



WEB COPY



W.A.No.3235 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 08.11.2024

DELIVERED ON: 19.11.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.No.3235 of 2024
and CMP.No.24990 of 2024

The Secretary
Corporate Office,
Neyveli Lignite Corporation Limited,
(Presently M/s.NLC India Limited)
Neyveli-607 801.

.. Appellant

Vs.

1.The Special Tahsildar No.1,
Land Acquisition,
Neyveli - 607802.

2.Mr.S.Sabanatha Oli,
3.Mrs.S.Kruthikanadan,
4.Mr.S.Kembunathan,
5.Mr.S.Sattabathyaya,
6.Mrs.Shanmugavalli,
7.Mrs.Meenalochani,
8.Mrs.Gukapriya,
9.Mrs.Gothari,
10.Mrs.Saraswathi

.. Respondents



W.A.No.3235 of 2024

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 12.03.2024 made in W.P.No.34175 of 2018.

For Appellant : Mr.N.Nithiyanandam
For Respondents : Mr.P.Sathish,
Additional Government Pleader for R1

JUDGMENT

D.KRISHNAKUMAR, J.

The writ petitioner, namely M/s.NLC India Limited is the appellant herein. They filed the aforesaid writ petition challenging the reference made by the first respondent / Land Acquisition Officer dated 05.11.2004. The Writ Court, after content, dismissed the writ petition, against which the present Intra-Court appeal has been filed.

2. Brief facts of the case:

2.1. The petitioner Corporation required about 500 acres of land for its mining activities, for which patta lands were acquired under the Land Acquisition Act, 1894 [In short "LA Act"] by the Government of Tamil Nadu from time to time for the petitioner Corporation and they are the beneficiary. The petitioner Corporation is an interested person and necessary party to all the proceedings issued under the provisions of the



W.A.No.3235 of 2024

WEB COPY

Land Acquisition Act, 1894, particularly to a proceedings under Section 18 of the LA Act seeking enhancement of compensation for the acquired lands by the concerned landowners.

2.2. According to the appellant/writ petitioner Corporation, they paid the compensation determined by the Land Acquisition Officer in terms of the LA Act as well as the enhanced compensation, if any, as fixed by the competent court in the case of proceedings under Section 18 of the LA Act.

2.3. While that being so, patta lands comprised in R.S.No.73/8B measuring an extent of 0.20.0 Hectares and R.S.No.7/1B measuring an extent of 0.19.0 Hectares in Parvathipuram Village, Vridhachalam Taluk, Cuddalore District of one Smt.Varalakshmi, belonging to the mother of the respondents 2 to 10 came to be acquired under LA Act. Notification under Section 4(1) of the LA Act was issued on 09.01.1990. The landowners of the respective lands including the respondents 2 to 10 have participated in the land acquisition proceedings till passing of the award. The first respondent has passed Award No.1 of 1990 dated 26.12.1990.



W.A.No.3235 of 2024

WEB COPY

The mother of the respondents 2 to 10 herein received the determined compensation on 04.01.1991 itself without any protest, which had attained finality according to the petitioner Corporation.

2.4. According to the appellant, the mother of the respondents 2 to 10 did not challenge the land acquisition proceedings or the determination of compensation by the 1st respondent / LAO or made any representation seeking enhancement of compensation and also did not protest against the determination of compensation by the first respondent / LAO in terms of Section 18 of the LA Act till November, 2004.

2.5. While the matter stood thus, after a lapse of 15 years, the mother of the respondents 2 to 10 made an application in November, 2004, to the first respondent seeking enhancement of the compensation under Section 18 of the LA Act. According to the appellant Corporation, the first respondent / LAO without any application of mind and contrary to Section 18 of the LA Act, had entertained the application and made a reference to the competent Court, namely, Sub-Court, Virudhachalam under Section 18 of the LA Act, by reference dated 05.11.2004, which



W.A.No.3235 of 2024

was numbered as LAOP No.579 of 2004 and later on renumbered as LAOP No.1328 of 2008. The said LAOP was transferred and renumbered as LAOP No.114 of 2013 on the file of the Special Sub-Court, Cuddalore.

2.6. According to the appellant, the first respondent malafidely and arbitrarily exceeded his powers conferred under Section 18 of the LA Act and made the impugned reference and therefore, challenging the impugned reference, the appellant Corporation had filed the writ petition.

2.7. The Writ Court, taking into consideration of the fact that the petitioner Corporation has approached this Court challenging only the reference dated 05.11.2004 and they have not challenged the LAOP, therefore, dismissed the writ petition on the ground of delay and laches and also granted liberty to the petitioner/NLC to raise all their defence before the Special Sub-Court, Cuddalore. Being aggrieved by the same, the present writ appeal has been filed by the appellant Corporation.

3. The learned counsel for the appellant Corporation mainly contended that when the entire acquisition proceedings had attained finality in the year 1991, after a lapse of nearly 15 years, the mother of



W.A.No.3235 of 2024

WEB COPY

the respondents 2 to 10 had made an application for enhancement of compensation without any basis, contrary to Section 18 of the LA Act and further the reference in Ref.Nil dated 05.11.2024 is barred by limitation prescribed under Section 18 of the LA Act and did not meet the requirements of Section 18(2) of the LA Act, however the learned Writ Court has failed to consider these aspects in proper perspective and therefore, prays for interference.

4. Heard Mr.N.Nithianandam, learned counsel appearing for the appellant, Mr.P.Sathish, learned Additional Government Pleader appearing for the respondents and perused the materials on record.

5. The fact remains that in the case on hand, the Award came to be passed on 26.12.1990 itself. The mother of the respondents 2 to 10 were party to the entire proceedings till the passing of the award. Notice under Section 12(2) was served on the respondents 2 to 10 on 02.01.1991 and the respondents 2 to 10 had received the total compensation of Rs.37,364/- on 04.01.1991. While that being so, the second respondent has made an application seeking enhancement of the



W.A.No.3235 of 2024

compensation and the first respondent made a reference under Section 18(1) of the LA Act, which was taken on file in Ref.Nil on the file of the Special Sub-Court, Cuddalore on 05.11.2004.

6. The primordial contention of the appellant is that the impugned reference made by the first respondent is liable to be vitiated on the ground of limitation as the impugned reference was made on 05.11.2004 with regard to the acquisition proceedings which attained finality during the year 1991. It is also not in dispute that after the passing of the award in 1990 and concluding of the entire acquisition proceedings in the year 1991 by receiving the compensation amount after issuance of notice under Section 12(2) of the LA Act, the reference was made only in the year 2004. The appellant/writ petitioner has not given any satisfactory reasons for such huge delay in challenging the impugned reference.

7. The undisputed fact also remains that the reference was taken on file by the competent civil Court and the same is pending. The petitioner / appellant Corporation having kept quiet for nearly 14 years, cannot challenge the validity of the reference made under Section 18(1) of the LA Act. There is a considerable lapse on the part of the appellant, though



W.A.No.3235 of 2024

they had actively participated right from the initiation of the land acquisition, till the date of reference to the LAOP Court, Cuddalore and therefore, the writ petition is liable to be dismissed on the ground of delay and the Writ Court has also rightly observed and remitted the matter before the LAOP Court, Cuddalore.

8. The appellant/petitioner Corporation having not raised any objection at the earliest point of time with regard to the delay in making the reference, namely at the time of entertaining the representation submitted by the respondents 2 to 10 seeking enhancement of compensation, cannot challenge the same subsequently, that too after the same has been entertained by the first respondent/LAO and the reference has been taken on file by the Special Sub-Court Cuddalore.

9. As per the Doctrine of Estoppel, a person may be precluded, by way of his actions, or conduct, or silence when he has to speak, from asserting a right which he would have otherwise had. Thus the Doctrine of Estoppel would attract and the appellant/petitioner Corporation cannot challenge the impugned reference at the belated point of time. If at all the appellant/writ petitioner is aggrieved, it is open to them to raise all their



W.A.No.3235 of 2024

WEB COPY

contentions before the Special Sub-Court, Cuddalore in the pending reference. The Writ Court has rightly considered these aspects in proper perspective and rightly dismissed the writ petition and this Court finds no reason to interfere with the order of the Writ Court.

10. In the light of the reasons assigned above, this Writ Appeal stands dismissed. No costs. Consequently connected miscellaneous petition is also dismissed.

[D.K.K., J.] [P.B.B., J.]
19.11.2024

Index:yes/no
Internet:yes
Jvm

To
The Special Tahsildar No.1,
Land Acquisition,
Neyveli - 607802.



WEB COPY



W.A.No.3235 of 2024

**D.KRISHNAKUMAR, J.,
&**

P.B.BALAJI, J.

Jvm

**Judgment in
W.A.No.3235 of 2024**

19.11.2024