

THE HON'BLE SRI JUSTICE RAJA ELANGO

Writ Petition No.29668 of 2010

ORDER :

This writ petition is filed seeking to issue a writ of *Mandamus* to declare the impugned order of the 1st respondent in Ref.No.C/589/08, dated 05-05-2010 in rejecting the proposals for payment of compensation to the petitioner for the sweet orange plants existing in land to an extent of Ac.3.95 cents in Sy.No.508/1 of Chintakunta Village, Muddunur Mandal, Kadapa District contrary to the earlier orders in Ref.No.C/589/08, dated 17-09-2009, wherein direction was given to record the valuation of the trees for payment of compensation which in fact was complied by 2nd respondent and Assistant Director of Horticulture by submitting the report of valuation of the trees, as illegal and arbitrary and consequently direct the respondents to pay compensation/damages as per the valuation report forthwith by setting aside the impugned order of the 1st respondent.

2. The brief facts of the case are as follows :

The petitioner's land to an extent of Ac.0.05 cents was acquired by the respondents and the petitioner also not having any objection for the same and he also accepted for compensation. While so, in view of the acquisition of the said Ac.0.05 cents of land, the respondents herein have also taken possession of the bore well erected by the petitioner therein.

Because of the same, the petitioner could not able to get water supply for the remaining land and further, the remaining land also not yielding water and in support of the said fact, he has also produced some documents. The petitioner has made representation on the ground that due to acquisition of the said Ac.0.05 cents of land, he could not able to get water for the remaining land and he is also not in a position to erect any bore well in the remaining land in view of the non-availability of water and hence requested for compensation. The said representation was rejected by the 1st respondent on the ground that under the Land Acquisition Act, there is no provision for payment of compensation for the plants existing in the land which is not under acquisition and the same is under challenge before this Court.

3. After perusal of the records and hearing the arguments, this Court is of the considered view that as rightly pointed out by the learned counsel for the petitioner, Section 23 of the Land Acquisition Act, more particularly the provisions under Section 23 (3) and (4) of the Act, empower the authority to consider the damages arising out of the acquisition of the land.

4. Hence, this Writ Petition is disposed of with the following direction :

The respondents herein are directed to consider the representation of the petitioner dated 14-09-2009 afresh and pass appropriate orders in accordance with law within three months from the date of receipt of a copy of the order. No order as to costs. As a sequel, miscellaneous petitions pending, if

any, in this Writ Petition are closed.

JUSTICE RAJA ELANGO

28th January, 2015

skmr