

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

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WRIT PETITION No.29045 of 2016

ORDER:

Vide present petition, petitioner seeks Mandamus directing respondent Nos.1 to 4 to notify and pay compensation in respect of petitioners' land in survey Nos.29, 34 and 39 in all admeasuring Ac.1-70 cents situated at Vikarabad Town, Vikarabad Mandal, Ranga Reddy District, in accordance with the provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'Act 30 of 2013').

2. In the writ affidavit, it is stated that petitioners 2 and 3 are the functionaries of petitioner No.1 viz., Methodist Church in India, Hyderabad Regional Conference. The petitioners are the true and absolute owners of the land in survey No.29 admeasuring 33 cents, survey No.34 admeasuring 11 cents and survey No.39 admeasuring Ac.1.26 cents, in all admeasuring Ac.1.70 cents of dry land situated at Vikarabad Village, Ranga Reddy District. The petitioners are in possession of said lands for more than 50 years. There are houses and structures in survey Nos.29 and 34 and the 3rd petitioner is running a hospital in the name of 'Crawford Memorial Hospital' under the control and supervision of petitioner No.1.

3. It is further stated that the respondents initiated acquisition proceedings under the provisions of Land Acquisition Act, 1984, for the purpose of construction of approach road to Road Over Bridge at Vikarabad vide 4(1) Notification dated 15.01.1990 and the same was published in the then A.P. Gazette No.58. In pursuance of said notification, possession of said lands was taken over by the Land Acquisition Officer on 08.01.1993 and road was also laid.

4. The petitioners challenged the said acquisition proceedings by way of filing W.P.No.1007 of 1993 before this Court. Initially, this Court admitted the writ petition and granted *status quo* order, but subsequently, the *status quo* order was vacated and the respondents were directed to

pay compensation in respect of 11 cents of land in survey No.34 and in respect of lands in other survey numbers, respondents were directed to decide the title. Despite the said order, no compensation was paid even in respect of acquired land in survey No.34 till date.

5. It is further stated that after disposal of W.P.No.1007 of 1993, instead of passing award and referring the matter under Section 30 of the Act, the respondents issued Memo No.1657/R-II-2/93-2 dated 23.12.1993 withdrawing the acquisition proceedings in respect of survey Nos.29 and 33 by exercising powers u/s.48 of the Land Acquisition Act, 1894, on the premise that said lands belong to government. The withdrawal notification was also published in Andhra Pradesh Gazette on 10.01.1994.

6. Feeling aggrieved thereby, petitioners preferred W.P.No.5478 of 1997 before this Court challenging the withdrawal notification and vide order dated 02.12.2004 this Court quashed the withdrawal notification with costs of Rs.5,000/- payable to the petitioners herein. Challenging the same, the respondents preferred Writ Appeal No.667 of 2005 and a Division Bench of this Court vide judgment dated 29.10.2015 dismissed the appeal affirming the order passed by the learned Single Judge in W.P.No.5478 of 1997. The same has attained finality. It is further stated that the petitioners after waiting for considerable period, got issued a legal notice through their counsel on 09.02.2016 to respondent Nos.1 to 4, however, till date no steps have been taken. Hence, this writ petition.

7. Learned Government Pleader for Land Acquisition takes notice for respondent Nos.1 to 3 and learned Government Pleader for R & B takes notice for respondent No.4.

8. Ms.Sridevi, learned Government Pleader, on instructions, submits on behalf of respondent Nos.2 and 3 that respondent No.3 has written a letter to the District Collector, Ranga Reddy District, seeking clarification as to whether the lands are to be acquired under GO Ms.No.123 dated 30.07.2015 or under Act 30 of 2013. However, till date, no final decision is being taken.

9. The fact remains that the lands of the petitioners were acquired vide notification dated 15.01.1990 and possession of the same was taken on 08.01.1993. Said lands were acquired for the purpose of approach road for Road Over Bridge at Vikarabad. Thereafter, the respondents have taken 'U' turn by withdrawing the acquisition vide notification dated 10.01.1994 in respect of part of the acquired land and the same was challenged by the petitioners in W.P.No.5478 of 1997 wherein the petitioners were succeeded. The respondents challenged the same in Writ Appeal No.667 of 2005 wherein also the respondents could not succeed and the appeal was dismissed on 29.10.2015 i.e. almost one year ago. Even during this period also, the second respondent could not take decision and convey to respondent No.3. As stated by the learned Government Pleader for Land Acquisition, the request has to be sent by respondent No.4 only thereafter the respondent No.2 will take possession and respondent No.3 will proceed further for awarding compensation. This fact has not been disputed by the learned Government Pleader appearing for respondent No.4. It is pertinent to mention here that inspite of petitioners issuing a legal notice on 09.02.2016 to wake up the respondents, no decision is taken by the respondents.

10. In view of the facts narrated above and the judgments passed in writ petitions as well as the writ appeal, I hereby direct the respondents to take steps and pay compensation along with interest, in accordance with law, to petitioners within three months from the date of receipt of a copy of this order. It is made clear that if the respondents fail to pay compensation to the petitioners within three months, as directed by this Court, the petitioners are entitled for interest @ 18% per annum on delayed payment.

11. Accordingly, the Writ Petition is allowed. No order as to costs.

12. Miscellaneous petitions pending in the writ petition, if any, also stand closed.

SURESH KUMAR KAIT, J

30th August, 2016.

Note : Issue C.C. in a week.
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