

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.12408 OF 2013

ORDER:

Heard learned counsel for the petitioner and the Government Pleader.

With the consent of the learned counsel appearing for the parties, the writ petition is taken up for final disposal.

Pursuant to the docket order dated 10.02.2015, the respondents are present in the Court. Original record on the subject is made available for inspection of the Court as well.

The petitioner prays for Mandamus declaring the inaction of the respondents in depositing the decretal amounts payable to the petitioner to the credit of E. P. No.223 of 2012 in LAOP No.205 of 2001 in the Court of Principal Senior Civil Judge, Nandyal, Kurnool District, as illegal, arbitrary and consequently prays for deposit of E.P. amount forthwith.

The facts are not in issue between the parties.

The respondents issued notification dated 17.07.1993 under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') proposing to acquire land belonging to the petitioner. It is matter of record that on 18.12.1992 advance possession of the lands has been taken by respondents. On 11.11.1993, the respondents passed award fixing the market value as Rs.30,000/-per acre and Rs.46,000/-

per acre for two categories of land acquired through 4(1) notification dated 17.07.1993. The claimant under protest has got the determination referred to civil Court under Section 18 of the Act. The Principal Senior Civil Judge through judgment and decree dated 29.12.2006 enhanced the compensation from Rs.30,000/-to Rs.45,000/- and for another category from Rs.46,000/- to Rs.70,000/-. The judgment in L.A.O.P.No.205 of 2001 is subject matter of LAAS No.8/2008. Through judgment dated 28.03.2012, the LAAS was dismissed. Hence, the E. P.

The respondents filed counter affidavit and are in substantial agreement with the circumstances stated above. To justify delay in depositing the amount, it is averred that on verification of record or introspection of issues, fresh efforts were undertaken to file a review in LAAS No.8 of 2008 or carry the matter by way of Special Leave to the Apex Court. It is stated that both the efforts did not find favour with the learned Government Pleader and finally letter dated 19.01.2013 was addressed by the respondents to the Secretary to Government, Irrigation and Command Area Development (P.W.L.A.II) Department requesting for release of the amount for payment of enhanced compensation. The letter was addressed on 19.01.2013. From the instructions, the learned Government Pleader at the time of hearing submits that there is no reply from the requisitioning department. The delay either in releasing amount or sending appropriate communication on the part of the Secretary to Government is certainly not compatible to the facts and

circumstances of the case. The respondents, being land acquisition officers under the Act, perform statutory functions and their obligations are defined by the Act. Being the beneficiary of acquired land, the responsibility is with the Secretary to Government, Irrigation to ensure release of compensation for the acquisition of land for any of the projects implemented by the Government. The delayed payment or for that matter, the non-payment amounts to arbitrary denial and is unconstitutional. At the time of hearing, the respondents who are present in the Court through the Government Pleader place on record that all steps required in this behalf for depositing the enhanced compensation will be taken up and completed by depositing the difference of compensation amount within two months from today. The submission of the respondents is considered. As the responsibility is with the Secretary to Government, I & CAD to ensure disbursement of amount, the respondents are given liberty to communicate a copy of this order for timely implementation. Such communication is useful for further appropriate decision against the respondents, who do not implement the order of the Court.

The writ petition is ordered as indicated above and the respondents are directed to deposit the amount to the credit of E.P.No.223 of 2012 in LAOP No.205 of 2001 within a period of two months from the date of receipt of a copy of this order.

Miscellaneous petitions, if any, pending in the writ petition shall stand closed.

S.V. BHATT,

J

Date:18.02.2015

Stp