

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.5353 of 2010

ORDER:

It is the case of the petitioner that a notification was published in Andhra Bhoomi Telugu daily, Kadapa Edition, on 04.10.2006 to acquire various lands including the land in Survey No.137 of Bukkapatnam Village of Kondapur Mandal for construction of Galeri Nagarri Sujala Sravanthi-II Project. In the said notification the name of the third respondent was shown as the owner in respect of the land, whereas the petitioner claims that the land is owned by him. The petitioner submitted an application to the first respondent under Section 31(2) of the Land Acquisition Act requesting him to deposit the compensation amount in the civil Court. The land sought to be acquired is an extent of Acs.2.51 cents. When no action was taken, the present Writ Petition was filed.

This Court, by order dated 09.03.2010, directed the first respondent not to disburse the amount, if any payable under the award, either to the petitioner or to respondent Nos.2 and 3. Seeking vacation of the said order the Government filed W.V.M.P.No.2118 of 2012 stating that there is a title dispute between the petitioner and respondent Nos.2 and 3 in respect of the said land and the petitioner filed O.S.No.204 of 2006 on the file of the learned Junior Civil Judge, Jammalamadugu, for declaration of his title. He also filed an application for temporary injunction and an order was passed on 05.04.2007

directing the respondents therein to maintain *status quo* with regard to payment of compensation in respect of the suit schedule property. In view of the said order of *status quo*, the award enquiry could not be completed. The petitioner filed the present Writ Petition suppressing the said fact of pendency of the suit. No award is passed till today as the parties have not settled the matter. Another W.V.M.P.No.1205 of 2015 was filed by the second respondent seeking vacation of the interim order passed by this Court stating the pendency of the civil suit between the parties. However, it is stated that the petitioner failed to appear in the suit and the suit was dismissed for default on 25.01.2010. Thereafter the petitioner filed I.A.No.107 of 2011 for setting aside the order of dismissal for default and for restoration of the suit. The said application was undergoing several adjournments.

It is clear from the above averments that the first respondent issued the notification for acquiring the land of an extent of Acs.2.51 cents in Survey No.137 of Bukkapatnam Village of Kondapur Mandal in Kadapa District for construction of Galeri Nagarri Sujala Sravanthi-II Project. The award enquiry could not be completed in view of the pendency of O.S.No.204 of 2006 on the file of the learned Junior Civil Judge, Jammalamadugu, which was dismissed for default on 25.01.2010. I.A.No.107 of 2011 was filed seeking restoration of the said suit. Now the present Writ Petition is filed claiming compensation for the said land. In view of the dispute between

the petitioner and respondent Nos.2 and 3 claiming title to the land, it cannot be held that any of the parties are entitled for the compensation and it is for the competent civil Court to decide the entitlement. However, this would not stop the first respondent from going ahead with the land acquisition proceedings. In the meanwhile, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, came into force and the first respondent has to take into consideration the said provisions.

In the circumstances, the Writ Petition is disposed of directing the first respondent to take further steps in accordance with law and deposit the amount of compensation in the competent civil Court in order to enable the rightful owner to claim the compensation amount.

The Writ Petition is, accordingly, disposed of. 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)

01.11.2016
vs