

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.19758 OF 2007

ORDER:

1. This writ petition is filed seeking to declare the action of the 2nd respondent in not referring the claim made by the petitioner to the Civil Court under Section 18 of the Land Acquisition Act, 1894 (for short, 'the Act'), on the basis of his claim statement dated 01.09.2007, and legal notice dated 03.09.2007, as illegal and arbitrary.

2. The brief facts of the case, according to the petitioner, so far as relevant for the purpose of disposal of this writ petition, are that the petitioner is in peaceful possession and enjoyment of the land admeasuring Ac.3.75 guntas in Survey No.137/AA situated at Repakagommu Village, Velerupadu Mandal, Khammam District, which is his ancestral property. The petitioner's grand father late B. Pichaiah was the absolute owner and possessor of the said land and the petitioner succeeded to the said property. The respondents 3 and 4 herein do not have any right, claim or interest over the said property. The 1st respondent issued notification under Section 4(1) of the Act on 13.06.2007 to acquire certain lands for the purpose of rehabilitating the flood affected people reflecting the names of respondents 3 and 4 herein as pattadars instead of the petitioner. The respondents 3 and 4 fraudulently claimed the award amount by getting their names entered in the revenue records, without following the due procedure, and in fact such changes in the revenue records are contrary to the Andhra Pradesh Scheduled Areas Land Transfer Regulations, 1959 as inserted by Regulation 1 of 1970. In spite of repeated requests by the petitioner to the 2nd respondent, no action has been taken by him, the petitioner gave a legal notice to the respondents 1 and 2, requesting the 2nd respondent to refer the matter to the Civil Court

for adjudication of the matter. But, no action has been taken by the 2nd respondent on the legal notice, though he is duty bound to conduct a preliminary enquiry and refer the matter to civil Court under Section 18 of the Act, the present writ petition is filed.

3. A counter affidavit has been filed on behalf of the respondents 1, 3 and 4 *inter-alia* contending that as per the village records one Badde Narsaiah, S/o.Atchaiah is the recorded pattadar for an extent of Ac.3.33 guntas in Survey No.137 of Repakugommu Village of Velairpad Mandal, Khammam District. After the death of said Narsaiah, his wife - Badde Venkatamma, and his son - Badde Eswara Rao, attended the award enquiry as his legal heirs, deposed about their possession and enjoyment of the said land, produced a copy of Pattadar pass Book No.32628, which was in favour of the said Narsaiah and as such requested for payment of the compensation. Petitioner did not attend during award enquiry. It is further averred therein that the petitioner is neither pattadar nor enjoyer and is not in possession of the said land, as per the village records. It is not true to state that petitioner appeared before 2nd respondent to file representation. No representation whatsoever has been received through Advocate also. There is no dispute to refer the matter to civil Court.

4. It was further stated that the award was passed on 01-09-2007 and the compensation to an extent of Ac.1.638.27 guntas was paid in the month of September, 2007, the petitioner who was silent all through during award enquiry, before passing award and during payment of compensation to the respondents 3 and 4 herein, filed the present writ petition with an evil intention to claim the compensation amount, though he is not a pattadar or enjoyer of the said land. It is stated that the respondents have paid the compensation amount to the pattadars of land

for an extent of Ac.3.33 guntas in Survey No.137, as per the award, and prayed for dismissal of the writ petition.

5. Heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents.

6. On 12.11.2007, this Court, while admitting the writ petition, granted *interim* stay, directing the respondents 1 and 2 not to release the compensation amount in favour of respondents 3 and 4, pending further orders.

7. At this stage, learned Government Pleader for Land Acquisition furnished a copy of the acquittance register showing the date of payment of compensation to the respondents 3 and 4 herein on 05.09.2007, which was prior to issuance of *interim* direction by this Court on 12.11.2007. Petitioner is not a pattadar and enjoyer as per the revenue records and he is also silent during award enquiry, before passing of the award and also at the time of making payment of compensation. No reply affidavit has been filed to the counter affidavit of the official respondents.

8. In view of the facts and circumstances, and also taking into consideration the submission of learned Government Pleader for Land Acquisition that compensation amount has been paid prior to the *interim* direction, the Writ Petition is dismissed.

9. However, the learned counsel for the petitioner seeks permission to pursue the legal remedies available to him under law. Accordingly, the petitioner is directed to prosecute the remedies available to him under law, if he is so advised. As a sequel, miscellaneous petitions, if any, pending in this writ petition shall stand dismissed.

KONGARA VIJAYA LAKSHMI, J

Date: 21.12.2017.
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