



W.P.No. 34175 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

CORAM

THE HON'BLE MR. JUSTICE P. VELMURUGAN

W.P.No. 34175 of 2018

and

WMP.No. 39710 of 2018

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

..Petitioner

Versus

1. The Special Tahsildar No.I
Land Acquisition,
Neyveli - 607 802.
2. S. Sabanatha Oil
3. S. Kruthikanandan
4. S. Kmbunathan
5. S. Sattobathyaya
6. Shanmugavalli
7. Meenalochani
8. Gukapriya
9. Gothari
10. Saraswathi

... Respondents



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Prayer:-

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the 1st respondent pertaining to the impugned reference in Ref.Nil, dated 05.11.2004 and quash the same as illegal and contrary to Section 18 of the Act, 1894.

For Petitioner	:	Mr. N. Nithianandam
For R1	:	Mr.T. Arunkumar Additional Government Pleader
For RR2 to 10	:	Mr.T.S. Baskaran

ORDER

The petitioner is the Neyveli Lignite Corporation Limited which is challenging the reference in Ref.Nil, dated 05.11.2004 seeking to quash the same as illegal and contrary to Section 18 of the Land Acquisition Act, 1894.



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2. The case of the petitioner is that the petitioner/NLC is one of the major Government of India Enterprises involved in mining lignite and generation of power. The petitioner/NLC has three Mines, namely, Mine-I, Mine-II and Mine-IA and four Thermal Stations, namely, Thermal Power Station-I, Thermal Power Station-II, Thermal Power Station-I Expansion and Thermal Power Station-II Expansion in Neyveli. In course of time, the petitioner/Corporation has extended its activities to the other places of India. For the uninterrupted mining activities and generation of power by the petitioner/NLC, it is located in large extent of lands in and around Neyveli. The land is the raw material for the petitioner. Annually, the petitioner requires about 500 acres of land for its mining activities. The required Patta lands are acquired under the Land Acquisition Act by the Government of Tamil Nadu from time to time for the petitioner. The Government lands are handed over to the petitioner by the Government of Tamil Nadu by necessary orders on payment of market value of the lands directly by the petitioner. The petitioner/NLC is an interested and necessary party to all the acquisition proceedings under the provisions of the Land Acquisition Act, particularly, to the proceedings under Section 18 of the Land Acquisition



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Act, 1894, seeking enhancement of compensation for the acquired lands by the concerned land owners. While that being the case, certain patta lands including the lands comprised in R.S.No.73/8B, measuring an extent of 0.20.0 hectares and R.S.No.78/1B measuring an extent of 0.19.0 hectares in Parvathipuram Village, Virudhachalam Taluk, Cuddalore District of one Smt.Varalakshmi, Wife of Sri. Sithsabesa Sivachariyar, the mother of the private respondents 2 to 10, came to be acquired by the Government of Tamil Nadu for the petitioner, under the provisions of the Land Acquisition Act, 1894. The Notification under Section 4(1) for the said lands was issued on 09.01.1990. The land owners of the respective lands including the mother of the private respondents 2 to 10, through Smt.Varalakshmi, had participated in the land acquisition proceedings till passing of the Award. After following all the procedures contemplated under the relevant provisions of the said Act, an amount of Rs.37,364/- for the land at the rate of Rs.61,750/- and Rs.74,100/- per hectare, was determined and a total compensation of Rs.37,364/- including the solatium and applicable interest was determined for the said land by the 1st respondent. A notice under Section 9(3), dated 15.10.1990 was personally served on the mother of



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the private respondents 2 to 10 on the same day. Thereafter, the first respondent had passed Award in Award No.1 of 1990, dated 26.12.1990. Subsequently, a notice dated 02.01.1991 under Section 12 (2) of the Act, was issued to the mother of the private respondents 2 to 10 and the same was personally served on her on 02.01.1991 itself. Pursuant to the same, the mother of the private respondents 2 to 10 received the determined compensation on 04.01.1991 itself, without any protest. No application/representation of whatsoever nature was made by the mother of the private respondents 2 to 10 to the first respondent immediately after passing of the Award or subsequently till November, 2004. Moreover, the land acquisition proceedings attained finality in 1991 itself. The mother of the private respondents 2 to 10 did not challenge either the land acquisition proceedings, or the quantum of Award, till November, 2004. The acquired land was handed over to the petitioner/NLC by the first respondent and the petitioner had put to use the lands for the purpose for which they were acquired and mining had been carried out long back. The mother of the private respondents 2 to 10, on handing over possession of the said lands to the petitioner, in terms of the applicable rehabilitation scheme then in force and on



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satisfaction of the terms and conditions of the rehabilitation scheme, the necessary eligible relief provided. Therefore, it is evident that the land acquisition proceedings were within the knowledge of the mother of the private respondents 2 to 10 and she had participated in the land acquisition proceedings till passing of the Award by the first respondent. Thereafter, the mother of the private respondents 2 to 10 neither made any application/representation seeking enhancement of compensation, nor protested the determination of compensation by the first respondent in terms of Section 18 of the Land Acquisition Act, 1894, till November, 2004. After a lapse of 15 years, passing of the Award No.1 of 1990, dated 26.12.1990, the mother of the private respondents 2 to 10 made an application in November, 2004 to the first respondent, seeking enhancement of compensation under Section 18 of the Land Acquisition Act, 1894, not within the time limit for making a written application for objecting to the determination of the compensation by the Land Acquisition Officer. However, the mother of the private respondents 2 to 10, the land owner, made an application beyond the stipulated period which was erroneously entertained by the first respondent without any application of mind and contrary to Section 18 of the Land Acquisition



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Act, 1894 in a routine manner and a reference was made to the competent Court, namely, the Sub Court, Virudhachalam under Section 18 of the Land Acquisition Act, 1894 by the impugned Ref.Nil, dated 05.11.2004. The said reference was numbered as L.A.O.P.No. 579 of 2004 on the file of the Subordinate Judge, Virudhachalam, and thereafter, the same was transferred to Sub Court, Neyveli and re-numbered as L.A.O.P.No.1328 of 2008. Subsequently, the LAOP was transferred to the Special Sub-Court for L.A.O.P Cases, Cuddalore, and re-numbered as L.A.O.P.No. 114 of 2013. The L.A.O.P is *prima facie* hit by law of limitation as prescribed under Section 18 of the Land Acquisition Act, 1894. The first respondent was in collusion with the mother of the private respondents 2 to 10, who made the reference illegally and contrary to the provisions of the Land Acquisition Act, 1894. The action of the first respondent is nothing but an abuse of process of law under the Act. Even in the impugned reference itself, it has been stated that the mother of the private respondents 2 to 10 had received the notice under Sections 9 (3) and 12 (2) of the Land Acquisition Act, 1894, on 15.10.1990 and 02.01.1991 respectively, during the period of acquisition. Therefore, the mother of the private respondents 2 to 10 was aware of the acquisition of the lands,



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determination of compensation and she had also participated in the acquisition proceedings till passing of the Award in 1990, received compensation and rehabilitation measures etc. The impugned reference by the first respondent in 2004 for the land acquired in 1990 is illegal. If the land owners were allowed to make written representations contrary to Section 18, after a huge delay, there would not be an end to the litigation. Therefore, when the first respondent was furnished with a copy of the Award No.1 of 1990 dated 26.12.1990 on the request of the land owner, several decades after acquisition of the lands, the same would not revive the cause of action under Section 18 of the Land Acquisition Act, 1894. The impugned reference by the first respondent is without application of mind and he referred the matter to the Civil Court. In fact, the mother of the private respondents 2 to 10 did not object to the determination of the compensation fixed by the first respondent in 1990 and no written application was made to that effect in terms of Section 18 of the Land Acquisition Act, 1894, and nowhere it is stated that the mother of the private respondents 2 to 10 had objected to the determination of compensation passed by the first respondent and no application in that regard was made by her. Therefore, the impugned reference made by the



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first respondent to the Civil Court is contrary to the law and illegal.

Hence, the petitioner/NLC has filed the present writ petition for the relief stated supra.

3. The learned counsel for the petitioner/NLC submitted that the impugned reference in Ref.Nil, dated 05.11.2004 is belated and barred by law under Section 18 of the Land Acquisition Act, 1894. The first respondent/Special Tahsildar, without any application of mind, had made the reference. The reference was made mechanically without any application of mind to the facts of the case. The Notification under Section 4(1) of the Land Acquisition Act, was issued on 09.01.1990 to the mother of the private respondents 2 to 10. The mother of the private respondents 2 to 10 had participated in the land acquisition proceedings till passing of the Award No.1 of 1990, dated 26.12.1990 and the same was not challenged and finally the Award was passed for an amount of Rs.37,364/- determined for the lands of the mother of the private respondents 2 to 10, including the solatium and applicable interest and the same was not challenged and a notice under Section 9 (3), dated 15.10.1990 was personally served on the mother of the private



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respondents 2 to 10 on the same day, thereupon, the first respondent had passed an Award No.1 of 1990, dated 26.12.1990. Thereafter, a notice under Section 12 (2), dated 02.01.1991 was also served on the mother of the private respondents 2 to 10 personally on 02.01.1991. On receipt of the notice under Section 12 (2), the mother of the private respondents has also received the determined compensation by the first respondent on 04.01.1991 itself, without any protest and she had never made any representation/application within the stipulated time under Section 18 of the Land Acquisition Act.

4. The learned counsel for the petitioner/NLC further submitted that the award proceedings are over and they attained finality in the year 1991 itself. The mother of the private respondents 2 to 10 neither challenged the land acquisition proceedings, nor the determination of the compensation by the first respondent in respect of the lands in question till November, 2004.

5. The learned counsel for the petitioner/NLC further submitted that the compensation was also received by the mother of the



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private respondents 2 to 10 in January, 1991 itself. The Claim Petition was preferred only in the year 2004, after lapse of 15 years from the date of acquisition of the subject land. The application for enhancement of compensation under Section 18 of the Land Acquisition Act, was made only in the year 2004. Therefore, the impugned reference made by the first respondent is barred by limitation prescribed under Section 18 of the Land Acquisition Act, 1894. The first respondent made a reference after a lapse of 15 years after the acquisition proceedings are over and the land was also taken up and handed over to the petitioner/NLC and the land was put in use for the purpose it was acquired. Therefore, the impugned reference made by the first respondent, is liable to be quashed.

6. Heard both sides and perused the materials available on record.

7. Admittedly, the land of the mother of the private respondents 2 to 10 was acquired for expansion of the petitioner/NLC. The Notification under Section 4 (1) for the said land was issued on 09.01.1990 and a notice under Section 9 (3) dated 15.10.1990 was also



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served on the mother of the private respondents 2 to 10. After following all the procedures, Award No.1 of 1990 was passed on 26.12.1990. Thereafter, a notice under Section 12 (2) of the Land Acquisition Act was personally served on the mother of the private respondents 2 to 10 on 02.01.1991.

8. On a perusal of the records, it reveals that none of the proceedings of the Award, was challenged, though admittedly the Award was passed on 26.12.1990 itself and thereafter, a notice under Section 12 (2) was also served and the determined compensation amount was also paid to the mother of the private respondents 2 to 10. On a further perusal of the impugned reference in Ref.Nil. dated 05.11.2004, it is seen that the mother of the private respondents 2 to 10 had received the total compensation of Rs.37,364/- on 04.01.1991 under Section 18 (1) of the Land Acquisition Act, Nil, in the month of November, 2004. The second respondent sent a reference in the year 2004. The first respondent has also sent a reference in Ref.Nil to the Special Sub Court, Cuddalore, in November, 2004 on 05.11.2004. Subsequently, the Special Sub Court has also taken the reference on file and it is pending before the Court



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below. The writ petitioner has challenged the acquisition proceedings on the ground that the reference made by the first respondent under Section 18 (1) of the Land Acquisition Act, 1894, is barred by limitation, as it was referred without any application of mind.

9. No doubt, after passing of the award, a Notification under Section 12 (2) to the land owner was issued and he has made a representation for enhancement of compensation within the stipulated time and the Land Acquisition Officer (LAO) has also referred the matter to the competent civil Court and the Award was also passed in the year 1990 itself, whereas, the reference was made only in the year 2004. The writ petitioner has challenged the reference dated 05.11.2004 only in the year 2018. The petitioner/NLC has not stated any satisfactory reason as to why they have filed the present writ petition after a long period of 15 years. However, the prayer sought for in this writ petition is only in the style of challenging the reference in Ref.Nil. dated 05.11.2004. Already, the reference was taken on file by the Civil Court and the same is pending before the Civil Court and therefore, if at all, the petitioner has got any valid defence they can very well raise their defence in the Land



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Acquisition Original Petition, which is pending before the Tribunal/Civil Court. The mother of the private respondents 2 to 10 made an application within the stipulated time. Hence, the reference was made by the first respondent, wherein, it has been stated that the second respondent sent an application under Section 18 (1) of the Land Acquisition Act, 1894, in reference in Ref.Nil, dated 05.11.2004 and the reference was made on 05.11.2004, and it is pending before the Special Sub-Court, Cuddalore, and all the questions can be raised before the Civil Court. While that being the case, the petitioner has approached this Court challenging only the reference in Ref.Nil, dated 05.11.2004 and they have not challenged the LAOP. But, the petitioner/NLC has approached this Court by filing the present writ petition, which is liable to be dismissed on the ground of delay and laches. However, liberty is granted to the petitioner/NLC to raise all their defence before the Special Sub-Court, Cuddalore. It is open to the Special Sub Court to deal with the issue in the manner known to law, uninfluenced by any of the observation made in the writ petition.



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10. With the above observations, the Writ Petition is dismissed.

Consequently connected Miscellaneous Petition is closed. No costs.

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Index: Yes / No
Internet: Yes / No
Speaking / Non-Speaking order
MSM

To

The Special Tahsildar No.I
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P, VELMURUGAN, J

MSM

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