

HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.1235 OF 2007

Date 30.11.2017

Between:

P.Ramanaiah

... Petitioner

AND

The District Collector, Nellore District and others.

.....Respondents



HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.1235 of 2007

ORDER:

This Writ Petition is filed to declare the inaction of respondents, in incorporating correct extent in respect of Sy.No.333/5, and incorporate the name of petitioner in respect of lands admeasuring Ac.0.84 cents in Sy.No.319/1, Ac.1.04 cents in Sy.No.323/3, Ac.3.00 in Sy.No.335/3, Ac.0.25 cents in Sy.No.333/5 and Ac.0.54 cents in Sy.No.335/3 situated in Menakur Village, Nayudupet Mandal, Nellore District, as being illegal and arbitrary.

Brief facts of the case, according to the petitioner, are that the petitioner is owner and possessor of lands admeasuring Ac.0.84 cents in Sy.No.319/1, Ac.1.04 cents in Sy.No.323/3, Ac.3.00 in Sy.No.335/3 and Ac.0.25 cents in Sy.No.333/5 situated in Menakur Village, Nayudupet Mandal, Nellore District. Petitioner states that, while the lands in Sy.Nos.319/1 and 323/3 were purchased by his grand father under a registered sale deed dated 13.11.1946, he is the owner of lands in Sy.Nos.333/5 and 335/3, as is evident from the copy of the settlement of village issued by the District Revenue Officer, Nellore. Respondent No.1 issued notification under Section 4(1) of the Land Acquisition Act, 1894, on 22.07.2006. Petitioner filed W.P.Nos.18236 of 2006 and 813 of 2007 which are pending adjudication before this Court. While the name of petitioner's grandfather has been

mentioned in both the columns of pattadar and enjoyer, in Form 2-A notification, but, in Form 5A, petitioner's grandfather's name was mentioned in the pattadar column and, in the enjoyer column, the name of third parties has been mentioned. Instead of mentioning petitioner's name, the names of third parties have been entered in respect of Sy.No.323/3; and Sy.No.335/3 itself is not mentioned in the notification stating it as government land. In so far as Sy.No.333/5 is concerned, the extent of Ac.0.25 cents was wrongly mentioned as Ac.0.54 cents and, instead of petitioner's name, the names of third parties were mentioned and correct extent has been mentioned in Form 5-A. Petitioner submitted his objections pursuant to 5A enquiry on 13.11.2006 and 27.11.2006. Respondents issued notices under Sections 9(3) and 10 of the Act and they are ready to pass award.

On 19.04.2007, this Court, while admitting the writ petition, granted stay of dispossession of the petitioner, if not already dispossessed, for a period of eight weeks from that day. The interim order was not extended thereafter.

Today, when the matter is being heard finally, learned Government Pleader for Land Acquisition made available a copy of the order, in W.P.No.18236 of 2006 dated 10.06.2011, wherein the petitioner herein questioned the very same notification dated 22.07.2006 with regard to the lands admeasuring Ac.1.65 cents in Sy.No.319/2 and Ac.0.25 cents

in Sy.No.333/6 of Menakur Village, Nayudupet Mandal, Nellore District.

Counter affidavit has been filed by the respondents, in the said writ petition, stating that petitioner attended award enquiry but failed to produce documentary evidence in support of his claim over the lands in question and, therefore, award was passed on 15.12.2006.

This Court, while observing that the petitioner had participated in award enquiry after filing the writ petition and, award has since been passed, dismissed the writ petition on 10.06.2011.

Learned Government Pleader for Land Acquisition passed on written instructions from respondent No. 2- Revenue Divisional Officer, Naidupet SPSR Nellore District, wherein it is stated that the Zonal Manager, APIIC, SPSR Nellore District, vide his letter dated 06.07.2006, sought acquisition of Ac.120.02 cents in Sy.No.302 of Menakur Village, that notification under Section 4(1) of the Act was published in the newspapers on 25.07.2006, that Form I notices have been issued to all the land owners or interested persons, that out of total extent of Ac.103.22 cents, 22 land owners/interested persons have given their consent for an extent of Ac.96.74 cents, that consent award was passed in respect of the said extent, that compulsory award was passed for the balance extent of Ac.5.61 cents as the owners/persons interested had not given consent, that during negotiations,

interested persons/land owners agreed for Rs.2,25,000/- under package deal and that compensation was apportioned and payment was made in respect of Sy.Nos.319/1, 323/3 and 333-5.

It is further stated in the instructions that, as per award No.35/2006-07 dated 23.12.2006, the land in Sy.No.319-1, of an extent of Ac.0.84 cents, stands in the name of Kavali Erraiah, that Sri Alavala Suresh and Sri Chillakur Rajagopal purchased Ac.0.42 cents each and compensation has been paid to them. In respect of Sy.No.323/3, admeasuring Ac.1.04 cents, on the objection of Sri Gampala Rahuramaiah, compensation was deposited in the Civil Court. In relation to the land in Sy.No.333/5, admeasuring Ac.0.25 cents, it was purchased by Sri Penumadi Praneeth S/o. Mohan Rao vide document No.557/2006 dated 10.04.2006 of Sub-Registrar, Naidupet and, hence, petitioner has no right and title. The land in Sy.No.335/3, admeasuring Ac.0.54 cents, is a government land classified as 'Gayalu' and, as such, petitioner has no right to claim the government land.

During award enquiry, petitioner failed to establish his right and title over the lands and he failed to produce any documentary evidence in support of his claim and payment was made to the rightful owners.

It is stated that petitioner's son, Sri P.Sekhar, filed W.P.No.813 of 2007 and the said writ petition was dismissed for non-prosecution on 13.04.2007. Petitioner's father,

Sri P.Venkataiah, filed W.P.No.1275 of 2007 which was dismissed on 13.02.2007, observing as under:

“The petitioner claims that the agricultural land admeasuring Acs.33 in survey No.331/1 and Acs.2.51 in survey No.331/4 situated at Menakur village of Nayudupet Mandal in Nellore District was assigned to his grandfather by the erstwhile Raja of Venkatagiri. The first respondent issued notification on 22.7.2006 for acquiring the land under the Land Acquisition Act, 1894 (the Act, for brevity) including the land in survey No.331 for the purpose of Andhra Pradesh Industrial Infrastructure Corporation (APIIC). The petitioner alleges that in January 2007, third respondent along with his subordinate staff came to the land and informed that the petitioner will be dispossessed. Aggrieved by the same, the present writ petition is filed.

The matter was initially listed on 25.1.2007 and is being adjourned from that date to enable the learned Assistant Government Pleader for Revenue (General-A) to get instructions. Today, after getting instructions, he submits that the petitioner is not concerned with the land comprised in survey No.331 and the Sub-Collector, Gudur, has already passed award under the Act. Therefore, the grievance of the petitioner cannot be redressed. If the petitioner disputes land acquisition proceedings, he has to seek reference under Section 30 of the Act or to approach the Land Acquisition Officer and stake his claim for compensation. In the absence of the same, redressal of the grievance of the petitioner, in this writ petition, would not be proper.

The writ petition, with the above observations, is accordingly dismissed. No costs.”

In the instant case, writ petition has been filed on 30.08.2007 after the award has been passed on 23.12.2006. Petitioner himself filed W.P.No.18236 of 2006; his son filed W.P.No.813 of 2007; his father filed W.P.No.1275 of 2007; and all the writ petitions were dismissed.

W.P.No.18236 of 2006 filed by the petitioner was dismissed observing as under:

“Inasmuch as the petitioner has already participated in the award enquiry after filing of the writ petition and an award has already been

passed, no cause survives for adjudication in the writ petition at this stage.”

As the petitioner participated in the award enquiry, and as award has been passed on 23.12.2006, no cause survives for adjudication in the writ petition

The Writ Petition is, accordingly, dismissed. However, in the circumstances, without costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Dt:30.11.2017
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KONGARA VIJAYA LAKSHMI, J