

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE DR JUSTICE SHAMEEM AKTHER**

Writ Appeal No.1616 of 2012

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

Heard the learned Government Pleader for Land Acquisition and Sri J.Venkateswara Reddy, learned counsel for the respondent-writ petitioner. This appeal, under Clause 15 of the Letters Patent, is preferred against the order of the learned Single Judge in W.P.No.24929 of 2011 dated 18.09.2012.

Facts, to the limited extent necessary, are that an extent of Ac.0.36 guntas of land in Survey No.598 and an extent of Ac.1.24 guntas in Survey No.597 was sought to be acquired by the Government. A notification under Section 4(1) of the Land Acquisition Act, 1894 (for short "the Act") was issued on 16.03.1979, and possession of the said land was taken on 11.07.1980. While an award was passed with respect to Ac.0.36 guntas of land in Survey No.598 on 22.09.1986, no award was passed with respect to the land in Survey No.597 of an extent of Ac.1.24 guntas till 25.03.2011. The justification put forth by the Land Acquisition Officer, for his failure to pass an award till 25.03.2011, is that they received a representation from the authority under the Urban Land (Ceiling and Regulation) Act, 1976 that the subject land was surplus land vested in the State Government; and it is only after 27.03.2008, when the Act stood repealed in the then State of Andhra Pradesh, was action taken to pass an award on 25.03.2011.

In the order under appeal the Learned Single Judge, after referring to the judgments of the Supreme Court in **Smt. Bailamma @ Doddabailamma (Dead) and others vs. Poornaprajna House**

Building Cooperative Society and others¹, Sri R.Kolandaivelu vs. Govt. of Tamil Nadu² and Madishetti Bala Ramul (Dead) vs. Land Acquisition Officer³, held that, while advance possession having been taken may make the provisions of Section 11-A of the Act inapplicable and acquisition proceedings may not lapse on failing to make an award within the prescribed period, the award was passed belatedly; the object behind Section 11-A of the Act was to cut-short the abnormal delay in passing the award by the Land Acquisition Officer; if no time is fixed, steps have to be taken within a reasonable time; and, in the present case, the inordinate delay of 3 decades in passing the award cannot be countenanced by any stretch of imagination so as to allow the award wherein compensation is fixed at Rs.7,500/- per acre basing on the notification issued under Section 4(1) of the Act on 16.03.1979. The writ petition was allowed, and the respondents were directed to notify the lands afresh and pass an award after issuing a notification under Section 4(1) and a declaration under Section 6 of the Act.

While the Learned Single Judge has agreed with the submission of the learned Government Pleader, relying on ***Satendra Prasad Jain and others vs. State of U.P. and others⁴***, that in cases where advance possession of the land is taken the provisions of Section 11-A of the Act are inapplicable, the Writ Petition was allowed on the ground that, even in such circumstances, inordinate delay and laches on the part of the Land Acquisition Officer in passing an award from the date on which the notification under Section 4(1) of the Act is issued, would justify the award being set aside. The Supreme Court, in ***Soorajmull Nagarmull vs. State of Bihar⁵***, has held thus:

¹ 2006(2) SCJ 67

² (2010) 2 SCC 97

³ (2007) 9 SCC 650

⁴ (1993) 4 SCC 369

⁵ (2015) 10 SCC 270

“....We therefore conclude that the actions of the Respondent State have denied the Appellant just and fair compensation as envisaged and postulated in the L.A. Act, for its land from which it was dispossessed well over three decades ago. The 1981 acquisition is accordingly set aside for non-compliance with the provisions of Section 11A of the L.A. Act. We must hasten to reiterate the submission made by the learned Solicitor General to the effect that Section 11-A, or the necessity to pass an Award, is not necessary in view of the exposition of the law in *Satendra Prasad Jain*. We may adumbrate, since it already been discussed by us in detail in *Laxmi Devi*, that the ratio of the Three judge bench in *Satendra Prasad Jain* is confined to the proposition that the errant Respondent State is precluded from endeavouring to have the acquisition set aside for its own failure to carry out compliance with Section 11-A, and that once possession has been taken by the State under Section 17 of the LA Act, it is no longer open to the State to relinquish or return the land to the legal entity who had been dispossessed from it. Accordingly, we refrain from passing any orders or directions interfering with the possession of the Respondent State over the subject land...”

We are satisfied that an award passed on 25.03.2011, with respect to lands notified for acquisition under Section 4(1) of the Act on 16.03.1979, is unduly belated, and has deprived the land owner of the compensation which he is entitled to receive. Even otherwise in an intra-court appeal, under Clause 15 of the Letters Patent, interference is justified only if the order under appeal suffers from a patent illegality. We find no such infirmity in the order under appeal.

The Writ Appeal is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(DR. SHAMEEM AKTHER, J)

15th February, 2017
JSU

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Date: 15.02.2017

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