

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 3827 of 2009

Order:

The petitioner Firm is the absolute owner and possessor of the land in Survey No.273 of Budvel village, Rajendranagar Mandal, Ranga Reddy District. A notification under Section 4(1) of the Land Acquisition Act (for short 'the Act') was published on 13.05.2002 for the purpose of acquiring the land in an extent of Ac.3-02 gts., for the requirement of the third respondent. A declaration under Section 6 of the Act was published on 14.05.2002. Thereafter, the first respondent issued a notice under Sections 9(1), 9(3) and 10 of the Act on 13.11.2002 directing the petitioner to submit claim for compensation. The petitioner submitted a claim on 21.12.2002 along with documents. One Abdul Khadeer, S/o Abdul Lateef whose name was shown in the revenue records as pattadar also filed a claim petition on 15.02.2003. However, the enquiry was not completed and no award was passed. The possession was already with the respondents and they constructed a compound wall. Even though the petitioner is entitled to receive 80% of the market value on the date of taking over possession of the land, no compensation was paid. It is the case of the petitioner that in view of the same, the proceedings of acquisition stood lapsed.

This Court did not grant any interim order restraining the respondents from passing an award.

Now, a counter affidavit is filed stating that the possession of the land was handed over to the third respondent on 09.12.2002 after draft declaration initially. It is stated that in case of advance possession of land

the period of limitation of two years does not apply and the land once acquired for public purpose and vested with the Government cannot be reconveyed to the original owners. It is also stated that the new Act 30 of 2013 is not applicable to the facts of the case. The title of the petitioner was admitted. Though the draft award was prepared and sent to the Collector on 29.12.2005, the same was returned on 05.01.2006. The award was also not approved due to pending clearance from the Urban Land Ceiling Authorities.

Thus, the facts in the case are not in dispute, but what is disputed is the application of the provisions of law.

Learned counsel for the petitioner placed reliance on the decision of the Hon'ble Supreme Court in Soorajmull Nagarmull v. State of Bihar¹, wherein the Hon'ble Supreme Court noticing the inconsistency between the provisions of Section 24(1)(a) of the new Act and Section 11-A of the old Act held that the proceedings stood lapsed and the respondents were directed to initiate fresh acquisition proceedings or take any further action available to them in accordance with law. In the said case possession of land was taken by the respondents on 20.08.1981 after publishing declaration on 25.03.1981. Thereafter, the land was declared as "Protected Forest" and hence proceedings were once again initiated under the Land Acquisition Act by issuing Section 4 Notification on 24.05.1995. However, the second proceedings are annulled by relying on Section 48 of the old Act. Some Writ Petitions were filed and during their pendency an award was published on 27.09.2006 in continuity of 1981 acquisition proceedings. The Hon'ble Supreme Court noticed that

¹ (2015) 10 SCC 270

Section 11-A came into force on 24.09.1984 and no award was passed within two years. After passing of the award as aforesaid new Act 30 of 2013 came into force and the said fact was taken into consideration and the appeals were disposed of in the light of the facts as aforesaid.

In the instant case also the land was taken on 09.12.2002 pursuant to the declaration made on 14.05.2002, but no award was passed and in view of operation of Section 11-A the proceedings stood lapsed.

In the circumstances, the Writ Petition is allowed by declaring that the earlier land acquisition proceedings stood lapsed and the respondents are directed to initiate fresh acquisition proceedings or take any further action available to them in accordance with law within a period of three (3) months from the date of receipt of a copy of this order as laid down by the Hon'ble Supreme Court in Soorajmull Nagarmull's case (supra). There shall be no order as to costs. The Miscellaneous Petitions pending, if any, shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 11.11.2016
Nsr