

Devi Vs. The Secretary

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Court : Chennai

Decided On : Feb-20-2015

Judge : S.Manikumar

Appellant : Devi

Respondent : The Secretary

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS Dated:

20. 10.2009 Coram The Honourable Mr. Justice R.SUDHAKAR Civil Revision Petition (PD)No.3149 of 2009 and M.P.No.1 of 2009 The Chairman, Neyveli Lignite Corporation Limited, Neyveli. ... Revision Petitioner/ Proposed respondent/ Proposed respondent vs. 1.The Special Tahsildar (L.A.), Jayamkondam Lignite Power Project, Jayamkondam. 2.Govindasamy. 3.The Executive Director, TIDCO, Chennai. ... Respondents/ Petitioner and Respondents 1 and 2/ Referring Officer, claimant and respondent Civil Revision Petition is filed under Article 227 of the Constitution of India against the order and decretal order dated 27.7.2009 passed in I.A.No.353 of 2008 in L.A.O.P.No.301 of 2008 on the file of the Special Judge No.I (Sub Judge), Jayamkondam. For Petitioner : M/s.N.A.K.Sharma and N.Nithianandam. -----

ORDER

The Civil Revision Petition is filed by the proposed respondent challenging the order and decretal order dated 27.7.2009 passed in I.A.No.353 of 2008 in L.A.O.P.No.301 of 2008 on the file of the Special Judge No.I (Sub Judge), Jayamkondam.

2. M/s.Neyveli Lignite Corporation, in short M/s.NLC, the revision petitioner herein was sought to be impleaded as a party respondent in L.A.O.P.No.301 of 2008, by the Special Tahsildar, (Land Acquisition), Jayamkondam Lignite Power Project. Such application I.A.No.353 of 2008 was resisted by the revision petitioner. The court below, however, accepted plea of the Special Tahsildar that M/s.NLC is a necessary party to the proceedings and allowed the same. Aggrieved thereby, the present revision petition has been filed by M/s.Neyveli Lignite Corporation, Neyveli.

3. The brief facts of the case which are relevant for the adjudication of the present controversy are as follows:- The lignite, one of the main source of power generation was found in abundance in Jayamkondam area. In the year 1993, the Government of Tamil Nadu approved the proposal for an integrated lignite mining-cum-power generation project at Jayamkondam in Perambalur District by M/s.Tamil Nadu Industrial Development Corporation, in short 'TIDCO' along with other companies as equity partners. Consequently, a new company by name Jayamkondam Lignite Power Corporation Limited came into formed. The project, however, did not take shape as proposed. Therefore, in the year 1997, the Government of Tamil Nadu directed M/s.TIDCO to implement the project by going in for international competitive bidding. At that point of time, the Government of Tamil Nadu also accorded approval and administrative sanction for acquisition of large extent of land in 12 villages in Perambalur District in favour of M/s.TIDCO by invoking the urgency provision, viz., Section 17(1) of the land Acquisition Act, 1894. Thereafter, it is stated that M/s.TIDCO selected a consortium lead by Reliance Industries Limited to implement the project. The project did not take shape in the manner envisaged. However, M/s.TIDCO continued to acquire the land for the project. According to the revision petitioner, a large extent of land approximately 3400 Hectares were acquired in the year 1999-2000 by the Government of Tamil Nadu for and on behalf of M/s.TIDCO for implementing the

Jayamkondam Lignite Power Project, in short JLPP.

4. At this point of time, M/s.TIDCO with the Government's approval interacted with M/s.Neyveli Lignite Corporation, the revision petitioner, for implementing the project along with another partner M/s.Tamil Nadu Electricity Board, in short TNEB, on certain terms and conditions. According to the revision petitioner, M/s.NLC came into the project in the year 2006. The project affairs were looked after by M/s.TIDCO, which includes the land acquisition proceedings and payment of compensation. According to the revision petitioner, the land to an extent of approximately 3400 Hectares acquired have not been handed over to M/s.Neyveli Lignite Corporation. Further, no administrative sanction was issued by the Government of Tamil Nadu for acquiring further extent of land amounting to 10192 Hectares which was one of the terms agreed to.

5. It is the further contention of the revision petitioner that except issuing G.O.Ms.No.62 dated 6.7.2006, the Government of Tamil Nadu did not provide any facility for the revision petitioner, viz., M/s.NLC to go on with the project. According to the revision petitioner, in the letter dated 29.4.2009, they have informed the Government of Tamil Nadu that several facilities have to be provided to M/s.NLC to proceed further the JLPP which are as follows:- (a) Grant of Administrative Sanction for acquisition of additional lands of about 10192 Hectares before the end of June, 2009 as without which the acquisition process could not be commenced. (b) Acquisition and handing over of physical possession of 4845.084 Hectares of lands in the first phase for the North Block operation and 5346.45 Hectares of lands in the second phase for the South Block operation. (c) Grant of Mining Lease for an area 113.72 sq. kms. (d) Allocation of 100 MLD of water from Thirumanur Thiruparambiam stretch of Kolladam River by the Cauvery Tribunal Committee for use in power station. (e) The beneficiaries including TNEB should be agreeable to purchase power at the rate to be finally decided by the Central Electricity Regulatory Commission (CERC) which may be not less than Rs.4/- per unit of power and should agree to enter into a power purchase agreement for a period of 25 years."

6. According to the revision petitioner, in the land acquisition proceedings for the above project, more than 8000 awards have been passed and the land owners have sought for a reference under Section 18 of the Land Acquisition Act, 1894 in the year 2002 and they are pending before the Special Judge Nos.I and II, Jayamkondam. While making the references under Section 18(1) of the Land Acquisition Act 1894, the Special Tahsildar (L.A.) of JLPP, the first respondent herein, was shown as Referring Officer and the Executive Director, TIDCO, the requisition body, the third respondent herein, was shown sole respondent in the references.

7. In the L.A.O.P.No.301 of 2008, the Special Tahsildar (Land Acquisition), the Referring Officer, filed I.A.No.353 of 2008 to implead the revision petitioner as respondent and such application was filed in terms of Section 19(1)(bb) of the Land Acquisition Act, 1894.

8. The application I.A.No.353 of 2008 was resisted by the revision petitioner, the proposed respondent. Before the court below, the main objection was, the name of the revision petitioner does not find place in the reference made by the District Collector to the Sub Court, Jayamkondam. The Government of Tamil Nadu has not given any administrative sanction and the lands have not been handed over to M/s.NLC, the revision petitioner. Therefore, they are not a necessary party to the compensation adjudication. The original acquisition is for implementing the power project to be undertaken by M/s.TIDCO. In all the acquisition proceedings, M/s.TIDCO has been shown as the requisition body. The revision petitioner, M/s.NLC is nowhere in the picture. Merely because G.O.Ms.No.62 dated 6.7.2006 has been passed that will not be a reason for including the revision petitioner as a party to the LAOP proceedings.

9. The court below went into the merits of the rival claims and the documents marked by the revision petitioner and allowed the application I.A.No.353 of 2008 filed by the Special Tahsildar, the first respondent, based on documents on record and for the reasons which are as follows:- (1) The revision petitioner M/s.NLC filed Exs.R-1 to R-9. Ex.R-1 is the copy of G.O.Ms.No.40 Industries (MID-1) Department dated 28.3.2005. As per Ex.R-1, there is a joint venture agreement

between the Tamil Nadu Electricity Board and the revision petitioner Neyveli Lignite Corporation. Paras 3 to 5 of the G.O.Ms.40, read as follows:- "3. The Reliance Industries Ltd., and the Tamil Nadu Electricity Board entered into Power Purchase Agreement in March 1999. However, consequent to the problems relating to the confirmation by Tamil Nadu Electricity Board of the availability of Escrow Covers, there was no significant improvement in the implementation of the project. But, TIDCO was allowed to continue the Land Acquisition process. However, Reliance expressed its concern on moving ahead with the project and asked TIDCO for return of its Bank Guarantee of Rs.4 crores and Bid Security amount of Rs.1 crore given at the time of submission of bids. However, TIDCO interacted with Tvl.Neyveli Lignite Corporation (NLC) whether NLC would be interested in implementing this project. The CMD, NLC during a meeting convened by Chief Secretary to Government on 18.12.2003 expressed willingness to explore taking over this project and implementing it in joint venture with Tamil Nadu Electricity Board. After review of the developments, the Board of TIDCO requested CMD/ED, TIDCO to forward a report to Government to consider transfer of this project to TNEB including the land acquired and compensate TIDCO for all the project related expenditure incurred by it. The Director (Planning and Project), NLC in his letter fourth read above welcomed the offer of TNEB but indicated that the consent of Government of Tamil Nadu is required for the land and the Mining lease.

4. The CMD, TIDCO in his letter fifth read about has requested the Government to issue orders transferring the JLPP including the lands acquired for implementing through a joint venture by TNEB with NLC Ltd., subject to the condition that TNEB has to compensate TIDCO for all project related expenditure amounting to Rs.68.3 crores as on 31.7.2004 including the funds deployed by TIDCO in M/s.Jayamkondam Lignite Power Corporation Ltd., i.e., Rs.4 crores. (This is not inclusive of the amount spent by M/s.NLC towards the cost of exploration at Jayamkondam Lignite reserve area).

5. The Government, after careful consideration, accord administrative approval for implementation of Jayamkondam Lignite Power Project by Tamil Nadu Electricity Board in Joint Venture with M/s.Neyveli Lignite Corporation Limited, subject to the

conditions stipulated in paragraph 4 above."

(emphasis supplied). Thereafter, G.O.Ms.No.62 dated 6.7.2006 came to be passed. G.O.Ms.No.62 dated 6.7.2006 was issued overriding the G.O.Ms.No.40 dated 28.3.2005 and the copy of G.O.Ms.No.62 dated 6.7.2006 is marked as Ex.R-2 which reads as follows:- "Abstract "Electricity-Jayamkondam Lignite Power Project Development of the project by Neyveli Lignite Corporation independently Administrative approval orders issued. -----
Energy (B2) Department G.O.Ms.No.62 Dated 06.07.2006 Read:

1. G.O.Ms.No.40, Industrial Department dt.28.3.2005 2. G.O.Ms.No.27,Energy (B2) Department dt.28.3.2005 3. From the Chairman, Tamil Nadu Electricity Board Letter No.SE/C/P&E/EE/EMC/AEE/C/F.JLPP/D.44/-06 dt.17.1.2006. *****

ORDER

In the G.O., first read above, orders were issued for the implementation of Jayamkondam Lignite Power Project by TNEB as a Joint venture with Neyveli Lignite Corporation Ltd., subject to the condition that Tamil Nadu Electricity Board has to compensate to TIDCO for all project related expenditure amounting to Rs.68.30 crores as on 31.7.2004 including the funds deployed by TIDCO in M/s. Jayamkondam Lignite Power Corporation Ltd., (i.e.) Rs.4.00 crores (this is not inclusive of the amount spent by M/s.Neyveli Lignite Corporation towards the cost of exploration at Jayamkondam Lignite reserve area). In G.O.Ms.No.27, Energy Department dt.28.3.2005, the Government have sanctioned a sum of Rs.60 crores to the Tamil Nadu Electricity Board as equity participation of the Government towards the implementation of the above project of the TNEB.

2. During the meeting convened by the Chief Secretary on 12.5.2005 the Chairman and Managing Director, Neyveli Lignite Corporation expressed the willingness to develop the project on their own and offered 75% of Power to Tamil Nadu. M/s.N.L.C. requested the modification and to issue orders.

3. Further, a meeting was convened by Chief Secretary, Government of Tamil Nadu on 7.1.2006 with Chairman and Managing Director, Neyveli Lignite Corporation along with Secretary Finance, Secretary Energy, and the Chairman

Tamil Nadu Electricity Board on the development of the project. In the meeting, it was decided that: * The North Block of Jayamkondam may be explored initially for Power generation. * NLC shall develop the project independently without any investment from the Government of Tamil Nadu/Tami Nadu Electricity Board. The Land already acquired by TIDCO (now owned by TNEB) may be handed over to Neyveli Lignite Corporation after realizing the expenditure incurred. * The other Members, Electricity Board of Southern region have raised objection to the allotment of 75% power to Tamil Nadu Electricity Board on the ground that the project is being developed independently by Neyveli Lignite Corporation, hence it is a Central Sector Project and not joint venture project by TNEB NLC in that case only about 43.2% (including home share of 10%) as per the current CEA guidelines. Since Andhra Pradesh may not be interested in getting power from this project, Tamil Nadu Electricity Board may get that share of power also, totalling about 70% of the power from this project, subject to the approval by the Ministry of Power Government of India. * Energy Department may pursue action on the above lines. * TNEB will play the role of facilitator for the power project by NLC in the Jayamkondam area.

4. The Government after careful consideration accord administrative approval on the following:- (i) To develop the Jayamkondam Lignite Power Project by the Neyveli Lignite Corporation independently. (ii) The Tamil Nadu Electricity Board will play the role of a facilitator for the power project by Neyveli Lignite Corporation in the Jayamkondam area. (iii) The power sharing shall be as per the current CEA guidelines from the proposed project. Additional share can be allotted to the home State at a later date. (iv) M/s.Neyveli Lignite Corporation will develop the project independently without any investment from the Government of Tamil Nadu/Tamil Nadu Electricity Board. The land already acquired by TIDCO (now owned by TNEB) to be handed over to Neyveli Lignite Corporation after realizing the expenditure incurred. (By Order of the Governor) R.Satapathy Special Commissioner and Secretary to Government" (emphasis supplied) (2) Ex.R-3 is the copy of letter dated 5.5.2007 of M/s.NLC addressed to the District Collector, Perambalur District for furthering the implementation of the JLPP. In the said letter, M/s.NLC clearly informed the Collector that Jayamkondam Project has been entrusted to them for development, M/s.TIDCO has stopped the land acquisition

and a decision has been taken to transfer the acquired and alienated lands to an extent of approximately 3400 Hectares to M/s.NLC in terms of G.O.Ms.No.62 dated 6.7.2006 cited supra. There was also a request to the Collector for acquisition of additional land to an extent of 8979.9215 Hectares and also a part of the land acquired by M/s.TIDCO. The details of the total land acquired by M/s.TIDCO and the additional lands acquired by M/s.NCL were also given in a tabular column. In the said letter the following portion is relevant for the present case:- "Hence, the Collector of Perambalur District is requested to kindly arrange for getting early Administrative Sanction from the Government of Tamil Nadu, for acquisition of 3686.471 Ha. of land for North block and 5293.4505 Ha. of land for South block totalling 8979.9220 Ha. of lands are required to the NLC project. In this connection, following three separate confirmation letters are enclosed. (i) Fund availability certificate (ii) Confirmation certificate for R & R (iii) Consent for special staff While according Administrative Sanction, the following special clauses may kindly be ensured to be included in the Sanction order itself for clarity and administrative convenience. (i) In case of changes due to future proceedings of Revenue Department like field sub divisions, area, errata, change of classification etc., the schedules referred above shall be deemed to be amended to the extent accordingly. (ii) In case omission of any particular field falling within the boundary of the lands of the proposed project, on detection, the land plans shall be deemed to be final and superseding the various schedules indicated above. (iii) The general convention of personal inspection of the wet land falling in this project area may be dispensed with as this is a mining project of national importance devised to exploit the natural lignite reserves. (iv) General enter upon permission as being granted normally for the interspersed Government lands and the collection of single market value in case of alienation of Government lands to NLC may also be granted, keeping in view that NLC is a Public Sector Enterprise and Jayamkondam is a new development for NLC."

(3) On 24.5.2007, M/s.NLC addressed a letter to the District Collector for Mining lease in its favour for total extent of land for the JLPP. The letter dated 24.5.2007 is marked as Ex.R-4. (4) Under Ex.R-5 dated 17.4.2008, M/s.NLC addressed a letter to the Deputy Secretary to Government of Tamil Nadu, Energy (D2) Department, Secretariat, Chennai-600 009, which reads as follows:- "With

reference to your letter under ref(2) cited above, it is informed that Neyveli Lignite Corporation Ltd., has submitted application to the District Collector, Perambalur on 5.5.2007 for issue of administrative sanction for acquisition of additional lands to the tune of 8979.92 hectares (first phase 3686.47 ha., second phase 5293.45 ha) for the subject project, which is still awaited. As stated earlier, NLC will take over the lands acquired by TIDCO along with the additional lands to be acquired for the first phase of operation as soon as GOI sanction is obtained for the project and after paying the compensation based on the guide line value prevailing at that time."

(emphasis supplied) This was followed by another letter dated 5.7.2008 by M/s.NLC addressed to the Chairman & Managing Director, TIDCO and the same was marked as Ex.R-6, wherein M/s.NLC agreed to pay the compensation based on guideline value prevailing at that time in respect of the lands acquired by M/s.TIDCO for the above said power project as soon as sanction is given by the Government of India for the above said project. (5) On 25.10.2008, M/s.NLC wrote a letter to the Principal Secretary to Government of Tamil Nadu, Energy Department, Secretariat, Chennai-9 and the same was marked as Ex.R-7. Relevant para 6 of the letter reads as follows:- "6. As informed in our earlier letters to TIDCO and Govt. of Tamil Nadu, NLC will be reimbursing the expenditure incurred by TIDCO once the GOI approval is obtained for implementing the project. NLC is making all out efforts to submit the project proposal and get the approval of GOI by the end of 2009."

(6) In the letter dated 5.2.2009 by M/s.NLC addressed to the Secretary, Industries Department, Government of Tamil Nadu, Fort St. George, Chennai, which is marked as Ex.R-8, the difficulty faced by M/s.NLC in implementing the project was highlighted. This was followed by another detailed letter dated 29.4.2009 addressed to the Secretary, Industries Department, Government of Tamil Nadu, Chennai which was marked as Ex.R-9. In the letter Ex.R-9, it was stated that M/s.NLC, the revision petitioner cannot progress with the project for want of the various clearances of the administrative sanction, etc. Based on the above documents and on the basis of the Government Orders as above, the application was allowed.

10. Aggrieved by the order of the court below impleading the revision petitioner as party respondent, the present revision petition has been filed by M/s.NLC stating that they are not a necessary party and the order of the court below has to be set aside.

11. Mr.N.A.K.Sharma, learned counsel appearing for the revision petitioner pointed out that the Notification issued under Section 4(1) of the Land Acquisition Act, 1894 is for the power project and the requisition body is M/s.TIDCO. The reference made under Section 18(1) of the Land Acquisition Act 1894 by the Collector shows the name of the requisition body as M/s.TIDCO and they are the only necessary party to the proceedings. When the revision petitioner is not in the picture at the time of acquisition proceedings or at the time of reference under Section 18 of the Act, which was made on 30.7.2002, the question of impleading M/s.NLC as party respondent to the LAOP does not arise. He referred to Section 19 of the Act and submitted that while making a reference to the Sub Court, the Collector shall state the names of the persons whom he has reason to think is interested in such land. In this case, the name of M/s.NLC is not shown in the reference made under section 18 of the Act even as a requisition body and therefore, they cannot be impleaded subsequently. He stated that Section 19(1)(bb) of the Act will not apply to the facts of the present case because acquisition proceeding is only for M/s.TIDCO and not for M/s.NLC.

12. Section 19(1)(b) and (bb) of the Land Acquisition Act 1894 reads as follows:-

"9. Collector's statement to the Court:- (1) In making the reference, the Collector shall state for the information of the Court, in writing under his hand, - (a) x x x (b) the names of the persons whom he has reason to think interested in such land; (bb) the names of the person or authority to be impleaded as a party in the proceedings of the Court where the acquisition is not made for the Government;"

13. According to the learned counsel for the revision petitioner, only person or authority who are a party to the acquisition proceedings can be impleaded as respondent and the impleading of the revision petitioner at the time of LAOP is contrary to the law. He also drew the attention of the court that notice should be given in terms of Section 20 of the Act to the body or authority for whose benefits,

the land is acquired, which is M/s.TIDCO in the present case. Therefore, the application filed for impleading the revision petitioner is not maintainable in law. He referred to the decision in Neyveli Lignite Corporation Ltd., - vs. - Special Tahsildar (Land Acquisition) and others reported in (1995)1 Supreme Court Cases 221 and stated that only if the initial acquisition is for the benefit of the Neyveli Lignite Corporation, then it can be made as a party in Section 18 reference and consequently, the Neyveli Lignite Corporation is entitled to notice under Section 20 of the Act. In this case, the above said provisions are not attracted. Hence, the order of the court below is contrary to law and the above said decision.

14. Having heard the contention raised by the learned counsel for the revision petitioner and on perusing the records which have been referred to above and the decisions referred to above, this court is not inclined to accept the plea of the revision petitioner for the following reasons:- (i) Land Acquisition Proceedings:- There is no doubt, that the Government started acquiring the lands for the Jayamkondam Lignite Power Project to be implemented by M/s.TIDCO. Land Acquisition proceedings were initiated under Section 4(1) of the Act and thereafter reference under Section 18 of the Act was also made to the competent court on 30.7.2002. In the reference, the name of the statutory body for whom the acquisition was done is shown as M/s.TIDCO. However, on a reading of Exs.R-1 and R-2, viz., G.O.Ms.No.40 dated 28.3.2005 and G.O.Ms.No.62 dated 6.7.2006, it is clear that M/s.NLC had stepped into the venture, agreed to participate in the implementation of the JLPP. After due deliberation with all the competent authorities, viz., the Government of Tamil Nadu; M/s.TIDCO and M/s.Tamil Nadu Electricity Board, M/s.NLC agreed to certain terms including the taking over of the land and for payment of compensation. The terms and conditions for implementing the project was based on mutual consent and consensus which resulted in the passing of G.O.Ms.No.62 dated 6.7.2006 and the relevant portions have been extracted. At that point of time, the reference before the Sub Court was pending. The nature of correspondence and the letters written by M/s.NLC, the revision petitioner, to the various government authorities, clearly shows their intention to take over the entire project and pay the cost after the Government of India accorded sanction. The land acquisition is part of the agreement and there is no ambiguity. (ii) In so far as the payment of money in favour of M/s.TIDCO or any

other body, is concerned, it is based on agreement between the Government and the statutory body, viz., M/s.TIDCO and M/s.NLC. (iii) As far as the implementation of the project is concerned from the various correspondence, which has been extracted above, it is clear that M/s.NLC had in fact proceeded with the implementation of the project and has addressed the District Collector for various facilities including the further acquisition of the land. This clearly would go to show that M/s.NLC, the revision petitioner, was fully in control of the project and its implementation. All the correspondence would clearly establish that though the original acquisition was for M/s.TIDCO, at the time when the application was filed by the Special Tahsildar, before the Sub Court, M/s.NLC was the authority which was implementing the power project and therefore, it cannot be said that they are not connected to the project and they are not the persons for whom the land acquired will be used. On a reading of the G.O.Ms.No.62 dated 6.7.2006 and the other correspondence, it is clear that M/s.NLC has already stepped into the shoes of M/s.TIDCO and has also entered into a agreement with M/s.Tamil Nadu Electricity Board for implementation of the project on certain terms and conditions. Therefore, if any difficulty arises in the implementation of the power project for one or other reason, it is for M/s.NLC to sort it out with the Government of Tamil Nadu, M/s.TIDCO and M/s.Tamil Nadu Electricity Board. Merely because a part of the agreement or a condition on which the project is taken over, is not kept up by one or other authority, M/s.NLC cannot state that the project is not implemented as agreed upon by the parties and, therefore, they are not necessary parties. M/s.NLC cannot shirk its role as the implementing authority in the power project. This is clear and evident from the G.O.Ms.No.62 dated 6.7.2006 which has not been resiled by M/s.NLC so far. The said G.O. is binding on the revision petitioner and therefore, they are party interested in the pending land acquisition proceeding.

(iv) The impact of Sections 18, 19(1)(b) and (bb) of the Land Acquisition Act:- On the present issue, with regard to the Land Acquisition Act, the first contention of the revision petitioner is that in the Notification issued under Section 4(1) of the Act, M/s.NLC was not the requisition body. Therefore, they are not the necessary party in the reference under Section 18 of the Act before the court below. There is no dispute that at the time of original acquisition proceedings by issuance of Notification under Section 4(1) of the Land Acquisition Act, M/s.NLC was not the

requisition body. Further, at the time when the reference was made by the District Collector on 30.7.2002, M/s.NLC is not an interested party. However, when the reference is pending before the Sub Court in LAOP No.301 of 2008, the first respondent Special Tahsildar sought to implead M/s.NLC as a party respondent by invoking Section 19(1)(bb) of the Act which has been extracted above. (v) As per P.Ramanatha Aiyar's Advanced Law Lexicon, 3rd Edition 2005, the word "implead" inter alia means "to make one a party to an action or suit". (vi) Section 19(1)(bb) of the Act speaks about names of person or authority to be impleaded as a party in the proceedings of the court where the acquisition is not made for the Government. In the present case, M/s.NLC is the authority sought to be impleaded in the proceedings of the court, namely, LAOP. The section 19(1)(bb) was inserted by Tamil Nadu Amendment Act, The Land Acquisition (Tamil Nadu Amendment) Act, 1996 (Tamil Nadu Act 16 of 1997). It therefore, follows any person interested ought to be impleaded as a party in a proceedings of the court. There is, power under the Act to implead one or other party to a proceedings if he is a necessary party. In this case, the records and correspondence show that M/s. NLC is necessary party as the land is acquired for the project that is being implemented by M/s.NLC independently. (vii) The service of notice under section 20 of the Land Acquisition Act, 1894:- No dispute can be raised by the revision petitioner with regard to section 20 which speaks about the service of notice. Since M/s.NLC is a necessary party to the proceedings pending in the LAOP, M/s.NLC is entitled to file its objection before the competent court. (viii) It is, therefore, clear from a reading of the various correspondence, Government Orders and the correspondence between the NLC and the Collector, that they have stepped into the shoes of M/s.TIDCO with the consent of the Tamil Nadu Government to implement the power project and therefore, they are the competent authority who should be heard at the time of deciding the LAOP pending before the Sub Court as the proceeding for compensation for land acquired has not concluded. (ix) In Neyvely Lignite Corporation Ltd., - vs. - Special Tahsildar (LA) reported in 1995(1) SCC221 the very same revision petitioner wanted to implead itself as a party respondent to adduce evidence and for fixation of proper compensation in a land acquisition proceedings initiated at the behest of the M/s.NLC. Such a request was turned out by the Civil Court and the High Court upheld the order of the Sub Court

rejecting the plea of M/s.NLC to be heard before the reference court. M/s.NLC pleaded that they should be added as a party respondent as they are the person interested in the matter. The Full Bench of this Court also held that M/s.NLC was not a person interested and the matter went to the Apex Court. The Apex Court interpreted Section 3(b) and Section 50(2) of the Act to come to conclusion that the appellant M/s.NLC is a person interested and should be impleaded as a party pending reference under section 18 of the Act to give evidence and contest the reference and if the compensation is enhanced to file an appeal under Section 54 of the Act and for other reliefs. The Apex Court relied upon earlier decision of Himalayan Tiles & Marble (P) Ltd., - v. - Francis Victor Coutinho reported in (1980)3 SCC223= (1980)3 SCR235 which has been set out in para 5 of the above said judgment and it is extracted hereunder:- "5. The question, therefore, is whether the appellant for whose benefit the land is acquired is a "person interested" within the meaning of section 3(b) of the Act. In Himalayan Tiles & Marble (P) Ltd. v. Francis Victor Coutinho Fazal Ali, J., speaking for the Bench of two Judges considered the scope of Section 3(b) and held that; (SCCp.226, para 8) "It seems to us that the definition of 'a person interested' given in Section 18 [obviously Section 3(b)]. is an inclusive definition and must be liberally construed so as to embrace all persons who may be directly or indirectly interested either in the title to the land or in the quantum of compensation. In the instant case, it is not disputed that the lands were actually acquired for the purpose of the company and once the land vested in the Government, after acquisition, it stood transferred to the company under the agreement entered into between the company and the Government. Thus, it cannot be said that the company had no claim or title to the land at all. Secondly, since under the agreement the company had to pay the compensation, it was most certainly interested in seeing that a proper quantum of compensation was fixed so that the company may not have to pay a very heavy amount of money. For this purpose, the company could undoubtedly appear and adduce evidence on the question of quantum of compensation."

and it was concluded that: (SCC p.228, para 14) "Thus the preponderance of judicial opinion seems to favour the view that the definition of 'person interested' must be liberally construed so as to include a body, local authority, or a company for whose benefit the land is acquired and who is bound under an agreement to

pay the compensation. In our opinion, this view accords with the principles of equity, justice and good conscience. How can it be said that a person for whose benefit the land is acquired and who is to pay the compensation is not a person interested even though its stake may be extremely vital?. For instance, the land acquisition proceedings may be held to be invalid and thus a person concerned is completely deprived of the benefit which is proposed to be given to him. Similarly, if such a person is not heard by the Collector or a court, he may have to pay a very heavy compensation which, in case he is allowed to appear before a court, he could have satisfied it that the compensation was far too heavy having regard to the nature and extent of the land. We are, therefore, unable to agree with the view taken by the Orissa High Court or even by the Calcutta High Court that a company, local authority or a person for whose benefit the land is acquired is not an interested person. We are satisfied that such a person is vitally interested both in the title to the property as also in the compensation to be paid therefor because both these factors concern its future course of action and if decided against him, seriously prejudice his rights."

The Apex Court concluded that any local authority, company or a Cooperative Society or a statutory authority is a person interested for whose benefit the land has been acquired and are necessary parties in the proceedings and that has been summarized as hereunder in para 12:- "... The consistent thread that runs through all the decisions of this court starting from Himalayan Tiles case is that the beneficiary, i.e., local authority or company, a cooperative society registered under the relevant State law, or statutory authority is a person interested to determine just and proper compensation for the acquired land and is an aggrieved person. It flows from it that the beneficiary has the right to be heard by the Collector or the Court. If the compensation is enhanced it is entitled to canvass its correctness by filing an appeal or defend the award of the Collector. If it is not made a party, it is entitled to seek leave of the court and file the appeal against the enhanced award and decree of the Civil Court under Section 26 or of the judgment and decree under Section 54 or is entitled to file writ petition under Article 226 and assail its legality or correctness. When the award made under Section 11 of the Collector is vitiated by fraud, collusion or corruption, the beneficiary is entitled to challenge it in the writ petition apart from the settled law that the conduct of the Collector or Civil

Judge is amenable to disciplinary enquiry and appropriate action. These are very valuable and salutary rights. Moreover in the language of Order 1 Rule 10 CPC, in the absence of the beneficiary who ultimately is to bear the higher compensation, no complete and effectual determination of binding just and proper compensation to the acquired land would be made. So it is concomitantly a proper party if not a necessary party to the proceedings under Order 1 rule 10 CPC. The denial of the right to a person interested is in negation of fair and just procedure offending Article 14 of the Constitution."

(emphasis supplied) M/s.NLC as a company has taken over the project independently and the government at its behest has passed the G.O.Ms.No.62 dated 6.7.2006. M/s.NLC seeks transfer of acquired land and for further acquisition. If that be so, in a pending proceeding to determine the compensation, which according to the Apex Court would include the court as well, the plea of the revision petitioner to state that they are not necessary party is not tenable. In view of the categorical statement of law laid down by the Apex Court, the order of the trial Judge impleading the revision petitioner M/s.NLC as party respondent is correct and there is no illegality or impropriety in the order.

15. Learned counsel for the revision petitioner relied upon two decisions of the Apex Court in Balaram Chandra v. State of U.P., reported in AIR1995 Supreme Court 1552 and Prayag Upnivesh Awas Evam Nirman Sahkari Samiti Limited v. Allahabad Vikas Pradhikaran & another reported in 2003-4 L.W. 33 stating that the power of the reference court, viz., the Sub Court is only restricted to adjudicating the case on the basis of reference made to him under Section 18 of the Act by the Collector and he has no power to add any other party at the behest of one or other person. It is strictly bounded by the provisions of the Act and cannot digress and implead one or other party as has been done in the present case.

16. I am unable to accept the plea for the present case. The facts of the present case can be clearly distinguished from the facts of the above two cases of the Supreme Court. The case reported in AIR1995 Supreme Court 1552 (cited supra), is a case where the District Court declared the notification under Section 4(1) of the Act and the declaration under Section 6 of the Act to be null and void and

inoperative and was set aside by the High Court and upheld by the Apex Court. The case reported in 2003-4 L.W. 33 (cited supra) is a case where there was no proper reference under Section 18 of the Land Acquisition Act. Therefore, the Apex Court held that the court had no jurisdiction to decide the question of enhancement of compensation. The facts in the present case are totally different and the plea of the revision petitioner stands rejected, in view of the Apex Court's decision in 1995(1)SCC221 which has already been set out.

17. The Court below considering the scope of Section 19(1)(bb) of the Land Acquisition Act, 1894 which provides for impleading a person or authority to the proceedings of the court, if they are interested persons, allowed the application. Such power having been vested with the court below, the order of the court below, therefore, stands to reason and is in accordance with the provisions of the Act. The order impleading the revision petitioner, is correct.

18. Finding no merits, this Civil Revision Petition is dismissed at the admission stage. Consequently, connected miscellaneous petition is closed. ts To The Special Judge No.I, (Sub Judge), Jayamkondam

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