

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**W.P.No.6079 of 2016**

**ORDER:**

The petitioner herein assails the Award No.B/644/94 dt.12.02.1999 passed by 3<sup>rd</sup> respondent.

2. The petitioner was the owner of land and building situated in premises No.6-2-1011/1 in T.S.No.5/2, Block – A, Ward No.83 of Khairatabad Village, Rajbhavan Road, Hyderabad.

3. A notification under Section 4 (1) of the Land Acquisition Act, 1894 (**for short, ‘the 1894 Act’**) was issued by the District Collector, Hyderabad vide Memo No.D3/3360/96 dt.20.07.1996 proposing to acquire an extent of 59.80 Sq.Yds. along with the building therein situated in the above premises for the purpose of road widening from Dwaraka Hotel to Visveswaraiah Statue at Khairatabad. The said notification was published in the Andhra Pradesh Gazette on 30.07.1996. Declaration under Section 6 of the said Act was approved by the District Collector, Hyderabad on 25.02.1997 and it was published in the Gazette on 06.03.1997. After conducting award enquiry, the 3<sup>rd</sup> respondent passed Award bearing No.B/644/94 dt.12.02.1999 and further referred the matter to a Civil Court under Sections 30 and 31 (2) of the Act in view of disputes among family members of petitioner.

4. The 3<sup>rd</sup> respondent took possession and also laid the road.

5. The petitioner contends that a suit O.S.No182 of 1982, pending between petitioner and his family members, got settled in the year 2013 through a compromise dt.18.06.2013 and under the terms of the said compromise, the premises, which was subject matter of the land acquisition proceedings, was allotted to petitioner and that after the settlement in the Civil Court, he went to the office of 3<sup>rd</sup> respondent to enquire about the records under Sections 30 and 31 (2) of the Act made under the Award dt.12.02.1999 and also to ascertain in which court the compensation amount was deposited, but the respondents were telling him that the file was not traceable. He then applied under the Right to Information Act, 2005 for a copy of the Award dt.12.02.1999 and the same was issued to him on 21.01.2016, but the 3<sup>rd</sup> respondent was not in a position to state whether the compensation amount determined under the said Award was deposited in the Civil Court or not. The petitioner contends that since the said amount of compensation was not deposited in a Civil Court, in view of sub-Section (2) of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Re-settlement and Rehabilitation Act, 2013 (**for short, 'the 2013 Act'**) which

came into force from 01.01.2014, the very proceedings for acquiring the above lands stood invalidated since more than five years had elapsed without depositing of the compensation prior to the passing of the said Act. He therefore contends that respondents have to issue a fresh notification under the 2013 Act since they have already taken possession and utilized the land of petitioner for road widening and they are liable to pay compensation to him under the 2013 Act.

**6.** Counter-affidavit was filed by 3<sup>rd</sup> respondent admitting that award was passed, not on 20.02.1999 as alleged by petitioner, but on 29.04.1999. The contents of both the Award dt.20.02.1999 filed by petitioner and the Award dt.29.04.1999 filed by respondent are identical, except for the difference in date. It is also asserted by 3<sup>rd</sup> respondent that at the time of passing of Award it was brought to the notice of 3<sup>rd</sup> respondent by one Ramlal, through a petition dt.19.01.1999, about a pending dispute among the various persons claiming the property and seeking deposit of the compensation in a Civil Court, and therefore, it was decided to refer the matter to the Civil Court, Hyderabad under Section 30 of the Act and to deposit the compensation amount in the Court under Section 31 of the Act. This fact was also stated in the Award dt.29.04.1999. It is also stated that possession of the land was taken on 19.08.2000. However, a new plea

is raised in the Counter that the Mandal Revenue Officer, Khairatabad, at the time of taking over the possession of the land, noticed that the subject land is a Government Poramboke land and that by a letter No.A3/497/2000 dt.25.08.2000 he informed the 3<sup>rd</sup> respondent that as per computerized Town Survey Register supplied by the Collector, the subject land which is located in T.S.No.5, Block – A, Ward No.83 of Khairatabad Village is recorded as Government Poramboke in Column No.10 and the names, viz., Smt. Premalatha Devi and Smt. Vishku Devi were recorded in Column No.20. It was further stated that the Deputy Director, Survey and Land Records, Hyderabad in another letter No.G/933/2000 dt.08.11.2000 also stated that the land in T.S.No.5/2, Block – A, Ward 83 of Khairatabad Village is Government land. It is therefore asserted that Government cannot acquire its own land and in view of different versions of the TSLR copies, the 3<sup>rd</sup> respondent wrote a letter on 03.01.2001 to the District Collector, Hyderabad District to issue necessary orders to refer the case to City Civil Court, Hyderabad under Section 30 of the Act, making the Mandal Revenue Officer, Khairatabad and the Deputy Director, Survey and Land Records, Hyderabad as parties to defend the interest of Government, but no orders had been received from the Collector, Hyderabad District in this regard. It was also stated that since the land under acquisition was recorded as Government land, the compensation

cheques are withheld and could not be deposited in the City Civil Court, Hyderabad. The 3<sup>rd</sup> respondent also pleaded ignorance of the compromise decree dt.18.06.2013 in O.S.No.182 of 1982 wherein the petitioner alleged that the subject property was allotted to him. It is asserted that the 2013 Act is not applicable, and there is no necessity to issue fresh acquisition proceedings in respect of the subject land.

7. Counsel for the respective parties reiterated the stand taken by their clients.

8. In **Hyderabad Potteries Private Limited v. Collector, Hyderabad District and another**<sup>[1]</sup>, this Court held that an entry made in the Town Survey Land Record *per se* could not create any doubt or cloud on the right, title and interest of a person in respect of any land.

9. The said judgment was confirmed by a Division Bench of this Court in Writ Appeal No.1096 of 2001 and the Special Leave Petition preferred against the said judgment was also dismissed.

10. The said judgment has subsequently been followed in **State of Andhra Pradesh v. Prameela Modi**<sup>[2]</sup> by a Division Bench of this Court. Similar view has been taken by another Division Bench of this Court in **Smt. Sogra Begum and another v. The State of Andhra**

**Pradesh<sup>[3]</sup>.**

**11.** So an entry in the TSLR itself is not conclusive proof of title or lack of it and entries contained in the TSLR cannot be a fountainhead for doubting the right, title or interest of any person in respect of any land. [See **B.N. Manga Devi and another v. The State of Andhra Pradesh<sup>[4]</sup>** and **T. Subhadra v. Municipal Corporation of Hyderabad<sup>[5]</sup>**]

**12.** Therefore, on the basis of mere entry in TSLR, it is not open to respondents to deny the title of petitioner in the subject property, particularly when petitioner has a Civil Court decree in his favour in support of his plea of title.

**13.** It is also not the case of 3<sup>rd</sup> respondent that at any point of time, either prior to passing of the Award in 1999 or even now, other than the TSLR record, there is any other material available with the respondent in support of the claim of respondent that the subject land belongs to Government.

**14.** Before issuing the notification for acquiring the subject land, the District Collector would have examined whether the subject land is Government land or not and then initiated process under the provisions of the Act. So it is not open to his sub-ordinates such as the Mandal

Revenue Officer, Khairatabad or the Deputy Director, Survey and Land Records, Hyderabad to now take a different stand and contend that this acquired land is in fact Government land. Even now, the District Collector, Hyderabad has not filed any counter taking the plea that the subject land is Government land. Admittedly he has not even bothered to respond to the letter dt.03.01.2001 addressed by 3<sup>rd</sup> respondent to him seeking necessary orders to refer the case to a Civil Court under Section 30 of the Act making the Mandal Revenue Officer, Khairatabad and the Deputy Director, Survey and Land Records, Hyderabad as parties, which is admitted in para.5 by 3<sup>rd</sup> respondent.

**15.** It is thus clear that the plea raised by 3<sup>rd</sup> respondent is clearly an after-thought only with a view to deny compensation to petitioner. Therefore, the contention raised by 3<sup>rd</sup> respondent that the property which was acquired under the notification issued under the 1894 Act is not the property of petitioner and that it belongs to the Government, is without any legal basis and is liable to be rejected.

**16.** Admittedly, the Award in question is said to have passed in the year 1999. Sub-section (2) of the 2013 Act states that if an Award has been passed under Section 11 of the 1894 Act five years or more prior to the commencement of the 2013 Act but compensation has

not been paid, the said proceedings would lapse.

**17.** The Supreme Court of India, as held in **Pune Municipal Corporation v. Harakchand Misirimal Solanki**<sup>[6]</sup>, interpreted Section 24 of the 2013 Act and in particular the expression '*compensation has not been paid*' used therein and held that such compensation can be said to have been paid within the meaning of Section 24 only when the Collector or Land Acquisition Officer has discharged his obligation and deposited the amount of compensation in a Civil Court under Section 31 and made that amount available to the interested person to be dealt with as provided in Sections 32 and 33 of the 1894 Act, and that any deposit by the Collector or the Land Acquisition Officer in Government treasury is not equivalent to payment of compensation to the land owners or persons interested.

**18.** In the present case, admittedly there is no deposit in any Civil Court by the respondents to the compensation determined under the Award dt.24.04.1999 passed by 3<sup>rd</sup> respondent. Therefore, the entire acquisition proceedings initiated pursuant to the notification issued by respondent under Section 4 (1) of the 1894 Act on 20.07.1996 is deemed to have lapsed.

**19.** Since the respondents have already taken possession of the land in the year 2000 and have laid a

road thereon and since no compensation had been paid to petitioner till date, the Writ Petition is allowed and respondents are directed to issue fresh notification under Section 11 of the 2013 Act within four (04) weeks from the date of receipt of a copy of this order in respect of the subject land, determine the amount of compensation payable to petitioner under the 2013 Act and pay it to the petitioner within a period of three (03) months from the date of such publication without fail. The respondents shall also pay costs of Rs.5,000/- to petitioner.

**20.** As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

---

**JUSTICE M.S.RAMACHANDRA RAO**

Date: 27-04-2016

Ndr/\*

---

[\[1\]](#) 2001 (3) ALD 600

[\[2\]](#) 2005 (4) ALD 105

[\[3\]](#) 2002 Suppl (1) ALD 539

[\[4\]](#) 2011 (6) ALT 34

[\[5\]](#) 2014 (3) ALD 524

[\[6\]](#) (2014) 3 SCC 183