

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.29546 OF 2014

ORDER:

Heard learned counsel for petitioner and the Government Pleader.

The petitioner prays for Mandamus declaring the action of respondents in acquiring petitioner's land in an extent of Ac.3-30 gts in Sy.No.239/E at Kondakallu Village and Gram Panchayat, Shankarpally Mandal, Ranga Reddy District in contravention of Section 11-A of the Land Acquisition Act, 1894 (for short 'the Act'), as illegal, arbitrary and unconstitutional.

The subject matter of writ petition is Ac.3-30 gts in Sy.No.239/E at Kondakallu Village and Gram Panchayat, Shankarpally Mandal. The issue arises under the Land Acquisition Act, 1894.

The petitioner claims to be the owner and possessor of subject land. The admitted circumstances are as follows:

On 23.07.2008, the 3rd respondent issued notice under Section 4(1) of the Act for establishment of industrial park at Kondakallu Village. On 16.02.2010, the draft declaration was published in the District Gazette. Notices under Section 9(1) and 10 read with 9(3) and 10 dated 02.03.2010 were published and served as required under the Act.

The petitioner filed claim statement to determine compensation for the lands acquired between Rs. 25 lakhs to Rs.60 lakhs.

The 3rd respondent claims to have passed the award on 10.02.2012. The grievance of petitioner against the passing of award dated 10.02.2012 is two fold. Firstly, no compensation is paid as on date and secondly, in view of Section 11-A of the Act, the acquisition proceedings are lapsed.

This Court directed the learned Government Pleader to produce the original record. On perusing the record, the learned Government Pleader submitted that as on date, the award dated 10.02.2012 is not communicated to the petitioner. It is further submitted that the cause of action for filing the writ petition is unsustainable and as on today the award dated 10.02.2012 admittedly is not communicated, the petitioner is not entitled for any relief.

With effect from 01.01.2014, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, Act 30 of 2013 has come into force. For the purpose of Section 11-A of the Act, the binding precedent of the Apex Court in **KALIYAPPAN v. RESPONDENT: STATE OF KERALA & ORS**^[1] concludes the objection taken by the petitioner under Section 11-A of the Act. However, the signing of award by the 3rd respondent saves the land acquisition proceedings from lapsing. Therefore, on the ground that the award is passed on 10.02.2012 and compensation is not paid, this Court cannot consider granting any relief to the petitioner. The making of award and non-communication of award is taken care by Section 24 (1) of Act 30 of 2013. The right of petitioner to file objection for compensation under Act 30 of 2013 in this behalf is preserved. It is not evident from record whether the respondents intend to proceed further in the acquisition proceedings. Therefore, as and when the 3rd respondent communicates the award, the petitioner can avail remedies under Act 30 of 2013, as admittedly no award is communicated to petitioner till date. This Court in W.P.No.1467 of 2015 and batch considered in detail the effect of mere making the award and non-communication of an award on or before 31.12.2013 in the context of Section 11 of the Act and Section 24(1) of Act 30 of 2013.

In view of change in the statutory regime, the rights of petitioner

to pursue appropriate legal remedies for compensation under Act 30 of 2013 are left open for consideration.

With the above observation, the writ petition is disposed of. There shall be no order as to costs.

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

S.V.
BHATT, J

02nd March, 2015

Lrkm

[\[1\]](#) (1989) 1 SCC 113