

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.875 OF 2015

ORDER:

Heard learned counsel for the petitioner and learned counsel appearing for the respondents.

The petitioner prays for Mandamus directing the 3rd and 4th respondents not to pay the total compensation to 6th respondent for the land acquired in an extent of Ac.2-33 gts out of Ac.3-30 gts in Sy.No.58/288 of Khalsa Ibrahimpattam Village, Ibrahimpattam Mandal, Ranga Reddy District, and the petitioner further prays for a declaration that the non-consideration of representation dated 03.01.2015 is illegal, arbitrary and contrary to Section 31 of the Land Acquisition Act, 1894 (for short "the Act").

The case of petitioners is that the assignment dated 19.06.1992, though is in the name of 6th respondent, was granted to family of petitioner and respondents 6 to 8 and the father of private parties was cultivating the land in Sy.No.58/288. Therefore, all the brothers are entitled for apportionment of compensation.

The learned counsel representing 6th respondent contends that the assignment is in favour of 6th respondent and the compensation is to be paid to him and the compensation cannot be apportioned among the brothers, as contended by the petitioners. On the grievance of non-consideration of representation dated 03.01.2015, the reply of learned counsel is that the receipt of compensation by 6th respondent in terms of patta dated 19.06.1992 is always subject to the condition imposed by proviso to Section 31(2) of the Land Acquisition Act, 1894 which reads as follows:

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

1. xxxxx

2. xxxxx

xxxx

xxxx

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. xxxxx
4. xxxxx

He, therefore, contends that unless and until the petitioners establish their entitlement, they cannot presume existence of a dispute and consequently prays for reference under Section 18 of the Act.

Considered the material available on record and noted the submissions of the learned counsel appearing for the parties.

Proviso to Section 31 of the Act is clear that the receipt of compensation by one person is subject to the claim of a person who is otherwise entitled to receive the compensation, if such claim is established in a properly instituted suit or proceeding. In the case on hand, having regard to the nature of dispute between the parties, the petitioners have to work out their remedies in a properly instituted suit or proceeding wherein the receipt of compensation in the subject acquisition can also be the subject matter of such suit and the same can be decided by the competent Civil Court.

By leaving it open the available remedy, the writ petition is dismissed. There shall be no order as to costs.

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

S.V.BHATT, J

23rd April, 2015

Lrkm