

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

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W.P. No. 23778 of 2016

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DATE: 11.08.2016

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Between:

T. Srikanth

and three others

.. Petitioners

And

The State of Telangana

and three others

.. Respondents

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ORDER:-

This writ petition is filed for the following substantive relief:

“....issue a writ, order or direction preferably in the nature of Mandamus declaring the action of the 3rd respondent in not releasing the compensation awarded to the share of late Sri T.Srinivasulu for the acquisition of land admeasuring 1788 square yards bearing H.No 11-5-230 in Sy.No. 294, Moosapet village, Balanagar Mandal, Hyderabad in favour of petitioner Nos.1 and 2, as illegal, arbitrary and violative of Articles 14, 21 & 300-A of the Constitution of India, and consequently, direct the 3rd respondent to release the compensation in favour of petitioner Nos.1 and 2.”

The learned senior counsel appearing on behalf of the petitioners has submitted that late Sri T.Srinivasulu, the father of petitioner Nos.1, 2 and 4 and the husband of the

3rd petitioner, was co-owner and possessor of the premises in question which was acquired for the purpose of road widening to enable construction of Metro Rail by the 4th respondent. The 3rd respondent passed an Award dated 30.07.2013 wherein compensation was granted for the subject land and notice under Section 12(2) of the Land Acquisition Act, 1894 (for brevity “the Act”) was

issued in favour of late T.Srinivasulu to a tune of Rs.2,17,58,460/- after deducting applicable taxes from the gross amount of Rs.2,41,76,067/-. He has further submitted that total compensation due to be given for acquiring the land of T.Srinivasulu and his brother was Rs.4,35,16,921/-, however as the deceased – T.Srinivasulu was the equal co-owner, he was entitled to Rs.2,17,58,460/-. T.Srinivasulu passed away on 25.09.2014 leaving behind the petitioners and another daughter namely Sridevi as his legal heirs.

He has further submitted that before the death of T.Srinivasulu, he executed a Will dated 01.08.2013 wherein petitioner Nos.1 and 2 are given exclusive ownership and enjoyment of the subject matter of this writ petition.

He has further submitted that as per the Will dated 01.08.2013, petitioner Nos.3 and 4 have already given no objection to payment of the entire compensation to petitioner Nos.1 and 2.

Be that as it may. On instructions, the learned senior counsel for the petitioners has submitted that the entire compensation awarded in favour of T.Srinivasulu may be divided into five equal shares. It is also submitted that petitioner Nos.3 and 4 are no more interested to take their shares and they want to give in favour of petitioner Nos.1 and 2. I am of the view, if two shares of compensation are released in favour of respondent Nos.3

and 4, it will be up to them whether they will give their share to petitioner Nos.1 and 2.

He has further submitted that one of the shares be earmarked for T.Srinivasulu's daughter by name Sridevi, who is not a party to this writ petition, and her share shall be subject to the outcome of the dispute if any arises by way of challenging the Will.

The learned Government Pleader for Land Acquisition appearing for respondent Nos.3 and 4 has submitted that in view of the submission made by the learned senior counsel for the petitioners, respondent Nos.3 and 4 have no objection to disburse the compensation to all the legal heirs by dividing it equally including the share of Sridevi.

In view the above facts and circumstances of the case, this Court is inclined to dispose of the writ petition by directing the respondents to divide the compensation awarded in favour of Late T.Srinivasulu into five shares in equal proportions and four shares shall be released in favour of the petitioners and fifth part thereof shall be kept in F.D.R. towards the share of Sridevi.

It is made clear that if Sridevi, the daughter of the deceased, disputes the Will dated 01.08.2013, the amount of her share shall be subject to the outcome of such dispute.

It is further made clear that payment shall be released within a period of two weeks from the date of

receipt of a copy of this order.

Accordingly, the petitioners shall file an undertaking to the effect that the petitioners and Sridevi are the only legal heirs of the deceased – T.Srinivasulu.

With the above direction, this writ petition is disposed of. No order as to costs.

As a sequel to the disposal of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

SURESH KUMAR KAIT, J

11.08.2016

bcj