

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

WRIT PETITION No.17434 of 2016

ORDER:

Pursuant to the order of this Court dated 04.08.2016, respondent Nos.5 to 8 are present in person. Respondent Nos.5 to 8 submit that, due to Pushkaralu, they could not instruct learned Government Pleader for Land Acquisition.

This plea cannot be accepted for the reason that Pushkaralu was during 12.08.2016 to 23.08.2016 and the Writ Petition was taken up by this Court on 04.08.2016. I warn the officers to be careful in future.

Vide the present petition, the petitioner seeks a mandamus declaring the action of respondent Nos.5 and 6 in proposing to acquire his land, admeasuring Ac.8.18 cents in Sy.No.88, Toyyeru Village (Bit-2), Devipatnam Mandal, Rampachodavaram Division, East Godavari District, as illegal and arbitrary.

Petitioner states that, vide 4(1) notification dated 10.12.2009 and Section 6 declaration dated 15.12.2010, though the survey number belonging to the petitioner's land was mentioned, however, his name was not reflected thereat. Notice was also not issued by the respondents to the petitioner. Hence, the petitioner could not participate in acquisition proceedings.

When the petitioner came to know that award was passed on 02.01.2015, he made a representation dated

10.08.2015. Since the said representation has not been considered the petitioner got issued legal notice dated 08.10.2015 but so far no action has been taken. In such circumstances, the petitioner was compelled to file the present Writ Petition.

It is admitted fact that the petitioner made representation dated 10.08.2015 and respondents sent reply thereto. However, the respondents have not dealt with objections raised by the petitioner. It is also admitted that the petitioner sent legal notice dated 08.10.2015 stating that his father purchased land covered by Sy.No.88 in the auction conducted by the Sub-Collector, Rajahmundry and filed documents thereto. However, no action has been taken by the respondents on the legal notice dated 08.10.2015.

Learned counsel appearing on behalf of the petitioner submits that award was passed without jurisdiction, against the principles of natural justice and contrary to the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act'). As Section 4(1) notification has lapsed, respondents may be directed to acquire petitioner's land afresh.

Learned Government Pleader for Land Acquisition submits that, since the name of the petitioner was not mentioned in Section 4(1) notification in respect of the land

in Sy.No.88, Toyyeru Village (Bit-2), Devipatnam Mandal, Rampachodavaram Division, East Godavari District, notice could not be issued to him.

To that extent, I agree with the learned Government Pleader for Land Acquisition but, when the petitioner made representation dated 10.08.2015 and sent legal notice dated 08.10.2015 along with settlement patta, it was the duty of the respondents to act as per law. Admittedly, no action was taken on the legal notice dated 08.10.2015.

In view of the facts noted above, it is established that there is no sensitivity in the officers/authorities dealing with land acquisition matters. They are just sitting in offices and not bothering about general public and compelling them to approach Courts. By this process, they are wasting time of the public and burdening Courts in adding matters on board.

I hereby direct respondent Nos.5 and 6 to take decision on the petitioner's representation dated 10.08.2015 within a period of four weeks from today after affording opportunity to the parties concerned. The decision taken shall be communicated to the petitioner within one week thereafter.

Since the petitioner was made to run from pillar to post and no action was taken by the respondents, the Writ Petition is allowed with costs of Rs.25,000/- (Rupees

Twenty Five Thousand Only) to be paid in favour of the petitioner by respondent Nos.5 and 6 within two weeks from today.

Miscellaneous Petition pending, if any, shall also stand disposed of.

SURESH KUMAR KAIT, J

Dt:29.08.2016
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