

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

**FRIDAY THE SEVENTEENTH DAY OF APRIL
TWO THOUSAND AND FIFTEEN**

HONOURABLE SRI JUSTICE S.V. BHATT

WRIT PETITION NO. 30110 OF 2014

Between:

P. Ashok Kumar ... Petitioner

V/s.

The State of Telangana

Represented by its Secretary

Revenue Department [LA]

Secretariat, Hyderabad & Ors. ... Respondents

Counsel for the Petitioner : Sri D.Krishna Murthy

Counsel for the Respondents : GP for Land Acquisition [TG]

R-1 to R-3

Smt.P.Padmavathi for R-4

The court made the following : [order follows]

HONOURABLE SRI JUSTICE S.V. BHATT

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ORDER:

Heard Sri D.Krishna Murthy, learned counsel for petitioner and the learned Government Pleader for Land Acquisition [TG].

2. The petitioner prays for mandamus, declaring the action of respondents in not depositing compensation in civil court for the acquisition of an extent of 170.47 sq.yards in premises bearing door No.18-2-12, ward No.273, Block No.'H', Hyderabad vide Award No.A/1082/2007 dated 23/06/2010 as illegal, null, void and contrary to Article 300-A of the Constitution of India.

3. The petitioner prays for a consequential direction to respondents to withdraw the amount deposited pursuant to the Award No.A/1082/2007 dated 23/06/2010 to the credit of OP.No. 2461 of 2011 in the court of II-Additional Chief Judge, City Civil Court, Hyderabad and pay the compensation to the petitioner forthwith.

4. The admitted facts of the case are as follows:

On 15/10/2007 notification under section 4 [1] of the Land Acquisition Act, 1894 was issued proposing to acquire an extent of 170.47 sq.yards in the premises bearing door No.18-2-12, ward No. 273, Block No. 'H' Hyderabad. In the instant notification, the name of late Sri P. Raghu, is described as the owner and possessor of the subject premises. The mistake of fact reflected in 4 [1] notification as admitted in the counter-affidavit had continued till the passing of the Award on 23/06/2010. The respondents were unaware that the said Dr.Raghu is no more and proceedings were taken up and continued against a dead person. The petitioner having got the knowledge of passing award and the deposit made in the Civil Court in OP.No. 2461 of 2011 in the court of II-Additional Chief Judge, City Civil Court, Hyderabad, filed I.A.No. 1671 of 2012 to implead him as one of the respondents in the pending reference and consider paying compensation deposited by the respondents to him. The trial court through order dated 26/02/2014 dismissed I.A.No.1671 of 2012. The reasons for dismissal are not the subject matter of the present writ petition therefore not referred. The piquant situation in which the petitioner is placed with the dismissal of I.A.No. 1671 of 2012 is that he is not shown as owner of the

property in section 4 [1] notification. On coming to know that the compensation is deposited in the civil court in OP.No. 2461 of 2011 he has taken steps to implead him as one of the respondents. The efforts made by the petitioner ended in dismissal of I.A.No. 1671 of 2012. Now the contention is without remedy and deprived of property without following the law. In these circumstances, the present writ petition is filed for the relief referred to above.

5. The Respondent No.3 filed counter-affidavit and by way of introductory facts, third respondent states as follows:

“During the court proceedings a counter was also submitted to the court by the third respondent herein stating that the premises was notified in the name of Dr.Raghu and the compensation is now being claimed by Sri P.Ashok Kumar vide OP.No. 2461 of 2011. In compliance to the Hon’ble Judge directions, this respondent sought clarification from the Requisitioning Department i.e., Asst. City Planner, Circle-IV, GHMC to clarify as to the name of the owner of premises No. 18-2-12 as there was a discrepancy in the name of the owner notified and the person claiming the compensation.

Further it was submitted to the court stating that as per Municipal records the premises No. 8-2-12 stands in the name of P.Ashok Kumar and mistakenly the requisition department mentioned the name of Dr. Raghu in their requisitions and the same was notified as P.Raghu in the award proceedings dated 23-06-2010.

But the Hon’ble II-Additional Chief Judge, City Civil Court, Hyderabad, erroneously dismissed the impleadment petition filed by the petitioner in I.A.No. 1671 of 2012 in OP.No. 2461 of 2011 dated 26-02-2014.

Since the matter in OP.No. 2461 of 2011 is pending in the Hon’ble Court, it is not possible to withdraw the compensation amount from the court and to pay the same to the petitioner.”

6. From the above it is evident that in so far the subject matter of the writ petition is concerned, the acquisition of land for the purpose of road widening

firstly is admitted but proceeded and concluded against a dead person and secondly at no stage of the proceedings the petitioner has been put on notice by the third respondent. The respondents can take the property of a person in the manner stipulated by law. Any effort to take property in contravention of the procedure stipulated by law is illegal and unconstitutional.

7. The learned counsel for the petitioner relies upon decision in **SAVITHIRIAMMAL V/s. STATE OF TAMIL NADU, REPRESENTED BY SECRETARY TO GOVERNMENT, HOUSING AND URBAN DEVELOPMENT DEPARTMENT AND SPECIAL TAHSILDAR [LAND ACQUISITION], HOUSING SCHEME NO.II** reported in 2006 (3) Madras Law Journal-389. Another unreported decision dated 06/08/2009 in Writ Appeal Nos. 161, 162 and 369 of 2006 for the proposition that the acquisition proceedings initiated against dead person are void and liable to be declared as such. The learned counsel places reliance upon a decision of this Court in **SHAIK KAREEMUNNISA BEGUM V/s. GOVERNMENT OF ANDHRA PRADESH AND ORS** for the submission that the respondents can be directed to withdraw the amount from civil court and pay to the petitioner. The learned Government Pleader relies upon the stand taken in the counter-affidavit and submits that the case on hand does not warrant consideration of similar relief to the petitioner. Having regard to the admitted fact situation, the respondents can be directed to withdraw the amount available to the credit of OP.No.2461 of 2011 and pay to the petitioner.

8. The point for consideration is whether the award dated 23/06/2010 in so far as petitioner is concerned binding and the right in property is deprived

according to procedure stipulated by law ?

**SECTION 24 OF ACT 30 OF 2013 THE RIGHT TO FAIR
COMPENSATION AND TRANSPARENCY IN LAND
ACQUISITION, REHABILITATION AND RESETTLEMENT ACT,
2013 READS AS FOLLOWS :**

Section 24: Land acquisition process under Land Acquisition Act, 1894 shall be deemed to have lapsed in certain cases :

1. Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894). –
 - a. *where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or*
 - b. *where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.*
2. Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said Section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act.

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries then. All beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.

9. Admittedly, the award dated 23/06/2010 as well as the proceedings have been taken against a dead person. By giving effect to the proceedings

initiated against a dead person, the respondents cannot deprive the proprietary right of petitioner to the extent of 170.47 sq.yards in the subject premises, as the proceedings void. Having regard to the admitted facts and circumstances of the case, the counsels appearing for parties are heard on the merits to mould the relief. The learned counsel agrees for passing award under new Act in continuation of proceedings already initiated and compensation paid under Act 30/2014, I consider it appropriate to declare that the award dated 23/06/2010 is void and not binding on the petitioner to the extent of 170.47 sq.yards. The court considers moulding the relief having regard to the admitted fact situation. Therefore, the respondents are directed to acquire petitioner's land by passing award in accordance with section 24 of the Act 30 of 2013 within a period of eight weeks from the date of receipt of a copy of this order and pay compensation to the petitioner.

9. The writ petition is ordered as indicated above. No order as to costs.

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

JUSTICE S.V. BHATT.

17/04/2015

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HONOURABLE SRI JUSTICE S.V. BHATT

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