

The Hon'ble Sri Justice A.Ramalingeswara Rao

Writ Petition No.20217 of 2009

Date: 07.12.2016

Between:

Vadluri Ashaiah (died) and 16 others

..Petitioners

and

The District Collector, Adilabad District and 2 others

.. Respondents

Counsel for the Petitioners :

Mr.V.Ravi Kiran Rao

Counsel for respondent Nos.1 & 2:

GP for Land Acquisition (TS)

Counsel for respondent No.3:

Mr.N.Indrasena Reddy

The Court made the following:



Order:

The petitioners claim to be the legal heirs of one Vadluri Raja Madiga @ Vadluri Rajam, who is the original pattadar of land admeasuring Acs.13-14 guntas in Survey No.69 of Borda Village, Thiryani Mandal, Adilabad District. The said pattadar died 20 years prior to the date of filing of this Writ Petition and the petitioners succeeded to the said property.

Respondent No.1 issued a notification under Section 4 (1) of the Land Acquisition Act, 1894 (for short 'the Act'), which was published on 24-11-2008, acquiring a vast extent of Acs.255-38 cents of land in Borda Village, Thiryani Mandal, Adilabad District, for the purpose of extension of Khairguda Project. Vadluri Rajam was shown as the pattadar of the said land and the third respondent was shown as the cultivator. The third respondent was cultivating the land on crop sharing basis. The petitioners filed an application on 26-05-2009 before the second respondent for fixing the market value of the land and payment of compensation. When they came to know that the third respondent was claiming compensation, they filed a petition on 10-09-2009 before the second respondent. In view of the same, the second respondent issued a notice to the

petitioner and the third respondent on 31-08-2009 to attend his office for hearing and enquiry on 05-09-2009 at 2.00 p.m. The petitioners could not attend the enquiry because they could not get the required documents by that time. An application was filed on 10-09-2009 by the Counsel for the petitioners seeking 20 days' time for producing the relevant documents. When the petitioners made enquiries in the office of the second respondent, they came to know that the third respondent had filed OS.No.36 of 2002 for declaration of title on the file of the Senior Civil Judge, Asifabad, and obtained an *ex parte* judgment and decree on 01-10-2002. Thereafter, petitioner Nos.2 to 4 filed a petition in June, 2009, to set aside the said *ex parte* decree. The present Writ Petition is filed by the petitioners seeking a direction to the second respondent to pass an award in their favour and pay compensation to them. They have also obtained a certified copy of award, dated 08-01-2010, which shows that the second respondent awarded compensation of Rs.17,75,550/- in favour of the third respondent with the following observations:

“As per the directions of Hon'ble High Court of A.P., Hyderabad, several notices were issued to legal heirs of the deceased pattedar with instructions to produce necessary documents in support of their

claim. Eventhough ample time was given to them, but they failed to produce any document in support of their claim. As per the directions of the Hon'ble High Court, AP, Hyderabad, the award is passed and the purchaser Sri. Ordala Narayana is entitled for sanction of compensation to an amount of Rs.17,75,550/-.

The compensation amount will be paid after disposal of main Writ Petition by the Hon'ble High Court of AP, Hyderabad.”(Emphasis supplied)

Though the aforesaid award was passed on 08-01-2010, in the counter affidavit filed before this Court on 22-01-2010, it is stated that the award would be passed on the basis of evidence and local enquiry, which indicated that as on the date of filing of the counter-affidavit, award was not passed.

Be that as it may. The award was passed in favour of the third respondent on 08-01-2010. Having regard to the dispute regarding the title, the second respondent ought to have deposited the compensation before the Civil Court under Section 30 of the Act, but he has not chosen to do so and had paid the entire compensation to the third respondent contrary to the statement made by him in the award that the awarded amount would be paid only after disposal of the present Writ Petition.

In these circumstances, this Writ Petition is disposed of directing the first respondent to initiate appropriate proceedings for recovery of the amount of compensation paid to the third respondent for acquisition of Acs.13-14 guntas of land in Survey No.69 of Bordham Village, Thiryani Mandal, Adilabad District and deposit the same before the competent Civil Court, which, in turn, shall consider the rival claims of the petitioner and the third respondent and decide their entitlement to compensation. The first respondent shall recommend appropriate administrative action against the Land Acquisition Officer/Revenue Divisional Officer, Utnur, Adilabad District, even if he has retired from service, as per the pension rules. The entire exercise shall be completed within a period of six months from the date of receipt of a copy of this order.

As a sequel to disposal of the Writ Petition, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

(A.Ramalingeswara Rao, J)

Dt: 7th December, 2016
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