

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
AND
HON'BLE SRI JUSTICE P.NAVEEN RAO**

WRIT PETITION No. 12075 of 1991

Date:23.3.2016

Between:

B.L.C.Sastri s/o late Suryanarayana Sastri
R/o No. 94, V M Street, Mylapore, Madras and others

.....Petitioner

and

The Land Acquisition Officer and Special Tahsildar (LA)
Defence, D No. 50-50-13,North Extension,
Seethammadhara, Visakapatnam and another

.....Respondents

The Court made the following:

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE P. NAVEEN RAO**

WRIT PETITION No. 12075 of 1991

ORDER : (Per the Hon'ble Sri Justice P.Naveen Rao)

The writ petition is filed, seeking the relief as under:

“.....this Hon'ble Court may be pleased to call for the entire records
relating to Award No. 2 of 91 dated 31.7.1991 of the Land Acquisition Officer

and Special Tahsildar (Land Acquisition) Defence, Visakhapatnam and quash pages 13 to 17 of the Award No. 2/91 under the Subhead "U.L.C.Aspect" by issuing an appropriate writ, order or direction, more particularly one in the nature of Certiorari....."

2. Heard Sri D.V.Seetharama Murthy, learned senior counsel appearing for petitioners, Sri P.Venugopal, learned Advocate General (AP), Sri B Narayana Reddy, learned Assistant Solicitor General for Union of India and Sri O.Manohar Reddy, learned counsel appearing for respondents 3 to 16.

3. Petitioners were owners of land to an extent of Ac. 7.21.5 in survey No. 6/1A of Thatichetlapalem village, Visakhapatnam. Land to an extent of Ac. 6.20 was declared as excess by the competent authority under Urban Land Ceiling Act, 1976. The Appellate Authority under the Urban Land Ceiling Act, vide orders in AUC1/6850/81 and AUC1/683 to 685/84 dated 27.2.1987 allowed the appeals of the petitioners and excluded land to an extent of Ac.6.20 from the purview of Urban Land Ceiling Act, 1976, as then in force and therefore petitioners became absolute owners and are entitled to enjoy land to an extent of Ac.7.21.5 in survey No. 6/1A of Thatichetlapalem village, Visakhapatnam. The land acquisition proceedings were initiated for acquiring land to an extent of Ac.14.86 in the above survey number including the land of petitioners to an extent of Ac.7.21.5 for the purpose of establishment of OHAS depot, Ministry of Defense, Government of India. Strangely, while passing award No. 2 of 1991 the Land Acquisition Officer, excluded payment of compensation to an extent of Ac.6.20 on the ground that said land is excess land under the Urban Land Ceiling Act 1976 and therefore petitioners are not entitled to payment of compensation. Having said so, the Land Acquisition Officer directed depositing the amount of compensation determined for Ac.6.20 in Civil Court and referred the dispute to Civil Court under Section 30 of the Land Acquisition Act. Aggrieved thereby, this writ petition is filed.

4. Learned senior counsel Sri D V Seetharama Murthy, submits that the orders of the Appellate Authority dated 27.2.1987 has become final, W.P. No. 11184 of 1993 preferred by the State of Andhra Pradesh against said order was dismissed by judgment dated 3.2.1999 and W A No.1111 of 1999

preferred against the said decision of the learned single Judge was dismissed as abated on account of subsequent repeal of the Urban Land Ceiling Act, 1976. He therefore submits that the order of the Land Acquisition Officer in not granting compensation and directing deposit of the compensation amount in the Civil Court and referring the dispute to the Civil Court under Section 30 of the Land Acquisition Act, is ex-facie illegal, without jurisdiction and competence.

5. Confronted with this submission of the learned senior counsel and the decisions of this Court in W P No. 11184 of 1993 and W A No. 1111 of 1999, learned Advocate General for the State of Andhra Pradesh and learned Assistant Solicitor General for Central Government, fairly submit that the land is vested in the petitioners and that the provisions of Urban Land Ceiling Act are not attracted and that petitioners are entitled to receive the compensation under the Land Acquisition Act, as a consequence to the acquisition of their land.

6. Having regard to the said submissions, Award No. 2 of 1991 to the extent holding that Ac.6.20 in survey No. 6/1A of Thatichetlapalem village, Visakhapatnam should be excluded from the holding of petitioners and directing deposit of amount of compensation determined for Ac. 6.20 in Civil Court and referencing the matter to Civil Court under Section 30 of the Land Acquisition Act, more particularly on account of subsequent developments, renders ineffective and order to that extent is set aside. It is made clear that this order is applicable only to the claim of the petitioners to an extent of Ac. 6.20 out of Ac.7.21.5 in survey No. 6/1A of Thatichetlapalem village, Visakhapatnam and petitioners are entitled to receive compensation on the land to an extent of Ac. 6.20 in survey No. 6/1A of Thatichetlapalem village, Visakhapatnam as determined under the Land Acquisition Act, only if they have not received the compensation under Section 11 of the Urban Land Ceiling Act, 1976.

6. Accordingly, the writ petition is allowed. There shall be no order as to costs. Miscellaneous petitions if any pending in the writ appeals shall stand closed.

DILIP B. BHOSALE, ACJ

P.NAVEEN RAO, J

Date: 23.3.2016
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**HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
AND
HON'BLE SRI JUSTICE P.NAVEEN RAO**

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