

**IN THE HIGH COURT OF JUDICATURE AT
HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

THURSDAY THE NINETEENTH DAY OF MARCH
TWO THOUSAND AND FIFTEEN

HONOURABLE SRI JUSTICE S.V. BHATT

WRIT PETITION NO. 23679 OF 2012

Between:

T.Krishna Reddy ... Petitioner

V/s.

The State of Andhra Pradesh
Represented by its Prl.Secretary
Revenue [Land Acquisition] Department
Secretariat Buildings,
Hyderabad & Ors.

...

Respondents

Counsel for the Petitioners : Sri Manjunath Allur

Counsel for the Respondents : GP for Land Acquisition
GP for Irrigation & CAD

The court made the following : [order follows]

HONOURABLE SRI JUSTICE S.V. BHATT

WRIT PETITION NO. 23679 OF 2012

ORDER:

Heard learned counsel for petitioner and the Government
Pleader.

2. This Court on 10/03/2015 directed the respondents to produce the original file in consent Award No.12/2009-10 dated 11/09/2009 and also specifically state the details of persons to whom notices o enquiry in Land Acquisition Proceedings for survey No. 399/1-B have been issued.

3. The original file is produced and the same is perused.

4. The petitioner prays for mandamus, declaring the action of respondents in not releasing/disbursing the compensation for acquiring petitioner's land in an extent of Ac:3-76 cents in survey No. 399-1-B of Tavlam village of Tanakallu Mandal, Ananthapur district as determined through consent Award No.12/2009-10 dated 11/09/2009 as illegal, contrary to the Land Acquisition Act, 1894 and unconstitutional.

5. The dates and events are referred to from the original file

produced by the respondents.

i) On 17/11/2008 draft notification under section 4 [1] of the Act 1/1894 was issued for acquiring various extents of lands at Tavlam village of Tanakallu Mandal, Ananthapur district. The purpose of acquisition is for distributory channels in AVR HNSS Phase-II, Punganur branch canal in Ananthapur district Phase-II under package No.26.

ii) On 21/11/2008 the draft declaration was issued. In the present writ petition the petitioner is concerned with survey No.399/1-B in an extent of Acs:3-65 cents. The name of one T.Nallappureddy etc. is shown as pattedar/enjoyer against survey No.399/1-B. Notices under award enquiry have been issued to petitioner. Admittedly consent award dated 11/09/2009 was passed by the fourth respondent. Through the consent award, the fourth respondent on point of title and apportionment has observed as follows:

“For all the survey numbers notified the total area of Acs:56-76 cents of Tavalam village of Tanakallu Mandal, Ananthapur district evidence adduced during Award enquiries there is no dispute noticed and therefore the amount of

compensation awarded as recorded in the statement i.e., Form-III appended is apportioned for payment in their favour.”

Admittedly, compensation has been paid to other affected persons. The petitioner is not paid compensation and possession was taken.

6. The Land Acquisition Officer by referring to the pending litigation in AS.No. 8 of 2007 for non-payment of compensation to petitioner. The reply reads as follows:

“The Land Acquisition Officer admits apportionment of compensation by the Civil Court in AS.No. 8 of 2007 dated 30/04/2010. This would be resulted in payment of compensation to the petitioner or other persons entitled in this behalf. The further turn of events for payment of compensation is one B.Venkatrama Reddy filed OS.No. 98 of 2012 corresponding to OS.No. 68 of 2012. The said suit is filed for partition and separate possession as claimed by the plaintiff.”

7. Admittedly, there is no restraint order against the Land Acquisition Officer from disbursing the compensation payable in respect of survey No.399/1-B from the Civil Court. The Land Acquisition Officer takes note of pending suit and did not pay

compensation to petitioner.

8. Be that as it may, from the record, it is further evident that the said B.Venkatrama Reddy was not issued notice in Land Acquisition Proceedings and he did not object to the land acquisition proceedings or payment of compensation to the petitioner or made any independent claim for himself.

31. Payment of compensation or deposit of same in court :-

- (1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

Sub-section (1) of Section in its application to the State of Andhra Pradesh

For the purpose of acquisition of land for the construction, extension or improvement of any dwelling house for the poor, the Land Acquisition Act shall have effect in relation to such acquisition subject to the following modifications, namely:-

- (1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them (in a lump sum in a case where it does not exceed five hundred rupees and in all other cases in such number of equal annual instalments not exceeding five as may be determined by the Collector];

Provided that where the compensation is sought to be paid in instalments, the Collector shall pay

instalments of the amounts awarded with interest thereon at six per cent per annum from the time of taking possession of the land until the last instalment is paid.

Provided further that where possession of land is taken but the compensation awarded is not paid or deposited before the date of commencement of the Land Acquisition [Andhra Pradesh] Amendment Act, 1976, the provisions of this section shall apply in relation to the payment of compensation as if the acquisition proceedings have been started after the date of commencement of the said Act].

- (2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the collector shall deposit the amount of the compensation in the court to which a reference under section 18 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount other wise than under protest shall be entitled to make any application under section 18:

Provided also that nothing herein contained shall effect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

- (3) Notwithstanding anything in this section, the Collector, may with the sanction of the (appropriate Government) instead of awarding a money, compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

9. Even if compensation is received by the petitioner herein, the obligation under the proviso cannot be lost sight of. The possession was taken in the year 2008, the issue of payment of compensation is not finalised as on date. The reason stated by the respondents is pendency of suit. After considering the scope and ambit of Section 30 and 31 of the Land Acquisition Act, I am unable to accept the explanation offered by the respondents for non-payment of compensation to petitioner. Accordingly the contention is rejected. Further there is no prohibition as on date from a competent court for disbursing compensation for survey No.399/1-B. The pendency of a suit by itself is not a ground to withhold payment of compensation.

10. The writ petition is ordered by directing the respondents to pay compensation with accrued interest till date of payment to the petitioner for survey No.399/1-B, within a period of four weeks from the date of receipt of a copy of this order. No order as to costs.

11. As a sequel, Miscellaneous Petitions if any, pending in
this writ petition shall stand closed.

JUSTICE S.V. BHATT.

19/03/2015
Is L

HONOURABLE SRI JUSTICE S.V. BHATT

WRIT PETITION NO. 23679 OF 2012

Circulation No.41
Date: 19/03/2015
Court Master: I s L
Computer No.43
