

HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION Nos.11333 OF 2013

ORDER:

Heard learned counsel appearing for the parties.

The petitioner prays for Mandamus declaring the action of respondents in not acquiring the land in Survey No.474/2 in an extent of Ac.4-20 cents of Gundavolu Village, Reach No.13, Rapur Mandal, SPSR Nellore District in accordance with law, as illegal and arbitrary and the petitioner prays for a direction to 2nd and 3rd respondents to acquire the petition land and pay compensation. This Court

through order dated 18.02.2015 directed the respondents as follows:

“The learned Government Pleader short of expressing helpless just placed before the Court the communication dated 13.02.2015 received by the office of the Government Pleader for Land Acquisition from the Special Deputy Collector, Telugu Ganga Project, Rapur, Nellore. It is further stated that in spite of timely communication, the learned Government Pleader has not received instructions from the respondents. The facts of the case if are found to be true, are singular and the respondents are certainly dillydallying with the payment of compensation to petitioner for the lands acquired about two decades back. From the stand taken by them in the counter affidavit, it is evident that the facts are not in issue but the lack of will to proceed in the matter is evident. The respondents are expected to acquire land by paying compensation more particularly within reasonable time to ensure that on account of deprivation of proprietary right to a citizen, the citizen is not subjected to irreparable hardship. In the case on hand, the respondents are not in a position to finalize the initiation of land acquisition proceedings much less pay compensation to the petitioner for nearly two decades. This facet of vacillation in pleading is evident from the following stand.

“The Govt. Pleader, Hon'ble High Court gave his opinion to the Special Collector, Telugu Ganga Project, Nellore on 4.3.98 to pay compensation as per the L.A. Act. Since the notification has been issued on 19-2-1990 and advised to pass award as per the notification dated 19-2-1990, without issuing fresh notification and to take immediate steps to comply with the Hon'ble High Court order issued on 27-6-1997 in W.P.No.3539/96. But the Special Collector, Telugu Ganga Project, Nellore in Rc.D2/357/59, dt.29.3.2010 has directed the Special Deputy Collector (L.A), Telugu Ganga Project, Rapur at Nellore to send fresh proposals in this case for publication of DN &DD as the DN dt.19.2.1990 was lapsed according to Land Acquisition rules.

In reply to the averments made in para 7 of the petitioner's affidavit, it is submitted that, the fixation of market value will be taken up only after acquisition of the subject land as per the provision of Land Acquisition Act, 1894.”

This issue cannot be deferred for all times to come. Having regard to the above circumstances, this Court is compelled to direct the 1st respondent to ensure the presence of either 2nd respondent or 3rd respondent with firm proposals and time schedules to initiate land acquisition proceeding and complete the same within reasonable time.

Post the writ petition on 02.03.2015 for compliance."

In response to docket order dated 18.02.2015, the 2nd respondent/Special Collector, Land Acquisition, Telugu Ganga Project, SPSR Nellore District, is present in the Court. Additional counter affidavit is filed by the respondents. The respondents while setting out in detail the circumstances preceding either inaction or continuation of stalemate have now come forward to acquire the petitioner's land within a period of 270 days. The schedule for acquiring petitioner's land given by the 2nd respondent, is as follows:

"Schedule for acquiring the petitioner's land in S.No.474/2 measuring an extent of Ac.4.20 cents of Gundavolu village of Rapur Mandal, SPSR Nellore District under LA Act, 2013.

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| 1. Obtaining fresh requisition from Executive Engineer, TGP, Nellore | - 30 days |
| 2. Preparing for survey and sub division records | - 60 days |
| 3. Issue of DN Proposals | - 60 days |
| 4. Issue of DD Proposals | - 60 days |
| 5. Fixation of market value | - 30 days |
| 6. Passing of Award | - 60 days |

Total time Schedule: 270 days or 9 months"

Learned counsel for the petitioner submits that the time schedule of 270 days is totally unrealistic and if the same is considered, it further deprives proprietary right of petitioner without receiving any compensation from the State. He further submits that had it been a case where there was no proposal from the requisitioning department, the 2nd and 3rd respondents would have had difficulty in proceeding in the matter. As already noted, the proposals have been sent by the requisitioning department, it is a case of re-sending the same proposal. Further the time schedule to complete the acquisition in a case like this nature ought not to be as stated by respondents.

While agreeing with the response of respondents on the proposal to acquire the petition land, this Court directs completion of the acquisition of subject land and payment of compensation to petitioner within a period of four months from today. It shall be responsibility of 1st respondent to extend necessary cooperation both in sending proposals afresh, making funds available and for completion of the acquisition of proceedings.

The statement of respondents is placed on record and the writ petition is ordered accordingly. No order as to costs.

This Court having regard to the circumstances explained by the 2nd respondent is not considering other issues urged in the writ petition. The stand taken in the counter affidavit is accepted and the relief is granted. Therefore, it shall be the responsibility of the respondents to adhere to the time schedule given by the Court, complete land acquisition proceedings and pay compensation.

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

S.V.BHATT,J

Date: 04.03.2015
Stp