

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.21294 OF 2017

ORDER:

This writ petition is filed, under Article 226 of the Constitution of India, for the following relief:

“to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not considering the report submitted by the Licensed Chartered Engineer and Civil Engineering Consultant in regard to the award of compensation and also as per the Right to Fair Compensation, Rehabilitation and Resettlement Act, 2013 in respect of the petitioner property as arbitrary, illegal and contrary to law and consequently direct the 3rd respondents to withdraw the notice R.C.No.4/A.J.C./N.H.216/2016, Dt.10-03-2017 in the interest of justice and be pleased to pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.”

2. Heard learned counsel for the petitioners and also Sri S.S.Varma, learned standing counsel for the 2nd respondent, who offers to file vakalat, from the oral instructions and the learned Assistant Solicitor General representing the 1st respondent and Government Pleader for Land Acquisition for 3rd respondent and perused the prayer in

the writ petition with supporting affidavit and the other material on record.

3. The grievance of the petitioners is that though he is entitled to the fair compensation, the value assessed by a private engineer/surveyor submitted by him is not taking into consideration.

4. In fact, the petitioners is in misconception that Act 30 of 2013 is applicable to him. The proper enactment that is applicable to the case of the petitioners is Act 48 of 1956, thereunder there is a procedure prescribed for fixation of compensation and for the aggrieved, filing of petition before the District Collector, defined as Arbitrator in Section 3 of the Act and if at all aggrieved, by virtue of the provisions of the Arbitration Act, to file application under Section 34 of the Arbitration Act, before the District Court concerned. The same is also covered by an expression of this Court in ***Nekkalapudi Ramakrishna Pratap vs District Collector/Arbitrator, West Godavari District, Andhra Pradesh***¹.

5. No doubt, when impugned before this Court against the award of the District Collector in directing to avail the remedy of Section 34 of the Arbitration Act before the District Court, thus, the writ petition is disposed of, giving liberty to the petitioners to make a fresh representation with the estimate,

¹ 2006 (1) ALD 511

for the respondents to consider if it is within the purview in awarding the compensation as per the provisions of the National Highways Act.

6. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. No order as to costs.

DR.B.SIVA SANKARA RAO,J

04.07.2017
SS

