

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.4548, 8235 and 3783 of 2009

COMMON ORDER:

1. These three writ petitions are being disposed of by this common order as they relate to the acquisition of land for the purpose of mining operations at GDK 6B Section of GDK 6B(1GM).
2. The petitioners are residents of Peddampet village, Kamanpur Mandal, Karimnagar District. They are having lands with structures in the said village. While so, a notification under Section 4 (1) of the Land Acquisition Act was issued on 22.04.2007 and a draft declaration was published on 21.04.2008. An extent of Ac.62.27 guntas was sought to be acquired for the purpose of "Depillaring Operations at GDK 6B Section of GDK 6B (1 GM)". The main grievance of the petitioners is that though the lands of the petitioners were acquired including structures, the structures were not notified in the notification, as a result of which no award would be passed in respect of those structures.
3. It is the case of the respondents that the structures were erected immediately after 4 (1) notification in order to claim more compensation and those structures were not existing as on the date of 4 (1) notification. These writ petitions were filed for including those structures also while making the award.
4. This Court, on 04.03.2009, while admitting the writ petitions, granted interim direction to conduct survey relating to the

acquisition proceedings with reference to the joint survey conducted by respondents 2 and 3 and acquire the houses and pass an award in respect of those structures also. After the interim order, a Memo was issued on 30.05.2009 rejecting the claim of the petitioners by stating as follows:

“In compliance of the above mentioned interim direction of the Honourable High Court of Andhra Pradesh your claim for acquisition of your structures has been examined. It is found that your structures did not exist on that date of Joint Inspection from 06.11.2006 to 13.11.2006. According to Joint Inspection, the draft notification proposals were submitted to the Collector, Karimnagar and they were approved by him vide proc.No.G2/1209/2007 dated 22.04.2007. Draft notification was published on 28.04.2007. You have not filed objections within 30 days from 28.04.2007 i.e., date of publication of draft notification.

Hence, your claim for acquisition of your houses is rejected as the said houses were not in existence on 28.04.2007.”

5. The petitioners in W.P.No.3783 of 2009 filed W.P.M.P.No.11619 of 2010 seeking amendment of the prayer challenging such rejection by stating that the joint survey conducted on 29.01.2008 and 30.01.2008 by the Land Acquisition Unit and the Singareni Collieries Company Limited (SCCL) reveals the structures raised by them. The learned Government Pleader for Land Acquisition produced before this Court a copy of the award passed

on 24.04.2010 in respect of the land acquired except the land covered by the present three Writ Petitions of an extent of Ac.1.12 guntas in view of pendency of the present Writ Petitions. In the award, it is stated that the claim of the petitioners was rejected by issuing a Memo dated 30.05.2009. But, since the present Writ Petitions are pending, no award was passed in respect of the land covered by the present Writ Petitions.

6. Now, the only point that remains for consideration is whether the case of the petitioners for consideration of the structures should be taken into account while passing the award or not?

7. In view of the aforesaid application filed by the petitioners in W.P.No.3783 of 2009 by relying on the joint survey conducted on 29.01.2008 and 30.01.2008, the learned Government Pleader for Land Acquisition was directed to produce the Joint Inspection Report and accordingly he produced the Joint Inspection Report showing the particulars of structures found during 5-A enquiry conducted from 28.01.2008 to 30.01.2008. Learned Government Pleader further submits that in the Joint Inspection Report, 58 structures were noticed and they were included in the draft declaration published on 21.04.2008. But, after publication of the draft declaration, the Sarpanch, Pedampet submitted another list containing 49 applications and since those applications were not submitted within 30 days of publication of draft notification on 28.04.2007, that plea was not considered. In these circumstances only, the Memo dated

30.05.2009 was issued. Be that as it may, the rejection of the claim of the petitioners by blanket order without looking into the said report is not proper.

8. In the circumstances, these three Writ Petitions are allowed by directing the Land Acquisition Officer to consider the Joint Inspection Report conducted on 28.01.2008 to 30.01.2008 and pass an award by giving liberty to the petitioners to submit the relevant documentary evidence, if any, in support of the structures mentioned in the said Joint Inspection Report. Since during the pendency of the present writ petitions, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013) has come into force with effect from 01.01.2014, it is needless to observe that the Land Acquisition Officer shall take into consideration the provisions of the said Act while passing the award. No order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

24-11-2016
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