

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

WRIT PETITION No.27107 of 2008

ORDER:

Challenging the inaction of respondents in not passing an award and paying compensation to the petitioner in respect of an extent of Ac.0.23 cents in Sy.No.10/11, Ac.0.58 cents, Ac.0.64 cents and Ac.0.33 cents in Sy.No.11/8, Ac.0.23 cents in Sy.No.13/5 and Ac.0.27 cents in Sy.No.13/10 of Chengambakkam village, Satyavedu Mandal, Chittoor District even though the said lands were acquired by

1st respondent under the provisions of the Land Acquisition Act, 1894 (for short "the Act"), this Writ Petition has been filed.

2. An extent of Ac.84.49 cents in Chengambakkam village, Satyavedu Mandal, Chittoor District including the above lands were acquired under the provisions of the Act by the A.P.Industrial Infrastructure Corporation for establishment of Industrial Park (Special Economic Zone) in the following manner.

3. A requisition was given by the Zonal Manager, A.P.I.I.C., Tirupati vide letter No.ZO/Tirupati/LA/2006/1/2 dt.23-02-2006 for the above purpose.

4. After receipt of the requisition, draft notification

proposals under Section 4(1) of the Act were submitted to the 2nd respondent. The same were approved by him vide proceedings Roc.No.G2/3666/2006 dt.18-03-2006 and it was also published in the A.P. State Extraordinary Gazette issue No.69/2006 on 18-03-2006. The contents of notification under Section 4(1) of the Act were published in Vaartha and Andhra Bhoomi Telugu daily newspapers on 25-03-2006 and the substance of the notification was also published in the locality on 24-04-2006.

5. Enquiry under Section 5-A of the Act was conducted and since no objections were received, Draft Declaration proposals under Section 6 of the Act were submitted to the 2nd respondent. They were approved by him vide proceedings No.G2/3666/2006 dt.10-11-2006. The Draft Declaration was also published in the A.P. State Gazette No.69/2006 dt.10-11-2006 and its contents were published in Eenadu and Andhra Bhoomi Telugu daily newspapers on 20-11-2006. The substance of the notification was also published on 20-11-2006.

6. Petitioner contends that his paternal grandmother by name P. Venkayamma, W/o.Munaswamy was the owner and pattedar of the following lands in the above village:

<i>Survey Number</i>	<i>Extent</i>
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10/11	Ac.0.23 cents
11/8	Ac.0.58 cents
	Ac.0.64 cents
	Ac.0.20 cents
	Ac.0.33 cents
	Ac.0.27 cents
13/5	Ac.0.23 cents
	Ac.0.27 cents
13/10	Ac.0.27 cents
16/14	Ac.0.41 cents
Total	Ac.3.16 cents

According to the petitioner, his paternal grandmother was issued pattadar pass books and title deeds by the Mandal Revenue Officer, Satyavedu for this land.

7. Petitioner contended that his paternal grandmother died in 2000 and her sole legal heir, petitioner’s father Raghuramaiah died in 2004, and the petitioner succeeded to the above properties. Out of the properties owned by petitioner’s grandmother, in the above land acquisition proceedings, the following extents were notified for acquisition:

<i>Survey Number</i>	<i>Extent</i>
10/11	Ac.0.23 cents
11/8	Ac.0.08 cents
	Ac.0.64 cents
	Ac.0.20 cents

	<i>Ac.0.33 cents</i>
<i>13/5</i>	<i>Ac.0.27 cents</i>
	<i>Ac.0.23 cents</i>
<i>13/10</i>	<i>Ac.0.27 cents</i>

8. Thus, an extent of Ac.2.25 cents out of Ac.3.16 cents belonging to the petitioner's paternal grandmother was notified for acquisition under the above land acquisition proceedings.

9. On 22-11-2006, notices under Section 9(3) and 10 of the Act were issued to the petitioner.

10. Thereafter compensation was paid by 3rd respondent to the petitioner only in respect of Ac.0.20 cents in Sy.No.11/8 and Ac.0.27 cents in Sy.No.13/5. But in respect of other lands of petitioner's grand mother mentioned in para 7 above which were notified for acquisition, no compensation was paid to the petitioner.

11. He therefore filed this Writ Petition seeking payment of compensation by respondents in respect of Ac.0.23 cents in Sy.No.10/11, Ac.0.08 cents (though the petitioner mentioned it as Ac 0.58 cts, only Ac.0.08 cts was notified as a separate bit), Ac.0.64 cents and Ac.0.33 cents in Sy.No.11/8, Ac.0.23 cents in Sy.No.13/5 and Ac.0.27 cents in Sy.No.13/10 (in all Ac.1.78 cents), for

which he has not been paid any compensation.

12. Counter affidavit has been filed by the Sub-Collector, Tirupati stating that Requisitioning Department i.e., APIIC Limited had filed a written consent in Form-V as required under the provisions of the A.P. Land Acquisition (Negotiation Committee) Rules, 1992 to the 2nd respondent and the Chairman of the Negotiation Committee to pass a Consent award through the said Committee under Section 11(2) of the Act. According to him, Form-I notices under the above Rules were issued to all the land owners or persons interested in the lands proposed for acquisition; and all the land owners or persons interested in the land, in response to the notices in Form-I, had agreed for passing a Consent award and given consent in Form-III (Agreement) and Form-IV (Affidavit) to that effect. He also stated that the Award enquiry was conducted from 16-12-2006 to 22-12-2006 at M.P. Elementary School, Chengambakkam duly publishing the notices under Section 9(1) and 10 of the Act and serving notices under Section 9(3) and 10 of the Act on the persons interested. It is also stated that final public notice was also issued in four newspapers calling for objections and thereafter Consent award was passed vide award No.69/2007 dt.18-03-2007. He stated that compensation was paid to the following individuals in respect of other land of Ac.1.78 cents (as mentioned in

para 11 above) claimed by petitioner (which were admittedly shown in the Sec.4(1) notification as owned by petitioner's grandmother) as under:

<i>Sy.No.</i>	<i>Extent</i>	<i>Name of the Awardee</i>	<i>Award amount paid</i>
<i>10/11</i>	<i>0.23</i>	<i>Gogula Gopal, S/o.Chinna Raghavaiah</i>	<i>57,500/-</i>
<i>11/8</i>	<i>0.64</i>	<i>J.Chandraiah, S/o.K.Uppaiah</i>	<i>1,92,000/-</i>
	<i>0.08</i>	<i>J.Chengalamma, W/o.Chandraiah</i>	<i>24,000/-</i>
	<i>0.33</i>	<i>Y.Govindarajulu, S/o.Mangaiah</i>	<i>99,000/-</i>
<i>13/5</i>	<i>0.23</i>	<i>K.Ramesh, S/o.Subramanyam</i>	<i>69,000/-</i>
<i>13/10</i>	<i>0.27</i>	<i>Kummara Murthy, S/o.Subramanyam</i>	<i>81,000/-</i>

Total ... Ac.1.78 cts

He asserted that the petitioner did not file any objection during award enquiry; that petitioner had received the compensation for other patta lands under the same award on 18-03-2007; and that for an extent of Ac.0.41 cents in Sy.No.16/4 of Chengambakkam village also belonging to the petitioner's paternal grandmother

P. Venkayamma, he was paid compensation vide another consent award No.70 of 2007 dt.18-03-2007. He stated that if the petitioner had any interest in the extent of Ac.1.78 cents mentioned in para 11 above, he would have raised an objection at the time of award enquiry. He contended that the procedure laid down in the Act had

been followed and award was passed on 18-03-2007, that possession of the land was taken over and handed over to APIIC Limited on 16-04-2007 and with a delay of 1½ year, the petitioner approached this Court.

13. Thus the respondents blame the petitioner for not raising objection at the time of award enquiry and claiming compensation for the extent of Ac.1.78 cents, for which compensation was admittedly paid by respondents to third parties such as Gogula Gopal and others mentioned above.

14. Section 18 of the Act states:

*“18. Reference to Court.--(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or **the apportionment of the compensation among the persons interested.***

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made,--

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under Section 12, Sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.”

13. Section 30 of the Act states:

“30. Dispute as to apportionment.--When the amount of

compensation has been settled under Section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof, is payable, the Collector may refer such dispute to the decision of the Court.”

14. It is settled law that Section 18 of the Act applies to situations where the apportionment made in the Award is objected to by a beneficiary thereunder and Section 30 of the Act applies when no apportionment whatsoever is made by the Collector on account of conflicting claims. In the latter situation one of the options open to the Collector is to make a reference of the question of apportionment to the Court under Section 30 of the Act. The other is to relegate the parties to the remedy of a suit. (See **Madan and another Vs. State of Maharashtra^[1]**).

15. Now let us see how the issue of apportionment was dealt with by the 3rd respondent in his award.

16. A perusal of the award No.A-69/2007 dt.18-03-2007 of

3rd respondent shows that compensation in respect of Ac.1.78 cents mentioned in para 11 was paid to third parties such as Gogula Gopal and others even though they did not produce any documentary evidence that they are the owners of the said parcels of land particularly when P.Venkatamma, whom the petitioner claims to be his paternal grand mother, was shown as pattadar of the

said land in Section 4(1) notification, the Sec.6 declaration and even the award passed by 3rd respondent. This is indeed shocking and suggests possible collusion by 3rd respondent with the said persons which might amount to even fraud.

17. Thus in respect of Ac.0.23 cents in Sy.No.10/11, Ac.0.08 cents, Ac.0.64 cents and Ac.0.33 cents in Sy.No.11/8, Ac.0.23 cents in Sy.No.13/5 and Ac.0.27 cents in Sy.No.13/10 (in all Ac.1.78 cts) (also shown in the Sec.4(1) notification and Sec.6 declaration as belonging to his paternal grandmother P.Venkayamma), compensation has been paid to other persons and not to the petitioner, but to Gogula Gopal and others.

18. However the title of the petitioner in respect of some of the lands belonging to his paternal grandmother P.Venkayamma had been accepted by the 3rd respondent in respect of the following lands belonging to his paternal grandmother i.e. Ac.0.20 cents in Sy.No.11/2, Ac.0.27 cents in Sy.No.13/5 and Ac.0.41 cents in Sy.No.16/4, and compensation was paid to him.

19. The petitioner has filed copy of the pattadar passbook issued by the revenue department to his paternal grandmother for land admeasuring Ac.0.23 cts in S.No.10/11, Ac.1.25 cts in Sy.No.11/8, Ac.0.50 cts in

Sy.No.13/5, Ac 0.27 cts in Sy.No.13/10 and Ac.0.41 cts in Sy.No.16/14 of the Chengambakkam village. In this pattadar passbook, she was shown as the owner of the above land. This document has not been disputed by the respondents. Under Sec.6 of the A.P.Rights in Land and Pattadar Passbooks Act, 1971, every entry in the record of rights shall be presumed to be true until the contrary is proved. So the title of petitioner's paternal grandmother to the above referred lands of Ac.1.78 cts is *prima facie* proved by petitioner.

20. It is not the case of respondents that petitioner had not made a claim for these lands.

21. In the counter affidavit, the 3rd respondent did not state that he had disclosed to petitioner that there were other claimants to the extents of Ac.1.78 cts mentioned in para 11 supra. If 3rd respondent was aware that there were two rival claims for compensation for the above lands of Ac.1.78 cents described in para 11 above i.e. one by petitioner and the other by a third party such as Gogula Gopal and others, he should have made a reference of the question of apportionment to the Court under Section 30 of the Act or relegated the parties to the remedy of a suit. But he has done neither. He also did not specifically decide that, as between the petitioner and Gogula Gopal and other third party claimants, the claim of Gogula Gopal

and others was superior and valid.

22. However, strangely a plea is raised by respondents that there was a *consent* award in favour of petitioner in respect of some of the lands belonging to his paternal grandmother i.e. Ac.0.20 cents in Sy.No.11/8, Ac.0.27 cents in Sy.No.13/5 and Ac.0.41 cents in Sy.No.16/4 and having accepted the compensation for these items, the petitioner is now precluded from demanding compensation for the extent of Ac.1.78 cents also belonging to his paternal grandmother, in respect of which compensation was paid by respondents to third parties such as Gogula Gopal and others. This contention, even if accepted, may be a ground to decline a prayer for relief to refer under Sec.18 for enhancement of compensation, but cannot be a ground to deny compensation to the petitioner for the land shown to be belonging to his paternal grandmother.

23. In my considered opinion, it was the bounden duty of the respondents to disclose the petitioner that there were other persons claiming compensation for the extent of Ac.1.78 cents shown in para 11 which were shown to have been owned by petitioner's paternal grandmother P.Venkayamma in the Sec.4(1) notification and Sec.6 declaration.

24. In **Ritesh Tewari v. State of U.P.**^[2], the

Supreme Court emphasised that a Writ can be issued to prevent a grave miscarriage of justice and to prevent perpetration of a legal fraud and promote good faith and equity. It declared :

“A writ can be issued only in case of a grave miscarriage of justice or where there has been a flagrant violation of law. The writ court has not only to protect a person from being subjected to a violation of law but also to advance justice and not to thwart it. The Constitution does not place any fetter on the power of the extraordinary jurisdiction but leaves it to the discretion of the court. However, being that the power is discretionary, the court has to balance competing interests, keeping in mind that the interests of justice and public interest coalesce generally. A court of equity, when exercising its equitable jurisdiction must act so as to prevent perpetration of a legal fraud and promote good faith and equity.”

25. In **SAIL v. Sutni Sangam**^[3], the Court observed:

“The Collector (under the Land Acquisition Act, 1894) is a statutory authority. He, therefore, ordinarily must exercise his statutory jurisdiction within the four corners of the statute, although this would not mean that a superior court in exercise of its power of judicial review would be denuded of its power to interfere with an order of reference or issue a direction when the same has unjustly been withheld in appropriate cases, but, such a power as is well known should be exercised only in exceptional situations and subject to the condition that adequate grounds exist therefor.”
(emphasis supplied)

26. Considering the facts of this case and the reasons given by me in paras 16-23, the present case

falls within the exceptional situations where power of judicial review under Art.226 of the Constitution of India needs to be exercised and a direction deserves to be issued to the respondents to pay compensation to petitioner for the extent of Ac.1.78 cts mentioned in para 11 for which he was unjustly denied compensation by the 3rd respondent.

27. Therefore the Writ Petition is allowed and the respondents are directed to pay compensation to the petitioner in respect of Ac.0.23 cents in Sy.No.10/11, Ac.0.08 cents, Ac.0.64 cents and Ac.0.33 cents in Sy.No.11/8, Ac.0.23 cents in Sy.No.13/5 and Ac.0.27 cents in Sy.No.13/10 (in all Ac.1.78 cents) in Chengambakam Village, Satyavedu Mandal, Chittoor District by passing a supplementary award , if necessary, within four (04) months from the date of receipt of a copy of this order as per the Sec.4(1) notification dt.24.4.2006. It is open to the respondents to take appropriate action against Gogula Gopal and others to whom 3rd respondent had paid compensation for these lands, and recover the amounts paid to them, if they so desire. The 1st respondent is further directed to cause an enquiry to be made into the conduct of 3rd respondent in not making a reference under Section 30 of the Act in spite of being aware of the conflicting claim for compensation for the

above lands and for paying compensation to Gogula Gopal and others without any documentary evidence being produced by them in proof of their ownership in respect of the above land. The respondents shall also pay costs of Rs.5,000/- to the petitioner.

28. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 08-07-2016

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[\[1\]](#) (2014) 2 SCC 720

[\[2\]](#) (2010) 10 SCC 677

[\[3\]](#) (2009) 16 SCC 1