

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.8506 of 2007

ORDER:

The petitioner claims that she is the absolute owner and exclusive possessor of land of an extent of Acs.15.32 guntas situated in Survey No.25/A of Mangurla Village, Jainath Mandal in Adilabad District. She claims that the said land was given to her by her father under hiba/gift through a deed dated 06.01.1967. Initially the said land was sought to be acquired for formation of Sathanala Project. But, later it was deleted as there was a dispute with regard to the involvement of the said land in land ceiling proceedings. The Land Reforms Appellate Tribunal – cum – Additional District Judge, Adilabad, passed an order in LRA No.9 of 1983 dated 17.12.1991 deciding the case in favour of the petitioner. Challenging the said order, the Government preferred CRP No.1816 of 1993 before this Court and it was dismissed on 28.11.2000. Against the same SLP was preferred before the Supreme Court. But, it appears that it was returned to the Advocate on 25.03.2009 and it was not refiled as could be seen from the letter of the Additional Registrar & CPIO of the Supreme Court of India dated 12.07.2013. The petitioner has been making representations for payment of compensation and when no action was taken for payment of compensation, the present Writ Petition was filed.

The Revenue Divisional Officer filed a counter affidavit stating that the said land stood in the name of Sri Nizam

Mohinuddin Khan, Rasheed Mohinuddin Khan and Hidayath Mohinuddin Khan, and the petitioner's name was shown as cultivator. The petitioner has been cultivating only an extent of Acs.2.37 guntas and the remaining area is under submergence of Sathanala Project and there is no evidence with regard to the hiba/gift claimed by the petitioner. Since the said land was not included in the declaration under Section 6 of the Land Acquisition Act, no award was passed and hence compensation was not paid. On her representation the District Collector, Adilabad, addressed a letter on 27.11.2014 with regard to the further action to be taken in the SLP filed before the Supreme Court. It is further stated that the land was once Jagir Village and number of persons purchased the lands from jagirdars which was partitioned among the legal heirs of the jagirdars. Since the issue involves several purchasers and their legal heirs, it will take long time. However, soon after the final decision in the case by the Supreme Court, action will be taken.

A separate counter affidavit is filed by the third respondent stating that the Land Acquisition Officer and Revenue Divisional Officer, Adilabad, issued orders on 14.03.1984 deleting the lands in Mangurla Village, except the land in Survey No.35/A from the land acquisition proposals. There was delay of 2027 days in filing the SLP and the file was also misplaced in the office of the Advocate on record. The Principal Secretary to Government, Revenue Department, addressed a letter on 13.02.2014 requesting the Advocate on

record of New Delhi to take steps for filing the SLP. The petitioner did not produce any copy of the judgment of the Tribunal to establish her title to the property.

It is clear from the above facts that an extent of Acs.15.32 guntas situated in Survey No.25/A of Mangurla Village, Jainath Mandal in Adilabad District was initially sought to be acquired for the purpose of Sathanala Project. The said land was subsequently deleted from the acquisition as the issue relating to the land ceiling proceedings were involved and only the land in Survey No.35/A was acquired. However, from the letter of the Mandal Revenue Officer dated 21.10.2001 addressed to the Revenue Divisional Officer, Adilabad, it appears that an extent of Acs.28.04 guntas in Survey No.25 is under submergence leaving only Acs.2.37 guntas for cultivation by the petitioner. The Revenue Divisional Officer addressed a separate letter to the Executive Engineer, MIP Division, Adilabad, asking him to submit requisition in respect of the said land and he issued a memo to the petitioner stating that her claim for compensation will be settled after receipt of orders from the Supreme Court. Now, the SLP filed before the Supreme Court with enormous delay of 2027 days appears to have been returned long back on 25.03.2009 and it was not refiled as on 12.07.2013. The SLP arises out of the proceedings of the Land Reforms Appellate Tribunal which went in favour of the petitioner. Be that as it may, since major portion of land claimed by the petitioner is under submergence, the requisitioning department shall take

necessary steps for sending the proposals to the Land Acquisition Officer and the competent authority for taking appropriate proceedings for acquisition of the land and the payment of compensation would be subject to further orders depending on the eligibility of the petitioner. The payment of compensation cannot be held up merely because a case was pending to be filed before the Supreme Court.

In the circumstances, the Writ Petition is disposed of directing the third respondent to inspect the land claimed by the petitioner and if it comes under submergence, appropriate requisition proposals shall be submitted to the fourth respondent, and the fourth respondent shall take necessary action to proceed in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, irrespective of the fact of unnumbered SLP before the Supreme Court. The entire action shall be completed within a period of six months from the date of receipt of a copy of this order. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

09.11.2016

vs