

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.22880 of 2003

Date: 23.04.2015

Between:

Yellavula Pandu Ranga Rao s/o. Krishnamurthy,
Aged 44 years, Cultivation, Kadakatla,
Tadepalligudem, West Godavari District.

.. Petitioner

AND

National High Way Authority, rep.by its
Chairman, New Delhi and others.

.. Respondents

The Court made the following:

HON’BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.22880 OF 2003

ORDER:

Petitioner claims to be absolute owner of the land to an extent of 80 cents in R.S.No.143 of Badampudi Village, Tadepalligudem Mandal, West Godavari District, which accrued by way of registered sale deed dated 24.01.1985 executed by foster mother and grand mother late Smt. Lanka Mangamma.

2. The case of the petitioner is that foster mother purchased the same under registered sale deed dated 05.02.1979 from Rachuri family. Since there were disputes between the petitioner and the respondents 4 to 6, petitioner filed O.S.No.151 of 1991 on the file of Sub-ordinate Court, Tadepalligudem, against respondents 3 to 6 and others for declaration of title and permanent injunction. The suit was decreed on 10.04.1997. Aggrieved thereby respondents 4 to 6 filed A.S.No.41 of 2001 on the file of II Additional District Judge, Eluru.

3. During pendency of the said appeal, the said land was acquired for the purpose of widening of existing national highway. The land acquisition proceedings were concluded in the year 2002. Respondents 4 to 6 filed W.P.No.24057 of 2002 claiming that they are entitled to receive compensation to the several extent of land including the extent of land owned by the petitioner. W.P.No.24057 of 2002 was disposed of by order dated 28.07.2003 directing payment of compensation to the petitioners therein subject to petitioners proving their claim for compensation in accordance with sub-sections (3), (4) and (5) of Section 3(G) of the National Highways Act, 1956.

4. This writ petition is instituted challenging the order granted by this Court in the above writ petition holding that such order was obtained by the petitioners therein beyond back of the petitioner herein and without disclosing true and correct facts.

5. As notices issued to the respondents 4 to 6 were not served, this Court by order dated 23.08.2010 granted liberty to the petitioner to take out personal notices to the respondents 4 to 6 by registered post with acknowledgement due and file proof of

service within a period of six weeks. The Court also ordered that if notice is not served and proof of service is not filed, the writ petition stands dismissed against respondents 4 to 6. The writ petition was dismissed against respondents 4 to 6 as no proof of service is filed within the time granted and no further extension was sought.

6. Learned counsel for the petitioner submits that the property vested in the petitioner is Ac.1.00 in the same survey number, whereas the document which petitioner referred in the writ petition deals with only 80 cents. As per the compromise recorded in the first appeal, the respondents 4 to 6 who were the appellants have agreed that Ac.1.00 of land in R.S.No.143 of Badampudi village belongs to the petitioner and 7th respondent and they alone entitled to receive compensation and that the appellants have no claim on the said extent of land. A memo was filed to that extent in A.S.No.41 of 2001 and appeal dismissed as was withdrawn.

7. Petitioner and the 7th respondent have also entered into compromise and in terms of the said compromise, petitioner is entitled to 40% of the amount of compensation and 7th respondent is entitled to 60% of the amount of compensation.

8. Learned standing counsel for National Highway authority submits that since there was a dispute between the petitioner and the original owners - respondents 4 to 6, the compensation was not paid.

9. As seen from the order passed by this Court in W.P.No.24057 of 2002, the Court directed payment of compensation to the petitioners therein subject to petitioners proving their claim for compensation in accordance with sub-sections (3), (4) and (5) of Section 3(G) of the Act, 1956. There was no mandate to pay compensation to petitioners therein. Said petitioners are respondents 4 to 6 herein and writ petition is dismissed against them. Thus, it is open to the petitioner and 7th respondent to represent to the competent authority that they are alone entitled to receive compensation and as and when such request is received by the 3rd respondent, he shall consider the same and if necessary put the original claimants, who are the petitioners in W.P.No.24057 of 2002 on notice, consider the material in support of the claim of the petitioner and appropriate decision on entitlement of the compensation by the petitioner and 7th respondent be taken and if they are found to be entitled, the same shall be paid. In view of long pendency of the issue, the entire

exercise including payment of compensation shall be completed within a period of six weeks from the date of receipt of a copy of this order.

10. Accordingly, the writ petition is disposed of. There shall be no order as to costs. Miscellaneous petitions if any pending in the writ petition shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 23.04.2015

kkm

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No. 22880 of 2003

Date: 23.04.2015

Kkm

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.22880 of 2003

Date: 23.04.2015