

**HON'BLE SRI JUSTICE R.SUBHASH REDDY
AND
HON'BLE SRI JUSTICE A.SHANKAR NARAYANA**

WRIT APPEAL No.739 of 2015

JUDGMENT : (per Hon'ble Sri Justice R.Subhash Reddy)

This Writ Appeal, under Clause 15 of Letters Patent Act, is filed by the appellant/writ petitioner aggrieved by the order dated 08.04.2015 passed by the learned single Judge in W.P.No.38184 of 2012.

2. In the aforesaid writ petition, the petitioner sought for a direction to declare the action of the respondents in not paying compensation of Rs.3,21,000/- towards the acquired 150 fruit bearing mango trees in an extent of Acs.2.00 cents situated in Sy.No.31 of Rachapalli Village, Manthani Mandal, Karimnagar District, inspite of the proceedings No.B1/597/2009, dated 16.10.2012, issued by the 2nd respondent-Special Deputy Collector, L.A. Unit, Singareni Collieries Company Limited, Godavari Khani, Karimnagar District, for payment of the same, as arbitrary and illegal, and consequently, sought a direction to respondent Nos.1 and 2 to pay the said compensation.

3. An extent of Acs.2.00 of land belonging to the petitioner, out of the total extent of Acs.267.26 guntas, was acquired, for the purpose of Singareni Collieries Company Limited, for which draft Notification under Section 4(1) of the Land Acquisition Act, 1894 (for brevity "the Act") was published on 27.11.2010 in A.P. Gazette and the draft Declaration under Section 6 of the Act was published on 17.12.2010. Thereafter, a consent award was passed under

Section 11(2) of the Act and the petitioner was paid an amount of Rs.10,35,423/- towards compensation for acquisition of the said land. In the writ petition, it is the grievance of the petitioner that he was not paid compensation in respect of 150 mango trees, which were existing in the said land. When the petitioner submitted a representation dated 25.08.2012, the 2nd respondent-Special Deputy Collector, L.A. Unit, SCCL, Godavari Khani, Karimnagar District, after conducting necessary enquiry, has addressed a letter vide proceedings No.B1/597/2009, dated 16.10.2012, recommending for payment of compensation. In spite of the same, the compensation has not been paid.

4. In the counter affidavit, it is the case of the 2nd respondent that as the existence of 150 mango trees itself is inadvertently notified in the Notification issued under Section 4(1) of the Act on 27.11.2010 and the Declaration issued under Section 6 of the Act on 17.12.2010, subsequently, an errata was published on 20.03.2012 correcting the draft Notification and the draft Declaration, by deleting the existence of 150 mango trees in the said land. Thereafter, the petitioner has consented for passing of the Award and received a compensation of Rs.10,35,423/- and, as such, he is not entitled for any further compensation. It is further represented that the letter dated 16.10.2012 was addressed by the then 2nd respondent on the eve of his retirement, contrary to the factual position and further enquiries revealed that there was no such trees at all, as pleaded by the petitioner. It is also pleaded that disciplinary proceedings were also initiated

against the then officer for sending such a wrong report. After considering the material on record, the learned single Judge dismissed the writ petition, by order dated 8.4.2015. Hence, the present writ appeal.

5. Heard learned counsel for the appellant as well as the learned Government Pleader for Land Acquisition and perused the impugned order passed by the learned single Judge.

6. It is true that in the draft Notification and the draft Declaration, there was a mention about the existence of 150 mango trees in the land belonging to the petitioner. However, it is to be noted that subsequently, there was an errata published on 20.03.2012 correcting the draft Notification and draft Declaration, by deleting the existence of such trees. Thereafter, the petitioner himself has consented for passing of an Award and consent Award under Section 11(2) of the Act was passed on 30.06.2012, pursuant to which the petitioner has received compensation of Rs.10,35,423/-. When the petitioner himself has consented for passing of the Award without any protest, having received the amount of compensation pursuant to the consent Award dated 30.06.2012, he is not entitled to make any representation for payment of compensation towards acquisition of 150 mango trees, allegedly existing in his land or to rely on the letter dated 16.10.2012 addressed by the then 2nd respondent for payment of further compensation of Rs.3,21,000/-. Further more, from the material placed on record, it is clear that no trees were existing at the time of acquisition of the petitioner's land and it appears that only to make a false claim for payment

of compensation for the trees, which were not existing, the petitioner made a representation and got issued the said letter through the then 2nd respondent, which itself is not based on correct factual position.

7. For the aforesaid reasons, we do not find any merit in this writ appeal, warranting interference with the impugned order dated 8.4.2015 in W.P.No.38184 of 2012 passed by the learned single Judge.

8. Accordingly, this writ appeal is dismissed, at the admission stage. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

08.09.2015.
Msr

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