

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.3406 of 2016

ORDER:

The Land Acquisition Officer-cum-Revenue Divisional Officer, Nalgonda, who was respondent in E.P.No.40 of 2008 in O.P.No.46 of 1993, maintained the revision, impugning the order dated 28.09.2015 in E.P.No.40 of 2008 on the file of the Senior Civil Judge, Suryapet, in directing to pay Rs.73,46,582/- to the Decree Holders/revision respondents by the Land Acquisition Officer, by issuing fresh attachment of movables by 30.12.2015, if not paid meantime.

2. Heard both sides.

3. The main impugment is against the calculation. Undisputedly, the award of the trial Court that was made final in O.P.No.46 of 1993 dated 17.12.1993, para-27 reads as under:

“In the result this original petition is allowed. The market value of acquired land is fixed at Rs.1,80,000/- per acre i.e., Rs.4,500.00 per gunta.

- i) Entitling the enhanced compensation of Rs.1,74,000.00 per acre ie., Rs.4,350.00 per gunta over and above Rs.6,000.00 per acre., ie., Rs.150.00 per gunta awarded by L.A.O.,
- ii) The claimants are entitled for 30% solatium.
- iii) The claimants are also entitled for 12% P.A., Additional amount from the date of notification dt:03-05-82 till the date of award 23-5-83.

- iv) The claimants are also entitled for interest at 9%PA from the date of taking possession or date of award whichever is earlier, for one year and thereafter for future interest at 15% PA., till the realization of entire compensation amount.
- v) Three (3) months time is granted for deposition of the decretal amount.”

4. From the above, the amount to be shown in the calculation is as follows:

Date of award by the Land Acquisition Officer is on 23.05.1983. compensation awarded by the Land Acquisition Officer per acre is Rs.6,000/- . The enhanced compensation as per the award of the Senior Civil Judge at para-No.27 produced above per acre is Rs.1,80,000/- . Date of the award/ decree of the Senior Civil Judge referred supra, which is because the appeal filed by the Land Acquisition Officer in A.S.No.1143 of 1994 was ended in dismissal on 08.10.2007 confirming the award of the Senior Civil Judge supra is 17.12.1993. Therefrom, the enhanced compensation per acre difference is Rs.1,74,000/- . Consequently for the acquired land of Ac.15.00 cents and odd as per the calculation filed by the D.Hr. as on 02.05.2008 not in dispute by the J.Dr. the market value of the acquired land supra enhanced actual value of the Senior Civil Judge comes to Rs.27,62,250/- . Added to it, 30% solatium thereof comes to Rs.8,28,675/- . The total there from comes to Rs.35,90.925/- . It

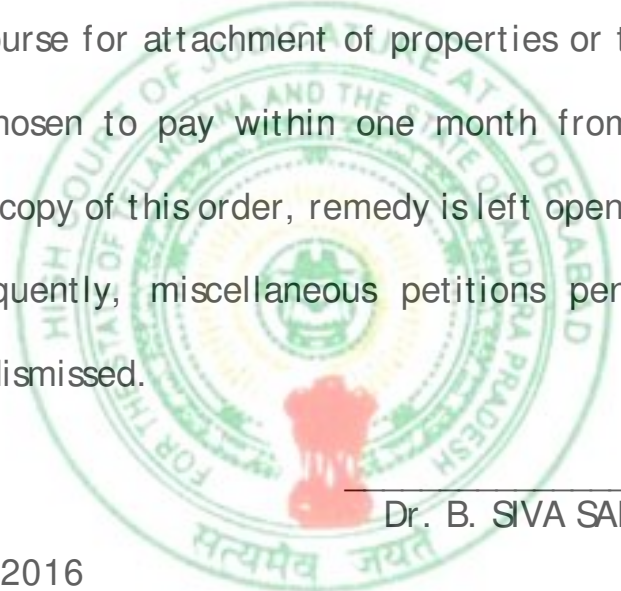
is to mention that as per the very award of the Senior Civil Judge, claimants are also entitled to 12% additional amount from 03.05.1982 to 23.05.1983 (for 1 year 20 days) on enhanced market value of Rs.27,62,250/- comes to Rs.3,49,885/-. Then total principal amount comes to Rs.39,40,810/-. Interest at 9% p.a. from 25.03.1983 for 1 year comes to Rs.3,54,673/-. In total it comes to Rs.42,95,483/- and 15% interest on Rs.39,40,810/- for 10 years comes to Rs.59,11,215+Rs.39,40,810/- =Rs.1,02,06,700/-. From the same, the amount of Rs.31,78,895/- deposited on 31.03.1995 by the Land Acquisition Officer is deducted, it comes to Rs.70,27,805/-, which is due on 31.03.1982. Further interest at 15% p.a. from 01.04.1995 to 30.11.2008 on Rs.42,95,483/- comes to Rs.6,44,322 per year x 14.61 = Rs.94,52,210/- + Rs.70,27,805/- = Rs.1,64,80,015/- - Rs.53,59,267 (amount deposited pursuant to the order of this Court in W.P.No.2033 of 2009) =Rs.1,11,20,750/-. Subsequent interest on the principal amount of Rs.42,95,483/- for 7 years i.e., from 01.12.2009 to 01.12.2016 comes to Rs.45,10,257/-. If Rs.1,11,20,750/- added to the same, it comes to Rs.1,56,31,007/- which is due as on 01.12.2016.

5. It is at this stage, brought to the notice of this Court by the learned Government Pleader that originally Rs.1,66,933/- paid out of the awarded amount that also required to be deducted. Even that can be for nothing stated towards principal,

under the doctrine of appropriation under Sections 59 and 60 of the Indian Contract Act, the D.Hr. is entitled towards interest if same is deducted it comes to Rs.1,54,64,074/- is due from the Land Acquisition Officer representing the Government to the claimants besides interest at 15% p.a. from 01.12.2016 on Rs.42,95,483/- till payment.

6. With the above directions and observations, the Civil Revision Petition is disposed of. No order as to costs. To work out the further rights before the Executing Court in pending E.P. to take recourse for attachment of properties or the like unless the J.Dr. chosen to pay within one month from the date of receipt of a copy of this order, remedy is left open.

7. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.



Dr. B. SIVA SANKARA RAO, J

Date:30.12.2016
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