

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.14494 OF 2005

Date 12.07.2017

Between:
Nagelli Laxma Reddy.

... Petitioner

AND

The District Collector, Ranga Reddy District and
others

.....Respondents



HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.14494 of 2005

ORDER:

Petitioner claims that his father, who died about 40 years ago, was the owner of land admeasuring Ac.0.36 gts in Sy.No.13 situated at Daberpur Village, Medchal Mandal, Ranga Reddy District. Notification dated 05.02.1977, under Section 4(1) of the Land Acquisition Act, 1894 (for short 'Old Act'), was issued proposing to acquire land admeasuring Ac.2.12 gts. in Sy.Nos.13 and 757 and also Section 6 declaration was issued on the same date (i.e. 05.02.1977). Sri B.Narasaiah, pattedar of land admeasuring Ac.1.16 gts in Sy.No.757, filed W.P.No.2059 of 1995 complaining non-payment of compensation; the said writ petition was disposed of on 17.10.1998 with a direction to pass award and pay compensation to the beneficiaries; award came to be passed on 27.08.2002, in respect of land in Sy.No.13 as well as land in Sy.No.757, which was the subject matter in W.P.No.2059 of 1995; the present writ petition has been filed alleging that, at no point of time, the petitioner was put on notice; while Section 4(1) notification is dated 05.02.1977, followed by Section 6 declaration, on the same date 05.02.1977, award was passed on 27.08.2002 which was hit by the provisions of Section 11-A of Old Act; the petitioner continues to be in possession of land as on date; and, in as much as the

award being illegal, land acquisition proceedings are liable to be declared as null and void.

In the counter affidavit filed by the respondents, the fact that draft notification and draft declaration have been published on 05.02.1977 is admitted. It is averred that notices, under Sections 9(1), 9(3) and 10 of Old Act, were issued to the owners and interested persons on 10.02.1977 inviting claims and objections; as per revenue records, notices were issued to Sri N.Bal Reddy, who was shown as pattedar; Tahsildar, Medchal, conducted survey on 14.06.1979, allotted plots and patta certificates were issued to the beneficiaries; however, beneficiaries could not construct houses on the plots allotted to them and, as such, the land was kept vacant; pursuant to the orders of this Court in W.P.No.2059 of 1995, award was passed and compensation was paid to the petitioner in W.P.No.2059 of 1995; and as the petitioner herein did not turn up to receive compensation, the same was not paid to him.

While admitting Writ Petition, this Court granted stay of dispossession on 06.07.2005. By order dated 20.06.2008, this Court modified the interim order dated 06.07.2005 to the one of *status quo* obtaining as on that day regarding possession.

Having considered the material on record, the award came to be passed beyond two years of Section 6 declaration is not disputed, and the same is admitted.

Section 11-A of Old Act reads as under:

11-A. Period shall be which an award within made. –

The Collector shall make an award under section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceeding for the acquisition of the land shall lapse:

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984 (68 of 1984), the award shall be made within a period of two years from such commencement.

Explanation - In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded.]

The legal effect of making an award beyond the period of two years of Section 6 declaration is a nullity. It has been settled by the Supreme Court in **Laxman Pandya v. State of Uttar Pradesh**¹; **Mulchand Khanumal Khatri v. State of Gujarat**²; and **Singareni Collieries Co. Ltd v. Vemuganti Ramakrishan Rao**³.

In view of the law declared by the Supreme Court, land acquisition proceedings, under Section 4(1) of Old Act, cannot be further proceeded with and liable to be declared as nullity on account of simultaneous publication of notification under Section 4(1) of Old Act and Section 6 declaration which is contrary to the scheme of Old Act as also award being passed beyond two years period of Section 6 declaration. Section 24(2) of Right to Fair Compensation

¹ 2011(14) SCC 94

² 2012(5) SCC 365

³ 2013(8) SCC 789

and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short '2013 Act'), stipulates that award, under Section 11 of the Old Act, has been made five years or more prior to the commencement of the Act but the physical possession of the land has not been taken or compensation has not been paid, the proceedings shall be deemed to have been lapsed, and as possession has since not been taken or compensation not paid or deposited before the Civil Court, acquisition proceedings initiated, under Section 4(1) notification dated 05.02.1977, Section 6 declaration dated 05.02.1977, gets vitiated and are declared as null and void.

The Writ Petition is, accordingly, allowed. However, liberty is given to the respondents to initiate proceedings under 2013 Act if the land is required for any public purpose. Miscellaneous petitions pending, if any, in the writ petition shall stand closed. No order as to costs.

CHALLA KODANDA RAM,J

Date: 12.07.2017
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