

HONOURABLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.27229 OF 2006

ORDER.

This Writ Petition is filed questioning the inaction of the first respondent in referring the dispute under Section 30 of the Land Acquisition Act to the Civil Court in respect of 1/5<sup>th</sup> share of compensation awarded for an extent of Ac.0.07 cents in S.No.331-10, Ac.5.49 cents in S.No.333-1; Ac.0.29 cents in S.No.333-4, Ac.0.25 cents in S.No.333-5; Ac.0.53 cents in S.No.333-7; and Ac.5.54 cents in S.No.333-8, total Ac.14.17 cents of dry land situated in Menakur village, Naidupet Mandal, Nellore District which is acquired by the first respondent for the purpose of constructing an Industrial Park as illegal and arbitrary.

The facts of the case, according to the petitioner so far as they are relevant for the purpose of this Writ Petition are that 1<sup>st</sup> respondent issued a notification under Section 4 (1) of the Land Acquisition Act for acquiring the petitioner's land. In the said notification, under the pattadar column, the name of the petitioner's elder brother G.Venkata ramanaiah was shown. Similarly, under the enjoyer column also, his name has been shown and subsequently, declaration under Section 6 of the Land Acquisition Act was issued on 31-8-2006. In the said declaration, the name of the petitioner's elder brother G.Venkata Ramanaiah was shown under the pattadar column and the names of the respondents 2 and 3 were shown under enjoyer column. G.Venkata Ramanaiah and three others are the natural brothers and their father was one Gampala Narasimham. The

petitioner's father G.Narasimham and the petitioner's elder brother G.Venkata Ramanaiah and the rest of the brothers including the petitioner constituted members of a Hindu Joint Family. The said Hindu Family owns and possesses various lands including the above said land purchased in the names of the brothers and father and the said properties were being treated as the joint family properties. The petitioners father G.Narasimham submitted a declaration under A.P.Land Reforms Act of 1973 on 10-4-1975 showing the lands and also the names of the members of the family. No partition has been taken place and based on the declaration, the Land Reforms Tribunal passed appropriate orders. In the said properties, petitioner has got 1/5<sup>th</sup> share. The petitioner submitted a petition on 27-2-2006 to the Mandal Revenue Officer Nellore District, for effecting survey and fixing the boundaries. The petitioner's father died about eight years back. No notice was served on the petitioner while conducting enquiry. On enquiry, petitioner came to know that respondents 2 and 3 obtained sale deeds in their favour from his elder brother G.Venkata Ramanaiah in respect of about Ac.19.00 of land which also comprises the land of Ac.14.17 cents which were acquired by the first respondent. Notice was issued to respondents 2 and 3 on 23-11-2006 requesting them not to pay the compensation to the extent of 1/5<sup>th</sup> share of the petitioner, to respondents 2 and 3. Petitioner also got issued another notice on 10-12-2006. 1<sup>st</sup> respondent, without considering the legal notices issued by the

petitioner, is taking steps to pay the entire compensation to respondents 2 and 3.

Counter affidavit has been filed by the respondent No.1.

In the counter affidavit, inter alia, it is stated that an extent of Ac.0.07 cents in S.No.331 of 2010 was acquired vide award No.34/2006-2007 dated 23-12-2006 and the remaining lands were acquired vide award No.35/2006-07 dated 23-11-2006 for establishment of Industrial Park on the requisition filed by the Zonal Manager, APIIC Ltd., Nellore. In respect of land of Ac.0.07 cents, compensation amount was ordered to be kept in Civil Court Deposit as nobody filed claim for the lands. During award enquiry, Sri Gampala Raghuramaiah son of Narasimhulu has filed objection petition to pay 1/5<sup>th</sup> share of compensation amount, since he claims that the above lands were held jointly. The objection of the objector was that the lands were held jointly and hence, Gampala Venkata Ramanaiah has no right to sell the land. The contention of the Objector was perused and the records were verified as per Section 10 (1) account, Gampala Venkata Ramanaiah has purchased the land in the year 1966. The buyer was also issued pass book and title deed. There was no objection from the objector at the time of issue of pass book and title deed to Gampala Venkata Ramanaiah and he sold the above lands on 12-4-2006. The contention of the petitioner/objector is that he filed his claim petition during the award enquiry for the land of Ac.1.90 cents in S.No.331-12 only.

This Court while admitting the writ petition on 4-1-2007, granted interim direction as prayed for.

On receipt of copy of the interim directions, 1/5<sup>th</sup> share was deducted and kept in revenue deposits and the remaining amount was ordered to be paid vide proceedings dated 29.1.2007 to respondents 2 and 3. Compensation with regard to land in S.No.331/10 of an extent of Ac.0.07 cents was ordered to be kept in Civil Court Deposit.

According to the petitioner, when the amount of compensation has been settled under Section 11, if any dispute arises as to the apportionment of the same is payable, the Collector may refer such dispute to the decision of the Court.

Section 30 of the Land Acquisition Act, 1894 reads as follows:

*"Dispute as to apportionment.-When the amount of compensation has been settled under Section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof, is payable, the Collector may refer such dispute to the decision of the Court."*

In view of the facts and circumstances of the case and in view of Section 30 of the Land Acquisition Act, 1894, I feel it appropriate to direct the first respondent to refer the matter to the Civil Court.

In the result, this Writ Petition is allowed directing the 1<sup>st</sup> respondent to refer the matter to the Civil Court under Section 30 of the Land Acquisition Act within a period of three months from the date of receipt of a copy of this order. No costs.

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

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JUSTICE KONGARA VIJAYA LAKSHMI

Dated 28<sup>th</sup> November, 2017.

Dvs



HONOURABLE SMT JUSTICE KONGARA VIJAYA LAKSHMI



WRIT PETITION No.27229 OF 2006

Dated 28<sup>th</sup> November, 2017.

Dvs