2547***, submitted that delay and laches cannot be raised in a case of continuous cause of action and there is no period of limitation prescribed for the courts to exercise their constitutional jurisdiction to do substantial justice. Further, as referred in the decision, to constitute abandonment, there must be total or complete giving up of the claim and therefore the claim of the respondent seeking employment assistance under the scheme cannot be rejected simply on the ground of delay and laches.

15. He further contended that only by taking note of all these aspects and having found that the lands of the respondent's family were acquired for the project, the learned Judge had directed the appellants to provide with employment under the scheme, of course after verification and identity, which needs no interference and sought for dismissal of the appeal.

16. Heard the rival submissions and gave our anxious consideration and perused the documents available on record.



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17. The State Government had issued G.O.(Ms.)No.656, Labour and Employment Department dated 29.06.1978 for the purpose of providing employment assistance to the members of families who have been displaced on account of their lands being acquired for Government projects, as well as for the projects of public sector undertaking. As per Clause 2(I) of the Government Order, all public sector undertakings may recruit without reference to employment exchange at least one member of each family which is displaced on account of the acquisition of lands for any projects of such public sector undertaking etc., provided that the acquired land should have been the only or major source of sustenance of the family. Clause 2(I) of the Government Order reads as follows,

“2.

I. All public sector undertakings may recruit without reference to employment exchange, at least one member of each family which is displaced on account of the acquisition of lands for any projects of such public sector undertaking etc., provided that the acquired land should have been the only or major source of sustenance of the family.”

18. The appellants by its Board's Proceedings No.24, dated 10.01.1980 had made applicable G.O.(Ms.)No.656, Labour and Employment Department dated 29.06.1978, with regard to providing employment opportunity to at least one person of the family displaced on



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account of the acquisition of lands for any project under the scheme. A Memorandum No.22027/P.1/80-2 dated 04.11.1980, based on B.P. No.24 dated 10.01.1980, has been issued by the Appellant Board containing instructions for the procedure to be adopted for recruitment. Clause v of the memorandum reads as follows,

“v. The acquired land should have been the only or major source of sustenance for that family which fact should be certified by the Superintending Engineer concerned.”

19. Based on the above proceedings, when the lands were acquired for the North Chennai Thermal Power Project, the appellant Board had issued B.P.Per(FB)No.3, Administrative Branch dated 25.01.1990, providing employment assistance to one member in each family whose lands have been acquired for the above project.

20. For easy reference, Clause 3 of the Board Proceedings dated 25.01.1990, is extracted hereunder:-

“3. In the circumstances explained above, the Board after careful consideration directs that:

i) one male member in each family from whom lands have been acquired for construction of North Madras Thermal Power Project be appointed as Helper (Trainee) on consolidated wages in relaxation of rules relating to age and educational qualification wherever necessary.

ii) The period of training shall be for three years on consolidated wages at the rate indicated below:-

Rs. 500/-p.m. for the first year.

Rs. 650/-p.m. for the second year.



Rs. 800/-p.m. for the third year.

iii) Only one person in the family identified by the Collector, Chengai-Anna District as eligible for employment assistance be appointed as Helper (Trainee).

iv) Only persons physically fit and suitable for the job be considered for such appointment.

v) In cases where the family does not have a male member, or a member not physically fit either due to age or physical infirmities, the family may nominate his/her relative for appointment and such nomination is a one time affair and shall not be revoked or altered when once the said nominee is appointed.

vi) The trainee so appointed be absorbed as regular Helper on satisfactory completion of three years training."

21. When the lands were acquired for the above North Chennai Thermal Power Project, the Land Acquisition Officer and Special Tahsildar, by Award No.3/1992 dated 17.03.1992, had awarded compensation for the acquisition of 19.94.5 Hectares of land in Puzhuvivakkam Village, Ponneri Taluk.

22. It is the claim of the respondent that the lands belonging to his mother, M/s.Prema @ Premavathy, bearing S.Nos.154/1A and 154/3A1 are covered under the award and the said lands were acquired for the above project. Even though the appellants had disputed the ownership of the respondent's mother in respect of the above lands, it could be seen that the award has been passed by directing the compensation to be paid jointly in favour of Munusamy and Prema @ Premavathy, subject to the verification of the ownership.



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23. As per the employment assistance scheme of the appellant Board extended through B.P.Per(FB)No.3, Administrative Branch dated 25.01.1990 as extracted above, one male member in each family from whom lands have been acquired for construction of the project are to be appointed as Helper (Trainee) on consolidated wages in relaxation of rules. Further as per clause 3(iii) only one person in the family as identified by the District Collector as eligible for employment assistance will be appointed.

24. The purport of G.O.(Ms)No.656, Labour and Employment Department dated 29.06.1978 issued by the Government and the implementation of the scheme in the appellant Board through B.P.Per(FB)No.3, Administrative Branch dated 25.01.1990 is to provide an employment opportunity to any one member of each family which is displaced in view of the acquisition of their lands towards rehabilitation. Further, the lands that are acquired should have been the only or major source of sustenance for that family.



25. As such, considering the displacement of the family due to the acquisition of the lands and also the loss of agricultural income when the major source of sustenance of their family was through the agricultural activities carried on in those lands, the scheme of providing employment to one member in the family is implemented. Only in view of the fact that the indigent circumstances of the family due to acquisition of lands was the main criteria for employment assistance both under the Government Order and the Board proceedings, it has been specifically stipulated that the identification of the person in the family who is eligible for employment assistance will be made by the District Collector.

26. In the instant case, even though the lands had been acquired and award was passed as early as on 17.03.1992, the respondent's family had not sought for any employment assistance and it has not been identified as to whether the major source of sustenance of the family was through carrying on agricultural activities in those lands. The employment assistance under the scheme is not automatic but only subject to fulfilling the criteria that are stipulated under the scheme. If the respondent's family had been carrying on agriculture in the lands and the agricultural activities had been the major



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source of sustenance of their family and they had been displaced due to the acquisition of their lands, they could have made a claim before the appellants and got themselves identified as a beneficiary under the scheme.

27. Admittedly two other male members are there in the family including the father and elder brother of the respondent who had not made any claim seeking employment assistance from the appellant Board. Having remained silent for a period of 26 years, only when the writ petitions filed by some other persons came to be allowed, the respondent, through his counsel, had issued a legal notice dated 27.07.2018 claiming employment under the scheme.

28. From the affidavit filed by the respondent dated 12.10.2024 before this Court, it reveals that the respondent's father was working at Ashok Leyland and he had been in employment till the year 1996, when the lands were acquired as early as in the year 1992. Further, the brother of the respondent had also been in employment and the respondent, after having completed his schooling at Joseph Matriculation Higher Secondary School in 2005, completed B.Com degree at Nandanam Arts College and thereafter pursued M.B.A. at Sriram Engineering College. The respondent had also



been in private employment at the container terminal and is earning a salary of Rs.30,000/- per month.

29. When admittedly the respondent's father himself was in employment till the year 1996, the family had not made any claim seeking employment assistance. Further the facts as to whether the family was carrying on agriculture in the lands that were acquired, whether they were displaced due to acquisition and whether the agricultural activities was the major source of sustenance of the family, which are all the essential criteria under the rehabilitation scheme of employment assistance, have not been established.

30. The main contention of the learned Senior Counsel for the respondent by placing reliance on the decision of the Division Bench of this Court in *W.A.Nos.1693 to 1699 of 2017 dated 14.12.2017 [Tamil Nadu Electricity Board and others Vs. M.Ramachandran and others]* in the same project, may not be helpful for the respondent, as the facts in that case are distinguishable from the facts of the instant case. The relevant portion of the order is extracted as under:-



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“10. There is no dispute that the lands were acquired by the appellants for construction of North Chennai Thermal Power Project and the families of the first respondents own lands and they have been displaced by the acquisition. There is also no dispute that the first respondents solely depended on the lands, which lands have been acquired and they have no other source of income. Therefore, normally either the first respondents or a member of their family in terms of the directions issued by the State Government have to be employed by the appellants and the compensation paid by the appellants cannot be a ground to deny such relief to the first respondents. The compensation amount offered to the land losers cannot be termed as adequate, when such land was their sole source of income and the same can be regarded as solatium to meet out the immediate necessities of the displaced families.”

31. In the above case, there was no dispute that the respondents therein were solely dependent on the lands which had been acquired and they had no other source of income. In such circumstances, the Division Bench held that in terms of the employment scheme, the compensation paid to them cannot be a ground to deny the relief under the scheme and the respondents therein are entitled to the employment assistance when such land was their sole source of income.

32. Whereas in the instant case, as referred earlier, even from the affidavit filed by the respondent, it is admitted that the respondent's father was employed in a company till the year 1996, i.e. even long after the acquisition of the lands. When the lands that were acquired were not the major source of sustenance of the family and there is no material to establish that the family was displaced due to acquisition and particularly when the



respondent's father was in employment, the decision relied on by the learned Senior Counsel for the respondent will not aid the claim of the respondent herein.

33. Even when the respondent decided to make a claim seeking employment assistance as per the scheme after nearly 26 years i.e. in 2018, the respondent simply sent a legal notice through his counsel on 27.07.2018 and had not provided any details in respect of the eligibility of the respondent for employment under the scheme. In fact, the respondent's father and his brother, who had been in employment, had not made any such claim, which also probabilises the fact that since they had their own income through employment for the sustenance of the family, they had not come forward seeking assistance under the scheme from the appellants.

34. Further when similar claims have been made by the land owners through the Association, the Co-ordinate Bench, by order dated 28.06.2024 in ***W.A.No.235 of 2021 [The Chairman vs Vada Chennai Anal Min Nilayam]*** had rejected their claims on the ground that when the lands were acquired in the year 1982 and when 35 years have lapsed, the claims at this length of time cannot be mechanically allowed.



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35. Further, the Division Bench of this Court in the claim made under similar Thermal Power Project, by order dated 24.08.2018 in ***W.A.No.58 of 2018 [Tamil Nadu Generation and Distribution Corporation Limited Vs. R.Karthikeyan]***, having found that at the relevant point of time the claimant was working in a private employment and the criteria for getting employment under the scheme had not been satisfied, had rejected the claim seeking employment assistance.

36. At this juncture, it will also be appropriate to refer the decision of the Hon'ble Supreme Court relied on by the appellants, in regard to consideration of the claims by the courts on misplaced sympathy, in the case of ***Kerala Solvent Extractions Ltd. v. A.Unnikrishnan*** reported in ***1994 (1) SCALE 631***) wherein it has been held as under:-

“10. In recent times, there is an increasing evidence of this, perhaps well-meant but wholly unsustainable, tendency towards a denudation of the legitimacy of judicial reasoning and process. The reliefs granted by the courts must be seen to be logical and tenable within the framework of the law and should not incur and justify the criticism that the jurisdiction of the courts tends to degenerate into misplaced sympathy, generosity and private benevolence. It is essential to maintain the integrity of legal reasoning and the legitimacy of the conclusions. They must emanate logically from the legal findings and the judicial results must be seen to be principled and supportable on those findings. Expansive judicial mood of mistaken and misplaced compassion at the expense of the legitimacy of the process will eventually lead to mutually



irreconcilable situations and denude the judicial process of its dignity, authority, predictability and respectability.”

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37. Admittedly the scheme of providing employment assistance has been issued by the Government in G.O.(Ms)No.656, Labour and Employment Department dated 29.06.1978 and the same was implemented by the appellant Board and extended to the lands acquired under the North Chennai Thermal Power Project through B.P.Per(FB)No.3, Administrative Branch dated 25.01.1990. The benefits under the scheme were based on satisfying the required criteria contained therein and only on fulfilling such criteria, the persons are entitled to claim the employment assistance under the scheme.

38. Whether the major source of sustenance of the displaced family from the acquired lands was through the agricultural activities carried on in those lands or not is not established and also it is an admitted fact that the respondent's father had been in private employment at least till the year 1996 i.e., even 4 years after the acquisition in the year 1992 and his brother was also in private employment. While so, the claim of the respondent seeking employment assistance after a period of 26 years when his father and brother remained silent till date cannot be considered as a matter of right, when these facts have not been established, that too at this length of time.



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39. Whenever the lands are acquired by resorting to acquisition proceedings, the compensation for the lands acquired as determined under the respective land acquisition acts are paid to the land owners. Further, the land owners have the option of seeking reference as against the award for an enhanced compensation. In all these proceedings, the compensation is determined and paid to the land owners for the lands acquired from them.

40. Apart from the compensation that is arrived at and paid to the land owners in view of acquisition of their lands, which is mandatory and incumbent on the part of the respondent to do so irrespective of the claim made by the land owners, further benefits are extended under the schemes wherein when the lands are acquired for some projects of the public sector undertakings. Mainly the benefits under the scheme are extended and implemented towards rehabilitation of the land owners when they are mainly dependent on those lands, particularly by carrying on agriculture and their major source of income for sustenance of the family is through those lands. Therefore, the implementation of the benefits under the scheme beyond the payment of compensation for the acquisition of the lands is based on the land owners satisfying the criteria as stipulated under the scheme.



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41. When all the lands that are acquired are ought to be assessed and the value arrived at and the compensation towards the land is mandatorily paid to the land owners, the special benefit under the scheme by the individual undertakings / firms towards rehabilitation is dependent on the concerned land owners satisfying the criteria that are enumerated under the scheme.

42. In the instant case, as referred earlier, when the compensation has been determined and admittedly the compensation has also been paid to the respondent's family for the lands acquired from them, further benefits of providing employment towards rehabilitation under the scheme are based on the respondent satisfying the criteria mentioned therein. If the respondents have been carrying on the agricultural activities and the agricultural income had been a major source of income for their family and they have been displaced due to the acquisition, then the respondent's family ought to have claimed the benefit. In such circumstances, they could have been identified by the competent authority and if found eligible under the scheme, the benefits would have been extended. The respondent's family having not made any claim nor took any steps for getting themselves identified as beneficiaries under the scheme, had all of a sudden made a claim through



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the legal notice after a period of 26 years. Having remained silent all along for nearly 26 years and as of now when 32 years have lapsed after acquisition and the respondent family having not been identified to be eligible under the scheme, the claim for employment under the rehabilitation scheme cannot be considered at this length of time, due to the long delay and laches on the part of the respondent.

43. In such circumstances, the decision relied on by the respondent in ***Kukreja Construction Company*** where lands were surrendered free of cost and compensation in form of FSI/TDR was in issue, is not applicable to the facts of the present case, as here the benefits are not sought towards the compensation for the land acquired, which was admittedly paid to them, but for the employment assistance under the scheme towards rehabilitation, which is the additional benefit provided beyond the payment of compensation, only if they are identified and found eligible within the criteria as stipulated under the scheme.

44. In view of the above findings, the order of the learned Judge directing the appellants to take steps to identify the identity of the respondent at this point of time and extend the benefits under the employment scheme, in our considered opinion, cannot be sustained.



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45. In view of the same, the order of the writ court is liable to be interfered with and accordingly, the Writ Appeal stands ***allowed*** and the impugned order is set aside. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[A.S.M.J.] [G.A.M.J.]
11.12.2024

Speaking order

Index : Yes

Neutral Citation : Yes

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To

1.The Chairman,
Tamil Nadu Electricity Board,
N.P.K.K.R.Maligai,
Anna Salai, Chennai - 600 002.

2.The Managing Director,
Tamil Nadu Generation and
Distribution Corporation,
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W.A.No.1321 of



Dr. ANITA SUMANTH, J.
AND
G.ARUL MURUGAN, J.

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Pre-Delivery Judgment made in
W.A.No.1321 of 2023
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11.12.2024