

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

WRIT PETITION No. 12076 and 16320 of 1991

Date:23.3.2016

WP No. 12076 of 1991

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

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. 12076 and 16320 of 1991

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

These two writ petitions are filed seeking the relief as under:

“.....this Hon'ble Court may be pleased to call for the entire records

relating to Supplemental Award No. 2.A of 91 dated 31.7.1991 passed by the first respondent herein and quash the same by issuing an appropriate, order or direction, more particularly one on the nature of Certiorari to the extent that it affects the rights of the petitioner herein.....”

Petitioners challenge Award No. 2.A of 1991 dated 31.7.1991.

2. Heard Sri D.V.Seetharama Murthy, learned senior counsel appearing for petitioners, Sri P.Venugopal, learned Advocate General (AP) and Sri O.Manohar Reddy, learned counsel appearing for respondents 2 to 16.

3. Learned senior counsel Sri D V Seetharama Murthy contends that Award No. 2 of 1991 was passed on 31.7.1991 on the land to an extent of Ac.7.21.5 in survey No. 6/1A of Thatichetlapalem village, Visakhapatnam which concerned the petitioners. Once award is passed, the Land Acquisition Officer becomes functus officio and has no competence or jurisdiction to pass a supplementary award or to tinker with the award except within the parameters laid down in Section 11-A of the Land Acquisition Act i.e., correction of clerical errors.

4. He further submits that supplemental award is anti-dated after retirement of the incumbent Land Acquisition Officer. According to learned senior counsel, Land Acquisition Officer retired from service on 31.7.1991 and on the same day when the original award was passed, he could not have passed a supplemental award. According to learned senior counsel the copy of the award was received by the petitioners on 3.8.1991 and the Supplemental Award was received on 12.8.1991. In award no. 2 of 1991, after noticing the rival claims for 1/3rd share of compensation determined, directed deposit of 1/3rd amount of compensation i.e., Rs. 4,60,650.98 in the Civil Court and referred the dispute for resolution by the Civil court under Section 30 of the Act.

5. By virtue of the Supplemental Award, the earlier order passed by the Land Acquisition officer in Award No.2 of 1991 was reviewed and, he directed payment of the above amount to the rival claimants. Such action is ex-facie illegal. At any rate, no such decision could have been taken behind the back of petitioners.

6. On plain reading of the order captioned as 'Supplemental Award No. 2.A/91' it cannot be said that it is a Supplemental Award. On a review of the earlier decision to deposit the disputed claim amount in Civil Court while referring the dispute to Civil Court under Section 30 of the Act, the Land Acquisition Officer passed orders, directing release of the said amount. It is appropriate to notice, as fairly submitted by learned senior counsel that the disputed claim amount of Rs.4,60,650.98 was already paid and the reference under Section 30 of the Act is pending. Since, reference is pending, petitioners can as well raise all the pleas as urged in these writ petitions.

8. At this stage, learned senior counsel seeks leave of the Court to raise all the pleas as urged in these writ petitions in the reference pending before the Civil Court under Section 30 of the Act.

9. Having regard to the above submissions, writ petitions are disposed of with the directions as under:

a) It open to the petitioners to raise all contentions as available to them in the pending reference under Section 30 of the Act before the Civil Court, including the further orders passed by the Land Acquisition Officer directing payment of amount of Rs.4,60,650.98 to the rival claimants. In the event of petitioners succeeding in establishing that the rival claimants are not entitled to receive the compensation, it is always open to the petitioners to seek further directions from the Civil Court for recovery of the amounts paid to the rival claimants.

b) Notwithstanding the orders passed by the Land Acquisition Officer, which is called as Supplemental Award No. 2.A of 1991 dated 31.7.1991, the Civil Court shall decide the issue referred to it under Section 30 of the Act on its merits and in the event of petitioners succeed in the said reference, to pass appropriate orders for recovery of amounts already paid to the rival claimants.

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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