

HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.4620 OF 2007

Date 29.11.2017

Between:

K.Subba Reddy and others.

... Petitioners

AND

The Govt. of A.P. rep. by its Secretary, Irrigation and CAD
Department, Secretariat, Hyderabad and others.

.....Respondents



HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.4620 of 2007

ORDER:

The Writ Petition is filed seeking a direction to respondents to pass award and pay compensation in respect of the petitioners lands and structures with reference to notification dated 18.05.2000, under Section 4(1) of the Land Acquisition Act, 1894 (the Act), in respect of an extent of 247.10 sq.mts. in Sy.Nos.350-2 and 350-1E of Gajulapalli Village, Gopavaram Mandal, Kadapa District.

Facts of the case, according to the petitioners, are that the lands in Gajulapalli Village were acquired for Somasila project and the entire lands and structures in the village were submerged. Award was passed, and compensation was paid, in respect of entire lands situated in Gajulapalli Village leaving petitioners' lands and structures thereon. Petitioners are absolute owners and possessors of structures in Sy.Nos.352/2, and 350-1E, of an extent of 247.10 sq. mts. Since the lands in Gajulapalli Village, and surrounding villages, were identified as submergible, Government had taken possession of the entire Gajulapalli Village. Based on several representations, respondent – authorities initiated supplemental requisition vide proceedings dated 31.01.2000. Notification, under Section 4(1) of the Act, was issued on 29.04.2000 invoking urgency clause under Section 17(4) dispensing with enquiry under Section 5A of the Act. 80% of

compensation, as required, was not paid to the petitioners before taking possession of land. Categorisation proposals were submitted by respondent No.3 to respondent No.2 vide proceedings dated 08.10.2004 for approval. Despite the representation of the petitioners for payment of compensation, respondent No.2 directed respondent No.3 to submit a detailed report. Pursuant to which, respondent No.3 visited Gajulapalli village on 10.07.2002, inspected the existing structures and submitted inspection report for approval; and though categorization proposals have been received from respondent No.3, no action has been taken. Respondent No.2 again requested respondent No.3 to submit report for missing structures which was submitted on 09.07.2004 along with preliminary valuation statement. Respondents have taken possession of the lands and structures in the entire Gajulapalli Village and paid compensation and delaying in passing award to the petitioners land and structures. Hence the writ petition.

Counter affidavit has been filed by respondent No.3 *inter alia*, stating that, award was passed for the structures in Gajulapalli Village vide award No.3/94-95 dated 14.07.1984; as the structures bearing SPR.Nos.62/C, 93/D and 93-E were not found, no award was passed for those structures; if the petitioners lands and structures were left out, they ought to have filed objections or made reference under Section 18 of the Act; petitioners made representation stating that

structures in SPR.Nos.62-C, 93-E, 140-E and 155-C were noted by the Special Deputy Collector, and forwarded to the Special Deputy Collector (LA), TGP, Podalakur dated 14.02.1995; the then Deputy Tahsildar inspected the lands on 07.04.1995 and submitted inspection report classifying plinth area and nature of structures in the aforesaid SPR.Nos; the Special Deputy Collector, Atmakur submitted proposals of draft notification and draft declaration and, in his report dated 30.08.1995, it was categorically mentioned that the structures, existing in patta lands and village site poramboke of Gajulapalli, were constructed recently to get compensation, and no body was found residing in the structures at the time of inspection on 26.08.1995; while sending proposals of draft notification dated 25.09.1995, it was mentioned that the structures came into existence very recently and, just before receipt of requisition, all the structures are vacant and no traces of structures being used for any purpose; the structures were not available in original award No.3/94-95 after due inspection made on 01.03.1994; on petitioners representation dated 13.02.1995 for payment of compensation, and following supplemental requisition of Executive Engineer, Sub Division-IV, Atmakur, the Land Acquisition Officer submitted draft notification stating that proposals were sent on receipt of additional requisition from Engineering Department; draft notification was approved on 18.04.2000 and draft declaration was approved on

01.10.2000; the facts reveal that petitioners, engineering officials and officials of land acquisition department colluded and managed to get supplemental requisition at a later date for structures; when structures are missing, the petitioners ought to have represented at the time of enumeration by Engineering Department while preparing requisition or 4(1) notification and publication of draft declaration or during award enquiry or during preparation of estimate by the Engineering Department; and, if the petitioners are really aggrieved, they ought to have filed reference under Section 18 of the Act.

Additional counter is filed by respondents stating that petitioner No.2 had received compensation of Rs.13,914/- for structure No.60B, and petitioner No.3 received compensation in respect of 28 structures under award No.3/94-95 dated 14.07.1994. Petitioner Nos. 1 and 4 are not residents of Gajulapalli Village as the voters list of the year 1995 does not reflect their names, and did not have any structures in Gajulapalli Village. He further states that the enquiries revealed that petitioners, in collusion with unscrupulous Officers of Irrigation Department, submitted draft notification proposals for acquisition of the alleged structures; the Special Collector submitted a report to the Government on 14.03.2007 stating that the claim, of the petitioners in respect of the alleged missing structures, was not genuine and was raised subsequent to passing of award for claiming

compensation unlawfully; the Government, vide memo dated 17.01.2003, directed the District Collector, Kadapa to look into the matter to find out the feasibility of initiating disciplinary action against the revenue officials; the District Collector, Kadapa issued show cause notice to the Special Deputy Collector vide proceedings dated 07.05.2008; and, therefore, draft notification was not issued re-notifying the missing structures. Proceedings dated 17.01.2003 is filed, along with the additional counter affidavit, wherein the District Collector, Kadapa was requested to look into the matter thoroughly and find out the feasibility of initiating disciplinary action against the revenue officials and obtain their explanation by issuing show cause notices and submit to government. Another memo dated 13.10.2003 was also enclosed to the additional counter affidavit wherein the District Collector was requested to intimate the action taken against erring officials; and the show cause notice dated 06.05.2008 was also enclosed.

Heard the learned counsel for the petitioners and the learned Government Pleader for Land Acquisition.

Learned Counsel for the petitioners drew attention of this Court to the inspection notes of the Special Deputy Collector (L.A.) dated 08.10.2002 wherein it is stated thus:

“During the time of inspection the structures are existing and they appear like reconstructed structures. During the enquiry, it is ascertained that the earlier structures were damaged in floods and they have been reconstructed.”

Even the inspection notes revealed that the structures are existing. He further submits that draft declaration was also approved on 01.10.2000.

Learned Government Pleader for Land Acquisition would draw attention of this Court to the statements made in the counter, and additional counter, in relation to acquisition of structures in Gajulapalli Village.

As seen from the additional counter affidavit filed by respondent No.3, petitioner Nos.2 and 3 have received compensation in respect of the structures pursuant to award dated 14.07.1999 and, if the petitioners structures are missing in the original notification, wherein award has been passed, the petitioners ought to have represented their case at the time of Section 6 declaration or atleast during the award enquiry. Admittedly, the petitioners did not receive or claim with regard to these structures at the time of Section 6 declaration or during the award enquiry. In the counter, it is specifically stated that the Special Collector (L.A) G.N.S.S.Kadapa submitted a report to the Government vide reference No.A1/W.P.No.4620/2007 dated 14.03.2007 stating that the claim of the petitioners in respect of the alleged missing structures bearing SPR Nos.62-C, 93-D, 93-E was not genuine and raised subsequently after passing of the award No.3/94-95 dated 14.07.1994 for claiming compensation unlawfully.

The Government, vide memo dated 17.01.2003, requested the District Collector, Kadapa to find out the feasibility of initiating disciplinary action against the revenue officials; and the District Collector, Kadapa also issued show cause notice dated 06.05.2008 to the Special Deputy Collector. It is also specifically stated, in the counter, that petitioner Nos.1 and 4 are not residents of Gajulapalli Village and did not have any structures in the village. No reply has been filed, whatsoever, to the said averment in the counter affidavit denying the same.

In view of the fact that show cause notice has been issued to the concerned erring officials, and as compensation has been paid in respect of the structures of petitioner Nos.2 and 3 vide award dated 14.07.1990, they are not entitled for the relief claimed 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.

KONGARA VIJAYA LAKSHMI, J

Dt:29.11.2017
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